

OPTIMIZING UNMANAGED INHERITED ASSETS IN INDONESIA: A REVIEW OF THE WAQF MODEL AND CHALLENGES IN ITS DEVELOPMENT

(OPTIMALISASI HARTA WARISAN YANG TIDAK TERKELOLA DI INDONESIA: TINJAUAN MODEL WAKAF DAN TANTANGAN DALAM PENGEMBANGANNYA)

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Abstract

The inheritance system in Muslim societies has an urgent social, spiritual, and economic impact. There is not a single human being who will not be involved in inheritance matters. Because for every person who dies, the main thing that must be taken care of is the issue of inheritance, whether large or small amounts are left behind. However, it cannot be denied that there will be cases where an heir has no heirs so that after his death, the inherited property is ownerless. In this case, the state is responsible for its management through Baitul Maal or an appointed agency. The methodology used in this research is a literature study of relevant documents and journals on related topics. Through this approach, this research seeks to search for and combine various existing data and information to gain a comprehensive understanding of efforts to manage unkempt inheritance in Indonesia, its optimization model through waqf instruments, and opportunities and challenges for its development in the future.

Keywords: *Inheritance, Waqf, Wealth Management.*

Abstrak

Sistem warisan dalam masyarakat muslim memiliki dampak sosial, spiritual, dan ekonomi yang sangat penting. Tidak ada satu manusia pun yang tidak akan terlibat dalam urusan warisan. Sebab, setiap orang yang meninggal dunia, hal utama yang harus diurus adalah masalah harta warisan, baik yang diwariskan dalam jumlah besar maupun kecil. Namun, tidak dapat dipungkiri bahwa akan ada kasus di mana seorang ahli waris tidak memiliki ahli waris sehingga setelah meninggal, harta warisan tersebut tidak memiliki pemilik. Dalam hal ini, negara bertanggung jawab dalam pengelolaannya melalui *Baitul Maal* atau lembaga yang ditunjuk. Metodologi yang digunakan dalam penelitian ini adalah studi pustaka dari dokumen dan jurnal yang relevan dengan topik terkait. Melalui pendekatan tersebut, penelitian ini berupaya mencari dan menggabungkan berbagai data dan informasi yang ada untuk memperoleh pemahaman yang komprehensif tentang upaya pengelolaan harta warisan yang tidak terurus di Indonesia, model optimalisasinya melalui instrumen wakaf, serta peluang dan tantangan pengembangannya di masa mendatang.

Kata Kunci: Warisan, Wakaf, Manajemen Harta.

INTRODUCTION

Since the last few decades, Indonesia has been in first place as the country with the largest number of Muslim communities in the world. Although the specific year was not found when Indonesia first received this title, data shows that the number of Indonesian Muslims continues to increase until it reaches 86% of the total population in 2023. Based on The Royal Islamic Strategic Studies Center (RISSC) 2023 report, 231,06 million Indonesians are Muslim. This number is equivalent to 86.7% of the total population of Indonesia and even reached 11.92% of the world population. But it cannot be denied that the human

life cycle will continue to move. Every time there is a birth, there is also news related to death.

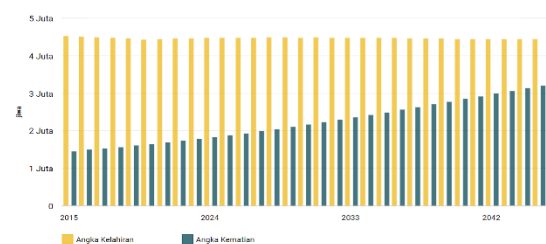


Figure 1. Comparison of birth and death rates 2015-2045

Source: databox katadata, 2019

Death is an inevitability, and no human being can escape from death (Wahyuni 2018). In the Qur'an, several verses

have also been mentioned regarding humans who cannot avoid death. As written in QS. Al-A'raf verse 34, which means:

"Every person has a time limit, so when the time comes, they cannot postpone things for a moment and cannot (also) move them forward."

This verse explains to every human being that no one will escape death. Be it the people around him, his family, and his closest relatives, including himself. So, every human being needs the best preparation and knowledge to face death. One of them is the management after someone's death, namely inheritance/*faraidh*. We find many people who plan their retirement funds specifically and efficiently for financial survival. But it ignores the disposition of assets after death. For Muslims, Islamic inheritance planning is very important to ensure the smooth distribution of wealth among heirs and loved ones (Abd. Wahab et al., 2021).

Islam is a religion that has comprehensively regulated how the assets of a deceased person must be distributed fairly to the legal heirs and other claimants (Umar & Haron, 2023). Because in reality humans are not absolute owners of property, even though it was obtained through their efforts. Humans are only temporary owners or guardians who are obliged to look after them (Taqiyuddin et al., 2023). In fact, everything that exists in humans belongs to Allah SWT.

Considering the complexity of inheritance science, not many Muslim communities have mastered this field of knowledge. In fact, inheritance handling must still be carried out every time someone dies, whether large or small assets are left behind. Conflicts often arise when inheritance is divided based on more than one system. This confuses the community, and often solving this problem takes a long time (Suwanti et al., 2022). Several scholars also stated that one of the first knowledge that Allah lifted from the face of the earth was the knowledge of inheritance. Then, there will be chaos and a lot of hostility over disputes over inheritance assets if the public no longer understands this knowledge.

Apart from that, in several cases, inheritance assets in Indonesia become unproductive due to the inability of the heirs to manage them. Such as houses, land or gardens, and even businesses that were previously managed by the heir, which became damaged or suffered losses after he left. The inherited wealth distribution model in Indonesia often operates without the aim of improving wealth distribution and economic balance (Berkah & Sawarjuwono, 2019). In fact, many beneficial values can be optimized to bring benefits to both the heirs and the surrounding community. On the other hand, the development of Islamic Economics in Indonesia continues to grow rapidly. Apart from commercial economic sectors such as industry and banking, social economic instruments such as zakat, infaq, alms, waqf and qardh are also increasingly being developed to help society. In carrying it out, sustainable economic goals are also an important issue in Indonesia, so

each line must pay attention to sustainable goals such as the impact of environmental, social and so on.

Previous research has discussed the position of inheritance knowledge in society, especially among Muslims (Assyafira, 2020; Dwi Puspita & Fadhly, n.d.; Taqiyuddin et al., 2023; Tjung et al., 2019; Umar & Haron, 2023; Wahyuni, 2018). Of these various studies, none has specifically discussed optimizing inherited assets for more sustainable purposes. Especially if there is a case of inheritance without heirs, the state is obliged to manage it as optimally as possible for the benefit of society. One route taken is to allocate it as a waqf.

In Indonesia, unmanaged inherited assets, ranging from abandoned land to underutilized family properties, hold significant economic potential but are often overlooked. Many of these assets remain unproductive due to unclear ownership status, the absence of heirs, and a lack of awareness regarding productive asset management (Zebua & Habeahan, 2024). This study argues that the waqf model can be a potential institutional mechanism for transforming unmanaged inherited assets into productive assets for the public good.

By examining the legal, social, and sustainability dimensions of their management, this study seeks to build a conceptual bridge between Islamic inheritance principles and the waqf system, a topic that has not been widely discussed in the literature. Therefore, the objective of this study is to gain a comprehensive understanding of the management of unmanaged inherited assets in Indonesia, its optimization model through waqf instruments, and the opportunities and challenges for its future development.

LITEARATURE REVIEW

Inheritance System

Inheritance law is a vital element in social life because it has direct implications for the sustainability of the social system, both at the level of the family, close relatives and society in general (Mustika & Dastina, 2020). Islamic inheritance science or also known as Faraidh science has a direct relationship with the economy because this science focuses on adjusting the mechanism for dividing family assets. From an economic perspective, the family or household is one of the actors in economic activity, apart from companies and the government (Berkah & Sawarjuwono, 2019). Syahpawi et al. (2019) states that there are several things that make Islamic inheritance law so important and part of fulfilling *Maqashid Syariah*:

Table 1. The Relationship between the Islamic Inheritance System and *Maqashid Sharia*

No	Function/ Benefit of Inheritance Distribution	Protected <i>Maslahah</i> aspects	<i>Maslahah</i> Level
1	Symbol of Submission to God	Protection of religion in implementation of inheritance law	<i>Hajiyat</i>

2	As a means of maintaining family integrity	Protection of offspring	<i>Hajiyat</i>
3	As a means of distributing assets fairly	Property protection	<i>Hajiyat</i>
4	As a means of safeguarding family needs	Protection of family education	<i>Hajiyat</i>

Source : Syahpawi et al. (2019)

According to the provisions of Islamic inheritance law, the conditions for someone to become an heir are: 1) marriage relationship; 2) consanguinity; 3) has freed the deceased; 4) fellow Muslims (Tjung et al., 2019). Furthermore, fiqh scholars are of the opinion that Islamic inheritance law is a command of Allah SWT which must be obeyed as is without questioning the reasons behind the command, and is identified as *ta'abbudi* (devotional) law, not *ta'aqulli* (rational) law (Hamides et al., 2023).

Knowledge related to inheritance actually has an equal position with zakat, infaq, sadaqah and waqf as a mechanism for distributing assets based on textual revelation sources, namely the Al-Quran and the Hadith books and has a strong connection with society (Nurjamil, 2022). However, in practice, inheritance is only seen as having a conceptual dimension and relating to the area of Islamic law (sharia) because its direct impact on the economy is largely invisible, especially if there are irregularities in the distribution of inherited wealth (Berkah & Sawarjuwono, 2019).

Even so, there are dynamics in the distribution of inheritance in Indonesia. Many disputes occur, especially regarding land issues and inheritance assets which have actually become waqf assets. This dynamic is caused by a court decision, because a mandatory will is an action carried out by a ruler or judge as a state apparatus who makes decisions regarding the distribution of inherited assets to certain people with certain conditions (Suwarti et al., 2022)

Waqf

Waqf is one of the Islamic financial instruments that has an important role in society. Waqf can be interpreted as a trust in an asset that generates income for the benefit of a particular group or individual (El Khatib, 2016). If zakat funds have limitations, they can only be distributed to certain recipients, unlike Waqf whose beneficiaries are more general for the benefit of both Muslims and non-Muslims (Alshater et al., 2022). In addition, both also have different legal basis for implementation. If zakat is obligatory to be paid by people who reach a certain limit (*nisab*), then waqf is voluntary and can be done anywhere and anytime.

Waqf assets are now not only about 3M, namely Tombs, Mosques, and Madrasahs. But waqf funds that have been collected from donors (*wakif*) can be distributed in various more productive forms. Not only for religious interests, such as building places of worship or financing expenses

during war, but also for various socio-economic needs, such as infrastructure development, welfare of the poor, and sustainable entrepreneurial activities (Hassan et al., 2018).

Throughout the development of Islamic history, waqf has played an important role in improving the conditions of social welfare. It directs waqf to be a lasting and sustainable benefit and facilitates all non-active parties to become active players in economic activities. This then became one of the basic models of the concept of an endowment fund, which offers to fulfill all the important needs of society from religious, social, educational, health, to economic aspects. (Usman & Ab Rahman, 2021).

Some non-Islamic countries also have a similar concept to waqf known as an endowment fund. To some extent, waqf has similarities with the concept of an endowment fund. Both are donations, but waqf is different because it is part of Islamic teachings that encourage all Muslims to participate (Sukmana, 2020).

METHODS

This research is qualitative research with a Literature Study (Literature Review). Literature studies are carried out by reviewing various documents that can support research. These documents include the DSN MUI fatwa which regulates inheritance system, journal documents or publications in reputable journals such as Sinta, Scopus which are appropriate to the research topic. The keywords used in sorting the documents used are: "*inheritance*", "*inheritance system*", "*faraid*", "*warist*", and "*waqf*". The expected results from this series of data collection processes are more in-depth information and a more comprehensive framework of thinking regarding unempt inheritance in Indonesia and the optimization model through waqf instruments.

RESULT AND DISCUSSION

Handling of Inherited Property Without an Owner in Indonesia

In Indonesia, if there is a case where someone leaves an inheritance but does not leave an heir and also does not leave a will to manage the inheritance, it is called a situation where the inheritance is not managed (*onbeheerde nalatenschappe*). Ownership and management of this type of property will fall to the state (Moechthar, 2017). The state agency that takes on the role of managing unmanaged inheritance is the Inheritance Property Center (Balai Harta Peninggalan/BHP). BHP is a government agency under the Ministry of Law and Human Rights (Kemenkum HAM). Its mandate is to represent and manage the interests of legal entities in enforcing court decisions and/or rulings or other legal interests in the area of estates, in accordance with statutory provisions (Akbar, 2021).

This is in line with Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which also discusses inherited assets left without heirs. Article 43 of the UUPA

states that if there is land property that does not have a known owner or no party can prove themselves to be the heir, it can become state property.

Apart from UUPA, there are also regulations governing unclaimed assets, especially in the financial and banking sectors. For example, Bank Indonesia has regulations regarding handling inactive accounts and unclaimed assets in the banking sector. For unclaimed assets such as deposits or inactive bank accounts, there are generally certain procedures that must be followed by the bank, including efforts to find the owner. If after a certain amount of time no claims are submitted, the assets can be declared unclaimed and can be regulated according to applicable regulations.

As for the Compilation of Islamic Law (KHI), if a person lives alone and does not have a family or because of an accident he no longer has heirs, or because there are no heirs who come to recognize the inheritance, then Article 191 of the KHI states:

"If the heir leaves no heirs at all or whether the heirs exist or not is unknown, then control of the assets by the decision of the Religious Court is handed over to Baitul Mal for the benefit of the Islamic religion and general welfare."

The legal position and authority of the Inheritance Hall in managing neglected inheritance is as a representative of the interests of people who cannot carry out their interests themselves. This is based on the provisions of Article 1127 of the Civil Code for dealing with neglected inheritance. The Semarang Heritage Center has the authority to sell inherited assets and/or enter into rental agreements (Novianti, 2015). In the event that the heir is a child who is not yet legally competent, the Inheritance Property Office plays a role in supervising the distribution of the child's assets as a temporary guardian and supervisory guardian in the trust, managing the child's assets so that they remain protected and to meet their needs (Hambali & Khalik, 2019).

So it can be concluded that for an heir who dies in an Islamic state and no longer has heirs, the inheritance of the heir will be handed over to *Baitul Mal* for public purposes, the process of which is through a determination by a religious court. This should be a big responsibility for the government through the Heritage Center or Baitul Maal which is appointed to manage these assets in such a way that the benefits can be received by the wider community.

Models for Managing Inherited Assets Without Owners through Waqf Instruments

As previously mentioned, in Islamic law, a Muslim who dies and has no heirs at all or no Muslim heirs, his inheritance is handed over to Baitul Mal and further used for the benefit of the Muslims (Tjung et al., 2019). This makes managing inheritance very important. If this kind of inheritance can be optimized, it will provide benefits to the wider community. So that the benefits are sustainable.

Research conducted by (Umar & Haron, 2023), shows that the heirs of traders/business people will usually lose a number of assets which could endanger their welfare. In

fact, some valuable assets, such as land, houses, etc., cannot be claimed by them without having valid documents, especially ownership certificates. These findings also reveal the high possibility that when traders die, their obligations (including zakat) will not be paid off as mandated by the sharia.

On the other hand, sustainability is an appropriate framework for intensifying efforts to achieve a higher level of human life through economic, social development and environmental conservation (Mohammed & Al Nuaimi, 2020). Issues related to sustainability have been widely applied in various economic fields, from industry, banking, to social finance. All instruments are also mobilized to achieve these sustainability goals.

This certainly needs special attention. So that every Muslim who is currently trying hard to accumulate wealth to support his family, does not just lose everything after they die. So the aim of sustainable management of inherited assets is not only that when death occurs or post-processing the assets are truly valued as inheritance, but on the other hand it is also related to the most optimal management of capital resources to produce optimal benefits for the heirs.

Inherited property without an owner automatically becomes a community asset which is managed through designated institutions such as the Inheritance Property Center and Baitul Maal. There is no definite data or report published by BHP or the relevant ministries regarding the number of neglected assets or inherited assets without owners in Indonesia so far. However, considering the large number of Indonesian people, of course there is quite a large nominal amount related to this unmanaged property. Considering that the benefits of these assets must return to the people, one of the most appropriate management schemes is through waqf instruments. The schemes that can be adopted are as follows:

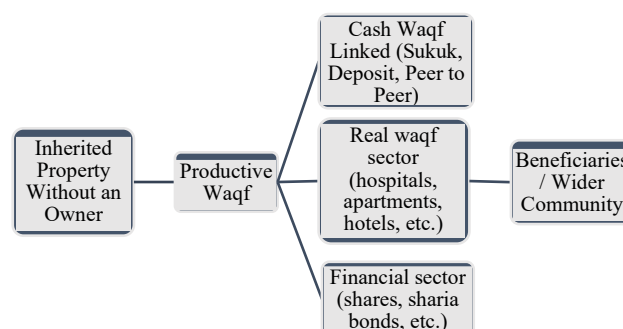


Figure 2. Scheme for Management of Ownerless Inherited Assets through Waqf Instruments

Source: Author (2025)

The scheme can then be explained as follows:

1. Cases of ownerless inheritance recorded by BHP are handed over to the waqf institution to be managed using productive waqf instruments.
2. Inherited assets are recorded as waqf and allocated to support various sustainable waqf programs such as Cash Waqf Linked Sukuk

(Infrastructure development for the poor), the real sector of waqf (Hospitals, Apartments, Hotels, etc. which generate large profits), as well as existing instruments in the financial sector with the help of experts in that field.

3. The results of asset management from these various instruments are allocated to help the wider community, especially those who are economically deprived, through consumptive and productive assistance for businesses.

So that through this scheme, ownerless inherited assets are used to develop public instruments, namely productive waqf, and the benefits also return to the people. This is in line with the aim of waqf, namely not just collecting donations of property but making Waqf assets a productive source of funding to meet the interests of the community (Herianingrum et al., 2016). However, in order to make asset management efforts successful through these various instruments, contributions and roles from various parties are required, including:

Table 2. Related stakeholders

No	Stakeholder	Roles
1	Inheritance Property Center (BHP)	• Carry out recording and registration of unmanaged inheritance • Carrying out an assessment of the potential for developing assets of Unmanaged Inherited Assets • Collaborating with Waqf Institutions for Asset Development
2	Waqf Institution (Nazhir)	• Managing Unmanaged Inherited Assets as Productive Waqf Instruments • Conduct reports on the management of neglected inheritance which is managed through productive waqf
3	Indonesian Waqf Board (BWI) and the Indonesian Ministry of Religion	• Supervise the implementation of the Waqf program • Help encourage special regulatory facilities that regulate the management of unmanaged inherited assets through Waqf
4	Government	• Develop related regulations and encourage transparency in management by BHP • Encourage the reporting of neglected inheritance assets by the community to the relevant agencies (BHP)
5	Academics	• Conduct studies related to the legal and fiqh aspects of inherited property without an owner • Develop research on optimizing inheritance for more sustainable benefits

Source: Author (2025)

Opportunities and Challenges for Managing Inherited Assets for Sustainable Goals

The concrete contribution of this research lies in its proposed integration of neglected inherited asset management into the waqf system through institutional and regulatory innovations. Practically, this model provides an alternative framework for optimizing unproductive family or communal assets while adhering to Islamic legal principles. Furthermore, this model opens up opportunities for collaboration between heirs, nadzir institutions, and the government in transforming neglected assets into social and economic capital.

There are several opportunities and challenges related to managing inherited assets for sustainable purposes. The opportunities are:

1. Carry out the sharia mandate for the management of inherited assets without owners as community assets. So it needs to be managed productively and sustainably so that the benefits provided can be received optimally by the community. If this property is managed optimally, there will be many people, especially those from lower economic backgrounds, who will be prioritized for assistance. This is similar to the role of zakat which can be used as an instrument for state revenue to encourage people's welfare (Herianingrum et al., 2024). So this asset can be an instrument to help the state in providing various facilities needed by the wider community.
2. Contribution to the development of sharia economic products, especially sustainable waqf projects. Many studies have proven that waqf is a sustainable financial instrument. This is also supported by the many waqf programs that target sustainability targets. So if more assets are managed and allocated for these various programs, the benefits and realization for society will be greater.

On the other hand, the challenges or limitations faced are also quite large. Among them:

1. Limited publication of data and reporting on unkempt/ownerless inheritance that can be accessed by the wider public. Until now, there is no specific data that states the number of unmanaged inherited assets, their distribution, and their use by BHP as the person responsible for the state agency. As a result, the public does not receive data transparency or even literacy regarding the prosecution of cases of ownerless property that occur in their surroundings.
2. Limited regulations in Indonesia that clearly regulate the collection and management of inherited assets without owners. This limitation also means that very limited data and related information can be accessed. Article 1127 of the Civil Code (KUH Perdata) explains that the Inheritance Property Office (Balai Harta Peninggalan/BHP) is obliged to take care of inheritance that has not been managed, including inheritance that has not been managed for 30 years or more. However, there is no further mention regarding the management authority that

BHP has in utilizing these assets. Even though the community should also benefit from it

3. Limited research examining the potential for developing inherited assets in Indonesia. Research related to inheritance has not developed much other than at the level of resolving cases based on a jurisprudential perspective. However, in the future, there is a great need for studies on the development and innovation of productive inheritance management, including through waqf instruments.

Ultimately, this study also emphasizes the importance of developing a specific regulatory mechanism within the Indonesian Waqf Law to accommodate inherited assets that lack active ownership claims. Such a mechanism can prevent asset degradation, support social welfare programs, and contribute to sustainable community development.

From an academic perspective, this study enriches the literature on Islamic wealth management by bridging two previously separate domains (*faraidh* and *waqf*) into a single, integrative framework for asset optimization.

CONCLUSIONS AND IMPLICATIONS

Based on the discussion above, it can be concluded that the inheritance system in Muslim societies has a very significant impact from a social, spiritual and economic perspective. Even though every individual is involved in inheritance matters, public awareness regarding optimizing the inheritance system is still limited. This research underlines the importance of efforts to optimize the inheritance system to increase productivity and benefits for heirs and the surrounding community, especially in the absence of heirs.

The way that can be attempted is by allocating it to productive waqf. This is because waqf is believed to be one of the Islamic Social Finance instruments with sustainable goals. In Indonesia, inherited assets without owners are included in unmanaged assets and become state finances through the Inheritance Property Center (Balai Harta Peninggalan/BHP). This property management model through waqf can be explored further with the support of various other parties including waqf institutions, the Indonesian Waqf Board (BWI), the Ministry of Religion (Kemenag), and the Government.

However, the availability of data and regulations regarding managing ownerless inherited assets in Indonesia is still very limited. This is a challenge in developing a model for optimizing ownerless inheritance for sustainable purposes through waqf instruments. But on the other hand, there is also great potential to continue working on it. Such as carrying out the mandate of sharia and law that inherited property without an owner becomes the community's property, as well as contributing community assets to develop various sustainable waqf projects initiated by various waqf institutions in Indonesia.

This research is still limited in terms of data collection, and the literature is not yet well developed. As mentioned by several previous studies, studies in inheritance science are still in a conceptual order. So, it would be interesting for further research to place more emphasis on empirical evidence in improving the family economy and even contributing positively to the national economy.

ACKNOWLEDGEMENT

The author would like to thank the team of lecturers at the Department of Islamic Economics UNAIR who have provided valuable insights and direction in perfecting this article.

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