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## INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI:10.21474/IJAR01/16204  
DOI URL: <http://dx.doi.org/10.21474/IJAR01/16204>



### RESEARCH ARTICLE

#### BAITULMAL INTERACTIONS IN RESOLVING CONVERTS' INHERITANCE CLAIMS IN MALAYSIA

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#### Manuscript Info

##### Manuscript History

Received: 30 November 2022

Final Accepted: 31 December 2022

Published: January 2023

##### Key words:-

Inheritance Claims, Baitulmal,  
Interaction, Converts, Non-Muslim  
Heirs

#### Abstract

Baitulmal is a national treasury institution that is responsible for ensuring that the welfare of Muslims is taken care of without sidelining other citizens who live in an Islamic country. Therefore, its management needs to be carried out with full trust, integrity and accountability so that its aim can be achieved which can be used as a platform to raise the message of Islam. However, in the Islamic inheritance system, non-Muslims are prevented from receiving Muslim inheritance even if they have family ties. Inheritance without Muslim heirs causes this inheritance to be handed over to Baitulmal. In light of that, the objective of this study is to identify baitulmal interaction with regards to the claims of non-Muslim family members on the estate of deceased converts. This qualitative study via content analysis gathered data and information through document analysis and interviews. The collected data were then analyzed using a descriptive approach. The results of the study found that Baitulmal applied harmonious interaction in meeting the claim of a convert's inheritance by non-Muslim heirs in Malaysia. Thus, in the context of being used as a reference, this study can contribute to unravel the misunderstanding among non-Muslim heirs regarding the role of Baitulmal in meeting their demands on the inheritance left by converts and can also be used as a form of da'wah to them to understand Islam.

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#### Introduction:-

According to Islam, baitulmal is a national treasury institution that is responsible for ensuring that the welfare of Muslims is preserved without neglecting the interests of *kafir dhimmi* (other citizens) who live with Muslims (Ahmad et al. 2017). In other words, according to (Hasan et al. 1954), property owned and maintained under baitulmal management is state property for the welfare or general benefit and development of the people and the country. Implicitly, control over property is more of a responsibility (not an absolute property right of individuals or organizations) to manage for the benefit of the community and religion because the true owner is Allah SWT while humans only act as trustees (Ahmad & Ibrahim 2006). Therefore, the party entrusted with managing Baitulmal property has a great responsibility to ensure that the targeted objectives meet the requirements of the law and

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*shari'ah* (Laluddin et al., 2012). However, Baitulmal in Malaysia no longer functions as a national treasury but its role is only limited as one of the units or parts of the State Islamic Religious Council to manage the administration of financial resources, including zakat and proceeds from the surplus of inheritance property without heirs.

In the Islamic inheritance system, not all heirs will receive the deceased's inheritance because there is a possibility that prevents from receiving the deceased's inheritance (Ahmad et al. 2014). The obstacles to inheriting an inheritance three things; namely murder, slaves and different religions (al-Sabuni 1987). Baitulmal is the *asabah* recipient if a Muslim who dies leaves property without heirs and the deceased's property is not claimed by anyone (al-Sabuni 1987) including converts who only have non-Muslim family members after their death (Ahmad et al. 2020).

Non-Muslim family member terminology refers to members of the convert's family consisting of mothers, fathers, wives, children and siblings who remain in their original religion or beliefs either they are Buddhists, Hindus, Christians or others or from groups with no religion (atheists) or pagans. The family ties with non-Muslim family members are not severed as long as they are alive. Even though they are of different religions, in terms of socializing, the responsibility of providing sustenance and doing good to each other are still allowed in Islam (Don et al. 2017). However, there are implications for non-Muslim family members after the death of a convert, among them the problem of the right to inherit the property of the convert, the problem of the right to *hadanah* and the problem of maintenance or provision. Therefore, dealing with the convert's property is very important to families who have financial problems and other special needs, not to mention if the deceased was the sole breadwinner for his non-Muslim family (Yusof 2019).

In the context of da'wah, non-Muslim community living among Muslims needs to be seen in a broader aspect in order to realize the agenda of a peaceful and harmonious community welfare through a philanthropic approach (Don et al. 2020). Moreover, converts is the most important group in the society structure which consists of various races and religions (Puteh et al. 2020). Therefore, Baitulmal through a philanthropic approach is able to make non-Muslims approachable and more open to getting to know about Islam more closely.

In Malaysia, we have been witnessing an increase in the number of converts or 'new relatives' every year. According to Abah et al. (2019), statistics released by the Jabatan Kemajuan Islam Malaysia or the Malaysian Islamic Development Department (JAKIM) showed that there were 8,340 new converts who embraced Islam in Malaysia in 2018, a slight decrease from the previous year which was 9,200 people in 2017 and 9,400 people in 2016 (refer to Table 1).

**Table 1:- Statistics of New Converts from JAKIM.**

Year	2016	2017	2018
New Converts	9,400	9,200	8,340

Source: Abah et al., (2019)

This development gives a new challenge to baitulmal institutions in spreading knowledge, increasing understanding and giving moral strength to them through the provision of zakat funds, safe shelters and complimentary lessons including Muslim property management classes.

The objective of this study is to identify the interaction of baitulmal in meeting the claims of non-Muslim family members onto the properties of deceased converts. This study used qualitative research methods by collecting data through document analysis (which involved statutes, books of scholarly writing, articles, journals including cases in Baitulmal, newspaper reports and past studies) and interviews with several informants. All information and data obtained were analysed descriptively to achieve the targeted objectives.

#### **A Brief Concept of Interaction with non-Muslims according to Islam**

In general, Islam recognizes the natural instinct of humans which is equipped with a feeling of wanting to socialize and connect with each other. The development of human civilization has seen the need for interaction between peoples that allows them to help each other and complement each other's needs. Allah SWT has created human beings from different nations, races, skin colours and languages, but Islam does not prevent such interactions from continuing to happen. In fact, rooms for interaction are very much encouraged in Islam. As Allah SWT has created human beings from different nations, races, skin colours and languages, these differences need to be used by

mankind to get to know each other. The words of Allah SWT in Chapter al-Hujurat, verse 13 which mean: "O mankind! Indeed, We have created you from male and female, and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is All-Knowing, and Acquainted".

In the context of family relationships, Islam forbids severing relationship, especially with close family members, regardless of whether they are Muslim or not. This is recorded in al-Qur'an Chapter al-Anfal, verse 75 to preserve family relationships which means: "...but those of [blood] relationship are more entitled [to inheritance] in the Book of Allah. Indeed, Allah is Knowing of all things". From the angle of *siyasat al-shar'iyah* and administration as well, al-Qarah Daghi (2019) explained that Allah SWT commands leaders and Muslims as a whole to be fair to all people including non-Muslims because they have different scales of justice. This justice is based on Allah's words in Chapter al-Nisa' verse 58 which mean: "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing".

The above verse refers to the wisdom of Islamic Shari'ah according to *maqasid al-shari'ah* which renders justice to all people regardless of religion and enables non-Muslims to approach Islam more easily. Justice here means putting something in its right place and it cannot be separated by *maqasid al-shari'ah*.

### **General Practice of Estate Management in Baitulmal**

Malaysia practices a three-tier government system consisting of the federal government, state government and local government which have their own legal provisions. Baitulmal is governed by the State Islamic Religious Council as stated in the First Paragraph, List II - State List, Ninth Schedule, Federal Constitution and under the authority of the respective state Sultans (Ramli et al. 2014). However, baitulmal requires cooperation from bodies involved in inheritance governance such as the High Court, the Division of Inheritance from the Department of the Director General of Land and Mines (JKPTG), the state Land and Mines Office (PTG) and Amanah Raya (Abdullah et al. 2020) and the Syariah Court. Every problem that occurs in matters of Muslim inheritance, the Land Office will refer to the Syariah Court even though the British introduced their legal system and made Islamic law applicable only on matters related to family and little to crime (Hashim et al. 2019).

Baitulmal does not accept inheritance directly and it is even necessary to go through existing inheritance claim procedures involving a combination of land administration jurisdictions, the Civil Courts and the Syariah Courts in addition to related statutes concerning inheritance of properties of deceased Muslims and non-Muslims alike. Besides, there are also inheritance division regulations that lay down the procedures for the implementation and application of forms in matters of inheritance settlement (Yusoff et al. 2021).

For Muslim inheritance properties, the procedure must start with Baitulmal obtaining a Fara'id Order in the Syariah Court before dealing with other government agencies related to estate distribution. The role of Baitulmal in the management of Muslim inheritance is to manage the acceptance and redemption of Baitulmal inheritance, the sale of Baitulmal inheritance, the purchase of Baitulmal inheritance, the application for execution of Baitulmal inheritance claims from related agencies, receiving of payment of various proceeds of Baitulmal inheritance, receiving Baitulmal inheritance payment for redemption instalment, and to manage over unredeemed inheritance vested in Baitulmal (Ahmad et al. 2020).

The existing Baitulmal in each state and territories applies different procedures depending on their respective management, resulting in no apparent coordination among them including in matters related to the claim of inheritance left by converts. Hasan (2013) has proposed the establishment of a National Baitulmal after finding that state baitulmals differ according to their own moulds. With the establishment of the National Baitulmal, all affairs related to Baitulmal can be coordinated and fortified as a national treasury institution that can have a great impact on national development and social welfare including non-Muslims. Regarding the idea of establishing this National Baitulmal, Kamaruddin (2009) viewed it as an important agenda in the context of coordinating Baitulmal allocation as a whole including distributions to non-Muslims in the category of *ahl al-dhimmi* who are not hostile to Islam according to certain conditions. According to Yusof and Kadir (2017), when a property has become the right of baitulmal, baitulmal has the right to determine the method that can be used to deal with claims made by non-Muslim family members in certain circumstances.

Therefore, in order to make the inheritance of a convert who has no heirs or the surplus of the inheritance legally the property of Baitulmal, Baitulmal must first go through the procedures already set to avoid future problems that may be caused by certain parties.

### Discussion and Research Results:-

In Malaysia, non-Muslims are recognized as full citizens to celebrate together their position as legitimate and free citizens (Meerangani 2016). However, the situation of interaction between religions is seen as less encouraging especially because the term 'embracing Islam' is considered as 'becoming a Malay' which dominates the thinking of other races. This is supported by Kasim et al. (2004) who found that religious tolerance is less common in Malaysia, causing most converts to feel it is better to hide their conversion to Islam to avoid conflicts and to continue to practice as a family member as one is used to. However, the impact is that when the convert dies, incomplete information of the convert contributes to this claim and can also result in the freezing of the convert's inheritance.

Ahmad et al. (2020) viewed that among the challenges of estate management in Baitulmal in the context of the claim of the deceased's estate by non-Muslim family members is that they feel they are entitled to the inheritance instead of Baitulmal. They thought that they were the real heirs and they were not satisfied when the property left by their converted family member was given to baitulmal. They feel entitled to the inheritance which they deemed as not the right of Baitulmal and even question the right of Baitulmal to the inheritance left by the convert. However, due to the fact that the deceased had embraced Islam, they did not get the right to the inheritance. Moreover, the conversion to Islam by the convert was kept secret from family members. This brings about dissatisfaction of the non-Muslim heirs and prompts them to make a claim against the convert's inheritance. In addition, the lack of uniformity in Baitulmal administration between states in Malaysia in resolving the claim has worsened the situation (Bashit 2017). Baitulmal in Malaysia still has good enough discretionary power even when faced with the challenge of giving understanding to non-Muslim family members. Baitulmal is also faced with legal challenges because Baitulmal is the recipient of *asabah* for the inheritance of converts who do not have legitimate heirs from the *shari'ah* point of view even if they have non-Muslim family members.

Through the author's research, not all states allow the claim of a convert's inheritance, such as the Federal Territories due to obstacles in the Islamic Law Administration Act (Federal Territories) 1993 (Act 505). In any provision of enactment regarding the administration of Islam, and the state Islamic Religious Council, non-Muslims are not mentioned under the jurisdiction of Baitulmal. In fact, they are under the jurisdiction of civil law. More interestingly, the Federal Territory is ahead of other states by placing a clear provision regarding Muslim and non-Muslim inheritance. Section 34, Administration of Islamic Law (Federal Territories) Act 1993 states:

1. When a *Muallaf* dies without leaving an heir, his property must be handed over to Baitulmal.
2. When a *Muallaf* dies and leaves heirs who are Muslims, his property must be divided according to the *fara'id* system.
3. When a *Muallaf* dies leaving non-Muslim heirs, the non-Muslim heirs are not entitled to inherit the property of the deceased."

In Malacca, cases of claims by non-Muslim family members on the properties of converts can be seen in the estate of Lim Sek King whose Islamic name was Abdul Wahid Lim Abdullah (Ying & Siang 2013), who kept his conversion to Islam a secret. He converted to Islam in July 1992 and died on 11 November 1992 due to drowning while participating in the rescue operation of 40 tourists who were trapped on the other side of the river in Sungai Gameh, near the foothills of Mount Ledang. He left behind a widow and three children who were all non-Muslims. The property left behind should be handed over to Baitulmal based on Islamic law because he has no Muslim heirs. On the basis of humanity, on May 10, 2005, the Melaka Islamic Religious Council (MAIM) made a decision to return a house worth RM59,000.00 because the deceased's widow was unemployed and had dependent children who were still in school, including one who was suffering from an illness confirmed by a doctor (*The Star* 2005).

In Kelantan such claim has occurred as reported by Nawi (2019) in the case of Abdul Rahman King Abdullah's estate claim. The deceased left behind a vehicle which was a Toyota Vios which was still under a loan with AmBank Finance amounting to RM932.00 per month paid by the deceased's non-Muslim father. According to the decision of the Syariah High Court on 11 April 2016, Baitulmal is fully entitled to the property of the deceased, but the Islamic Religious Council of Kelantan (MAIK) had no objection to the claim from the non-Muslim claimant.

In Penang based on an interview with Said (2021), the Penang State Islamic Religious Council administration (MAINPP) received an appeal from the parents of a deceased convert made through one of the Members of Parliament in 2019. The deceased convert was then still single and living with the family after converting to Islam. The deceased died at the beginning of 2018 and the assets left behind included EPF savings which were handed over to the state baitulmal based on the Fara'id Order from the Syariah High Court which was 1/1 share. The appeal claimed that the deceased convert owed 'Ah Long', a private moneylender. Then this matter was referred to the Mufti Department which decided that the inheritance should not be handed over to the non-Muslim family members. On the other hand, the Mufti Department asked MAINPP to settle the debt of the deceased convert should reliable evidence be presented. This matter was brought to the Committee Meeting and the members of the committee agreed to hand over part of the EPF money as a courtesy at a required rate to the parents of the deceased convert. While in Selangor, according to Shahid (2021), Baitulmal Selangor recorded the greatest number of claim applications from 2009 to 2021 involving 2 cases of immovable property claims and 34 cases involving movable property.

Based on the cases recorded in Baitulmal or the Islamic Religious Councils of Malacca, Kelantan, Penang and Selangor, it clearly shows that there have been interactions between Baitulmal and non-Muslims in meeting the claims of non-Muslim heirs against the inheritance of the deceased convert. Although no Baitulmal in Malaysia has administrative jurisdiction over non-Muslims, Baitulmal has shown the nobility of Islam in accommodating the claims by heirs of converts by making appropriate judgments based on highly noble human values. This is one of the da'wah approaches to bring non-Muslims closer to the Islamic way of life while also being able to raise the goodness of Islam.

### Conclusion:-

Islam does not at all prevent the interaction of Muslims with non-Muslims, rather it advocates all to recognize each other and do good to fellow human beings regardless of race and religion to complement each other in their life affairs in this world. Many historical records have shown that such interactions always exist in daily life, including converts who have non-Muslim family members. Based on this study, Baitulmal interactions in resolving the claims of non-Muslim heirs against the convert's inheritance occur in a harmonious state even though there are elements of misunderstandings on the part of non-Muslim heirs regarding the different Islamic inheritance system from civil law. Baitulmal still accepts claims made by non-Muslim family members but needs to go through certain conditions and procedures because Baitulmal has a responsibility over the inheritance for the benefit of other Muslims. Baitulmal does not reject the claims of non-Muslim family members who have reasonable grounds, in fact thorough investigations and regular consultations are carried out together with the Baitulmal committee before giving a decision on the claim.

### Acknowledgement:-

This study was financed by Dana Insentif Penerbitan, Fakulti Pengajian Islam 2023, Universiti Kebangsaan Malaysia (UKM) and the Malaysia Ministry of Higher Education (MOHE) through the Fundamental Research Grant Scheme (FRGS/1/2013/SSI03/UKM/03/1).

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