

THE OBSTACLES OF BAITUL MALL IN THE IMPLEMENTATION OF QANUN JINAYAT IN ACEH

Mohd. Din

Faculty of Law, Syiah Kuala University
m_din@usk.ac.id

Azhari

Faculty of Law, Syiah Kuala University
azhari.yahya@usk.ac.id

Nursiti

Faculty of Law, Syiah Kuala University
nursitish@usk.ac.id

ABSTRACT

The function of Baitul Mal in the enforcement of Qanun Jinayat is to manage uqubat property in the form of receiving uqubat property and find a place to store confidential objects as well as a place for payment/deposit of uqubat fine. This function has not been carried out yet as it should be in practice. Therefore, the purpose of this study is to find and analyze what causes the malfunction of Baitul Mal in the implementation of Qanun Jinayat. The method used is an empirical legal research method, using primary data as the main data obtained from field research by determining respondents and informants purposively. Primary data are supported by secondary data, both in the form of documentation and literature review. The main data obtained through in-depth interviews in the field will be analyzed using a qualitative approach. With this method, the expected results will be seen, namely explaining the research objectives in the form of an overview about the causes of non-optimal function of Baitul Mal in the implementation of qanun jinayat. The results show that there are several factors that cause not optimal yet the function of Baitul Mal in managing of Uqubat assets, namely in terms of the successful rules explaining the implementation of Governor Regulations about the function of Baitul Mal have not been properly socialized yet so that there are some Baitulmal officers who do not know the right function of Baitul Mal in the management of Uqubat assets. At the same time, there is also a variation of the judge's decision in terms of Baitulmal functions. The recommendation of this study is that the socialization of Governor Regulation Number 59 of 2023 concerning the Management of other Religious Assets in Baitul Mal Aceh should be carried out by the Islamic Sharia Office, and the Improvement of Baitul Mal Human Resources also needs to be strengthened.

Keywords: *Optimization, Baitul Mal, Qanun Jinayat.*

I. Introduction

1.1. Background

Baitul Mal is one of the institutions that has an important position in the implementation of the qanun on jinayat law. Formal criminal law or criminal procedure law that applies in the enforcement of the Qanun on Jinayat Law is Qanun Number 7 of 2013 concerning Jinayat Procedural Law. These regulations can be seen in Article 50, Article 250 and Article 276 of the Jinayat Procedural Qanun and Article 141, Article 142 and Article 143 of Qanun Number 10 of 2018 concerning Baitul Mal. Regarding the uqubat assets as regulated in Qanun Number 10 of 2018, it is also contained in the previous qanun, namely Qanun Number 10 of 2007.

Based on previous research, Baitul Mal has not functioned in managing this uqubat property. The results of the walking group of the Islamic Sharia Service in several places, namely, East Aceh Subulussalam and Gayo Lues, stated that Baitul Mal has not functioned in this matter, some even do not understand and refuse to accept the fine money.¹ Likewise in the research results² It was found that when asked about the existence of Baitul Mal, the answer obtained was that Baitul Mal was not involved in enforcing the Qanun Jinayat.

Based on this, the existence of Baitul Mal, which is actually very strategic in enforcing the Qanun Jinayat, has not been put into use. therefore further study is needed on its existence. The search conducted on this study has not been done much. There are several related writings, such as Ali Abu Bakar³ mention that the problems in implementing the Qanun Jinayat are not only related to differences in understanding of the Qanun Jinayat by law enforcement officers and traditional leaders, both materially and formally, but are also related to many other things, for example the budget, infrastructure, and the interests of the district/city government.⁴

Based on the search of several previous articles, no articles have been found that discuss in detail the obstacles faced by Baitul Mal in managing Uqubat assets. What exists is that it highlights the lack of function of Baitul Mal in managing zakat, infaq and sadakah and other religious assets. Therefore, what will be studied in this study is what obstacles are faced so that Baitul Mal does not function in implementing Qanun Jinayat. To study this problem, research was conducted using primary data as the main data supported by secondary data. Primary data was obtained through interviews and FGDs and secondary data was obtained through primary, secondary and tertiary legal materials.

II. Literature Review

¹ (Abubakar, 2019)Pp. 8-16

² (Din, 2023)Pg. 26.

³ (Abubakar, 2019)Page 195

⁴ (Wardani and Tho'in, 2013)pp. 6-10.

According to KBBI Baitul Mal *baitulmal/bai-tul-mal/* n Isl place to store property; treasury. While in Article 1 number 11 of the Qanun on Baitul Mal: "Baitul Mal is a special and specific institution in the Aceh Government and the Regency/City Government which in carrying out its duties is independent and has the authority to guard, maintain, manage and develop zakat, infak, waqf assets, and other religious assets, and supervision of guardianship based on Islamic law". Baitul Mal in the basic concept of sharia provisions and its concrete practice in Islamic history, is one of the institutions in an Islamic state whose main task is to manage all state income and expenditure. So it is a state financial institution that is tasked with receiving, storing, and distributing state money according to sharia provisions. In short, Baitul Mal can be referred to as the State Treasury.⁵

Aceh as a region that has special characteristics makes Baitul Mal also play a role in enforcing the Qanun Jinayat, where in Article 250 of the Qanun on Procedural Law it is stated that the implementation of criminal fines is carried out by the prosecutor by issuing a notification letter to deposit the fine to Baitul Mal and the fine is only considered complete after the convict submits proof of deposit from Baitul Mal. If the convict does not pay within three months, the prosecutor can confiscate the convict's assets. In paragraph (4) of this article it is stated that a Governor's Regulation is needed for its implementation. Therefore, the function of Baitul Mal in Aceh is supplemented by the management of uqubat assets, even though in general the function of Baitul Mal has not been running as it should.⁶

In Aceh, Baitul Mal is included as one of the subsystems in law enforcement in addition to other subsystems, because Baitul Mal also functions to manage uqubat assets. Subsystems in the criminal justice system consist of Investigation, prosecution, trial and execution. In each of these stages, institutions such as RUTAN and RUPBASAN play a role. At the execution stage, what is often known as the execution institution is the Correctional Institution, because so far the general punishment imposed is imprisonment, while if there is a fine, it is never explained, it is only mentioned that it is paid to the State Treasury. For the implementation of Qanun Jinayat, it is stated that the fine will be deposited into Baitul Mal.

⁵ Handoyo. Page 18.

⁶ Hidayatina MA and Ali Muhayatsyah, "Overlapping Functions of Baitul Mal and the Office of Religious Affairs as Waqf Management Institutions (Critique of the Role of Baitul Mal as a Waqf Management Institution in Aceh)," *INFERENCE: Journal of Social Religious Research* 13, no. 2 (2020), <https://doi.org/10.18326/infsl3.v13i2.329-350>. Pp. 330-350.

As in the “conventional” criminal justice system, the aim of the “Jinayat” justice system is to ensure legal certainty in combating crime. Marjono Reksodiputro as quoted by Mohd Din⁷ argues that “the criminal justice system is a crime control system consisting of police, prosecutors, courts and correctional institutions for convicts”, also citing the opinion of Muladi, Mohd. Din, et al.⁸explains that the criminal justice system “as a system, criminal justice has a structure or subsystem that should work coherently, coordinated and integratively, efficiently and effectively. This subsystem consists of the police, prosecutors, courts, legal counsel and correctional institutions, both institutional and non-institutional”. The reality is that the Baitul Mal Institution has not yet functioned in the implementation of the Qanun Jinayat. So there is no legal certainty in this matter.

Normative legal certainty is when a regulation is made and then enacted with certainty, clearly regulates something, there is no doubt (multiple interpretations) and is logical. The clear definition is that it becomes a system of norms against other norms so that they do not conflict with each other (systematic). While legal certainty refers to the implementation of clear, permanent, consistent and consequent laws where their implementation cannot be influenced by subjective circumstances.⁹

The definition of legal certainty rests on the fact that “certainty” is a definite state, provision or stipulation. The law must in essence be definite and fair. Certain because it is used as a guideline for behavior and is said to be fair because the guideline for behavior must support an order that is considered reasonable. The law can only carry out its function if it is definite and fair. This legal certainty is indeed a question that can sometimes only be answered normatively, not sociologically.¹⁰

According to Kelsen, law is a system of norms, which is often said to be hierarchically structured. Norms are statements that emphasize the aspect of “should” or *das sollen*, by creating several regulations about what should be done. Norms are products and deliberative human actions. Legislation containing general rules becomes a guideline for individuals to behave in society, both in terms of relationships with other individuals and in their relationships with society. These rules become limitations for society in limiting or taking action against individuals. With the existence of these rules and the implementation of these rules, legal certainty will be created.¹¹

⁷ Din, “Synergy Between Law Enforcers and the Aceh Government in the Empowerment of Caning Criminal Procedure.”Page 4

⁸ Din. Page 4

⁹ Cst Kansil et al., Dictionary of Legal Terms (Jakarta, nd).p. 385.

¹⁰ Dominikus Rato, Philosophy of Law: Seeking and Understanding Law (Yogyakarta: Laksbang Presindo, 2010).Pg. 59.

¹¹ Peter Mahmud Marzuki, Introduction to Legal Science (Jakarta: Kencaana Pranada Media, 2008).Pg. 158.

According to Utrecht, legal certainty contains the following meanings: the existence of general rules so that individuals know what actions may or may not be carried out, and legal security for individuals from arbitrary actions by the government, because with the existence of general rules, individuals can know about what the state may impose or do to them (Marzuki, 2008:158)

This legal certainty teaching actually comes from the Juridical-Dogmatic teaching which is based on the positivistic school of thought, where this school tends to see the law as something autonomous. For adherents of this school of thought or school of thought, the law is nothing more than a collection of rules aimed at ensuring the realization of legal certainty. Legal certainty is realized by the law with its nature which only creates a general legal rule. So from the general nature of the law it proves that the law is not intended to realize justice or benefit, but solely for certainty.¹²

On the other hand, legal certainty is actually also a guarantee of law that contains justice. Norms that advance and guarantee justice must truly function as regulations that are obeyed. According to Gustav Radbruch, justice and legal certainty are parts or elements that remain in the law. Gustav argues that justice and legal certainty must be considered, because legal certainty has a direct impact on the security and order of a country.¹³

Lon Fuller explains that there are 8 (eight) principles that must be fulfilled by law, namely as stated by Satjipto Rahardjo¹⁴"made by the authorities and authorities, must be announced to the public, must not be retroactive, must be formulated in a way that can be understood by the general public, must not be contradictory, must not require an action that is beyond what can be done, must not be changed too often, and must have conformity between the regulations and the implementation in everyday life.

From the eight principles put forward by Lon Fuller, it can be concluded that there must be certainty between the regulations created and their implementation. So that positive law can be said to be running if it has entered the realm of behavior, action, and factors that can influence how the law runs.

¹² Riduan Syahrani, Summary of the Essence of Legal Science (Bandung: Citra Aditya Bakti, 1999).Page 23

¹³ Nur Agus Susanto, "Axiological Dimension of the Decision of the 'ST' Case: Review Decision Study Number 97 PK/Pid.Sus/2012," Judicial Commission of the Republic of Indonesia 7, no. 97 (2014).Pp 213-234.

¹⁴ Satjipto Raharjo, Law in the World of Order, in Achmad Ali, Revealing Legal Theory and Judicial Theory (Judicialprudence) Including Interpretation of Law (Legalprudence) (Jakarta: Kencana Perdana Media Group, 2006).Pg. 294.

Sudikno argues that the law functions to protect human interests, so violations of it are resolved through law enforcement. J Van Kan and JH Beekhuis argue that the law has a coercive nature and functions to protect the interests of everyone. Protection of human interests is one of the functions of the law, so the implementation of the law in concrete terms must be carried out professionally. Then the law that has been violated must be followed up with legal enforcement that has legal certainty so that justice seekers can get legal protection from arbitrary actions, both from fellow individuals and from the state.¹⁵

In line with this, in order to prevent potential arbitrariness by law enforcement officers, the state has created a law that regulates all legal regulations that regulate how law enforcement officers implement and uphold criminal law (substantial criminal law), which then becomes the definition of criminal procedural law, namely upholding substantive criminal law.¹⁶ Next is Abdoel Djamali¹⁷ explains that procedural law or formal law is a legal regulation that regulates how to maintain and implement material law. Its function is to resolve problems that meet the norms of prohibitions of material law through a process guided by the regulations contained in procedural law.

Primarily, the provisions of criminal procedure law in Indonesia are regulated through Law Number 8 of 1981 concerning Criminal Procedure Law (hereinafter referred to as the Criminal Procedure Code). In these provisions, everything related to authority and law enforcement procedures are regulated starting from the implementation of the investigation until the implementation of the contents of the verdict.

The purpose of regulating every authority held by the law enforcement subject, in the Qanun Jinayat, is that Baitul Mal officers are actually also part of it, so Romli Atmasasmita has this opinion.¹⁸ which explains the purpose of the establishment of the Criminal Procedure Code, must be interpreted as the purpose of the establishment of the Jinayat Procedure Code. The objectives are: "Protection of human dignity (suspects or defendants); Protection of legal and government interests; Codification and unification of Criminal Procedure Law; Achieving unity of attitude and action of law enforcement officers; Realizing Criminal Procedure Law in accordance with Pancasila and the 1945 Constitution".

In point 4, as explained by Romli Atmasasmita above, it is determined that the unity of attitude and action of law enforcement officers is one of the objectives to be carried out in the implementation of law enforcement as mandated in the Criminal Procedure Code, including the Qanun Acara Jinayat. This indicates that towards the same law, all law enforcement officers have

¹⁵ Marzuki, Introduction to Legal Science. Pg. 136.

¹⁶ Luhut MP Pangaribuan, Criminal Procedure Law, 1st Edition (Jakarta: Djambatan, 2013).Pg. 76.

¹⁷ R. Abdoel Djamali, Introduction to Indonesian Law (Jakarta: PT Raja Grafindopersada, 2013).Pg. 193.

¹⁸ Romli Atmasasmita, Contemporary Criminal Justice System (Jakarta: Prenada Media Group, 2010).Page 35.

the same attitude, regardless of other factors outside the law itself. This view is based on the fact that every procedure and level contained in the process of enforcing criminal procedural law must be carried out one by one in an orderly manner.¹⁹Therefore, a common attitude between law enforcers is very crucial in enforcing criminal procedural law based on the principle of legal certainty. If each law enforcer has a different view in interpreting a norm, it will create irregularity and ultimately have an impact on reducing the authority of the law itself. This common attitude is not only binding on each individual in a law enforcement agency, but also every extra-institutional law enforcement official such as the police, prosecutors and judges in court. In this regard, it is necessary to optimize the Baitul Mal Institution, so that the enforcement of the Qanun Jinayat can be carried out properly in accordance with the expected goals, which in turn is the enforcement of Islamic law in Aceh.

III. Results and Discussion

Although there are laws and regulations governing the Baitul Mal as part of the implementing apparatus for criminal law in Aceh, in its implementation there are still inequalities or non-uniformities in the implementation of the Baitul Mal function in all regencies/cities in Aceh. The norms that have been formulated expect the Baitul Mal to function as a place to manage confiscated or seized goods in handling criminal cases.

Basically, legally as explained above, the existing provisions are considered sufficient to be implemented, even though the facts show something different. Such a thing when associated with legal certainty certainly has a bad impact. While legal certainty refers to the implementation of clear, permanent, consistent and consequent laws where the implementation cannot be influenced by subjective circumstances.(Kansil et al., 2009)

Facts found in the field are that officials or organizational structures at the Baitul Mal do not yet comprehensively understand the existence of the Baitul Mal as one of the elements of the criminal justice subsystem in Aceh. Members of the Baitul Mal agency/commissioners do not know the flow of the criminal justice process. There is no basic knowledge for Baitul Mal officials about criminal law. It was found that there are still some who do not know what kind of cases are included in the competence of the criminal justice or the Sharia Court (Interview with the Chairperson/Member of the Baitul Mal Commissioner Bener Meriah, 2024).

¹⁹ Bambang Semedi, Law Enforcement That Guarantees Legal Certainty (Jakarta: Customs Education and Training Center, 2013).Page 4.

The limited knowledge of the Baitul Mal apparatus is a separate obstacle in optimizing the function and role of the Baitul Mal. Based on the data, there have been many criminal cases that the Sharia Court has decided with the confiscated money being confiscated for the Baitul Mal of the Regency/City. The majority of criminal cases that have confiscated goods such as in gambling cases.

Table 1
Recapitulation of Maisir Decisions at the Aceh Sharia Court in 2023

NO	SHARIA COURT	DECISION	LOOT
1	BANDA ACEH	2	2,885,000
2	SABANG	2	1,365,000
3	SIGLI	18	4,950,000
4	MEUREDU	1	650,000
5	BIEREUN	0	-
6	LHOKSEMAWE	2	160,000
7	LHOKSUKO	6	1,766,000
8	IDI	6	3,147,000
9	LANGSA	13	4,301,500
10	KUALA LUMPUR	10	3,033,000
11	KUTACANE	7	3,211,000
12	BLANGKEJEREN	2	2,250,000
13	TAKENGON	2	915,000
14	THREE-DISTRICT REDELOG	8	9,565,555
15	SUBULUSSALAM	1	71,000
16	SINGKIL	0	-
17	SINABANG	6	240,000
18	OUR FOOTPRINT	4	1,741,000
19	BLANG PIDIE	5	14,302,000
20	LIKE MAKMUE	2	2,860,000
21	MEULABOH	3	6,532,000
22	CALANG	1	663,000
23	JANTHO	8	4,897,000
24	ACEH	2	-

Based on the table above, it shows that all districts and cities have confiscated goods based on the decision of the Sharia Court, except for several districts and cities that do not have confiscated goods, namely Bireun and Aceh Singkil. Meanwhile, the Aceh Sharia Court, although it has a case that has been decided, is basically an appeal case, and if there is confiscated money, it will certainly be adjusted to the origin of the first-level Sharia Court according to its competence.

When associated with the purpose of this study to determine the function of Baital Mal in managing uqubat assets, the Sharia Court that most often decides on uqubat assets to be confiscated and handed over to Baital Mal is the Blang Pidie Sharia Court with confiscation of Rp. 14,302,000, the Lhoksukon Sharia Court with confiscation of Rp. 11,766,000, the Simpang Tiga Redelong Sharia Court with Rp. 9,565,555, the Meulaboh Sharia Court with Rp. 6,532,000, and the Sigli Sharia Court with Rp. 4,950,000.

The follow-up to the confiscated goods based on the ruling of the sharia court that has permanent legal force, in the form of money with the determination to be confiscated to be deposited to the Baitul Mal, ideally has been carried out by the prosecutor as the executor. In the criminal justice system, based on Article 1 number 22 of the Qanun of Jinayat Procedures, "The prosecutor acts as the public prosecutor and implementer of court decisions that have obtained permanent legal force and other authorities based on the law".

In addition to implementing the determination of confiscated money, the prosecutor as public prosecutor is also the executor of the implementation of the fine payment which is also directly related to the function of the Baitul Mal. As stated in Article 276 (1) the implementation of "The fine payment in cases with a fast trial is carried out in the following manner: a. The convict deposits the fine to the prosecutor and the prosecutor provides proof of receipt to the convict; b. The prosecutor deposits the fine as referred to in letter a to the Baitul Mal and the Baitul Mal submits proof of receipt to the prosecutor".

The process of executing evidence in criminal cases in Aceh is carried out after a final and binding decision (*inkracht*). After the decision is reached, the prosecutor's office is obliged to hand over evidence in the form of money resulting from the crime to the Baitul Mal. This handover is carried out through an official process, namely by making a report as evidence of the handover and recording of the execution. The report ensures that the entire execution process is carried out according to the provisions and becomes legal documentation that the evidence has been officially distributed to the Baitul Mal.

This recording is an important part of administration, because it provides legal certainty and accountability in the management of confiscated goods. With the existence of official records, both the prosecutor's office and the Baitul Mal can guarantee that the procedure for executing evidence is carried out transparently and in accordance with the regulations in force under the Kanun Jinayah.

The existence of legal substance in the form of special norms that deviate from the conventional criminal procedure above related to the mechanism of execution of confiscated

goods and uqubat fines that have been clearly stated, is expected to be optimal in its implementation and not cause significant obstacles. Based on data obtained in the field, the existing provisions have not been able to be implemented optimally, especially the obstacles are in the baitul mal itself as the recipient and manager of confiscated goods and confiscations and uqubat fines in the jinayat justice system.

The obstacles or barriers faced are that there are still Baitul Mal districts and cities that have not been able to receive state confiscated money on the grounds that they are not yet accustomed to such practices. Another reason is that Baitul Mal districts and cities do not yet have special accounts related to the deposit of confiscated money from criminal cases, because there is an assumption that confiscated money from criminal cases or in this case the results of gambling crimes are haram goods and cannot be mixed in alms and zakat accounts.

The above phenomenon certainly cannot be generalized, because from all the regencies/cities in Aceh, there is a Baitul Mal Aceh Besar in managing confiscated goods or confiscated money in the form of money in practice running well and based on established procedures, indicating that cooperation between the prosecutor's office and Baitul Mal in Aceh Besar has been formed effectively. This also shows that special regulations in the qanun jinayat can be applied smoothly in the context of handling confiscated goods, so that the goal of managing evidence for the benefit of the Acehnese people can be achieved without significant obstacles.

According to Asmadi Syam, Head of the Asset Recovery and Evidence Management Section at the Bener Meriah District Attorney's Office (Interview, October 15, 2021), he said that although there are regulations that state that confiscated goods in criminal cases are deposited in the Baitul Mal for management, in practice this is rarely done during case handling, unless the case has become final, considering the efficiency of case handling, especially since the prosecutor's office has a special field for managing confiscated and seized goods. Currently, based on Presidential Regulation Number 155 of 2024 concerning the Ministry of Law, the existence of the Rupbasan organization has been transferred to the prosecutor's office. Legally, the authority to manage confiscated and seized goods is purely the authority of the prosecutor's office, unless a court or tribunal decision determines otherwise, such as in criminal cases that order the prosecutor to deposit the confiscated money to the Baitul Mal. This context is certainly different because it is included in the realm of execution or implementation of court decisions.

Regarding the execution of confiscated goods in the form of money in the maisir crime case, when depositing the money in question, Baitul Bener Meriah was still confused about the deposit of the money and which account it should be placed in, because the accounts currently available are only zakat and infak accounts. Therefore, the prosecutor as the executor of the Sharia Court's decision still handed over the confiscated money to Baitul Mal with a manual receipt made by the treasurer of Baitul Mal at that time. This certainly has a negative impact on

the principles of transparency and accountability in managing state finances and is feared to be misused by certain parties, because it is not recorded systematically (Interview, Asmadi Syam, October 15, 2024).

The mechanism for depositing confiscated money or proceeds from the auction of confiscated goods above is certainly much different from confiscated money or proceeds from the auction of confiscated goods in ordinary criminal cases in general. Based on the Attorney General's Guidelines Number 3 of 2022 concerning the Auction and Direct Sale of Confiscated Objects, Evidence, State Confiscated Goods, and Execution Confiscated Objects in the Attorney General's Office of the Republic of Indonesia, it states that both in general criminal cases and special criminal cases that do not apply the provisions of the *qanun jinayah*, if there are confiscated goods or money confiscated for the state, the public prosecutor with the knowledge of the head of the general criminal section or special criminal section executes the confiscated goods by handing over responsibility to the head of the asset recovery and evidence management section to be deposited into the state treasury. Furthermore, the head of the asset recovery and evidence management section within 1x24 hours with a letter of instruction submits it to the treasurer of the prosecutor's office to be billed and deposited into the state treasury and become the prosecutor's Non-Tax State Revenue (PNBP). However, if it is in the form of goods with economic value, the head of the asset recovery and evidence management section will first conduct an auction through the local KPKNL or direct sale, the proceeds of which will also be handed over to the recipient treasurer to be deposited into the state treasury and become PNBP.

In terms of recording the management of confiscated goods and seized goods, the prosecutor's office has its own system, namely through the Asset Recovery Secured-data System (ARSSYS) application. Through this system, all evidence activities are recorded, including evidence that has been decided by the court to be settled, which is confiscated for the state will be recorded as PNPB. However, the problem in the system that applies nationally has not been accommodated by the sharia court decision stating that goods or money are confiscated to be deposited in the Baitul Mal, so that the settlement becomes arrears. Based on an interview with the ARSSYS Operator, the money deposited into the Baitul Mal is not counted as PNPB for the prosecutor's office, because it goes into the regional treasury, not the state treasury.

Then based on the data, there is also a lack of uniformity in the court's decision that determines the confiscated evidence to be auctioned or deposited to the Baitul Mal. A review of the decisions on *maisir* crimes, there are still different verdicts related to cash, including:

- a. Confiscated to be deposited to the district/city Baital Mal

- b. Confiscated for the region (found in the decision at the Langsa Sharia Court)
- c. Confiscated for the state (found in the decisions of the Lhoksukon Sharia Court and the Kuala Simpang Sharia Court)
- d. Returned to the convict
- e. Submitted for proof in another case
- f. Destroyed

Different treatments are also found for electronic goods that have economic value, including:

- a. Confiscated and handed over to Baital Mal
- b. Confiscated for the country
- c. Confiscated for destruction (found in most judgments)
- d. Confiscated to be destroyed until it can no longer be used
- e. Returned to the convict

The non-uniformity of the court's decision also has its own impact on the suboptimal implementation of Baitul Mal as one of the subsystems of the criminal justice system. If the non-uniformity of the decision will also have an impact on the multi-interpretation of the execution of confiscated goods, and cause legal uncertainty.

In the study of the decision, it was found that there was a tendency for the Sharia Court not to confiscate the confiscated money (found in the decisions of the Sigli Sharia Court and the Sinabang Sharia Court). There were Sharia Courts that confiscated electronic goods (found in the decisions of the Jantho Sharia Court and the Takengon Sharia Court). It was also found that the Sharia Court decided to confiscate animals used for gambling.

Based on the description above, there are a number of obstacles in optimizing the Baitul Mal in implementing the Qanun Jinayat, these obstacles are in the form of limited facilities and infrastructure as well as technical obstacles such as the Baitul Mal not functioning as a place to store confiscated goods, technical obstacles in the form of regulatory instruments in the form of implementing regulations from the Qanun Jinayat and the non-socialization of the Aceh Governor Regulation Number 59 of 2023 concerning the Management of Other Religious Assets at the Aceh Baitul Mal as the implementation of the Qanun Baitul Mal. Then there is still a lack of uniformity in court decisions which causes uncertainty, so that the function of the Baitul Mal does not run optimally. Another fundamental obstacle is because the management of confiscated goods has been integrated in the prosecutor's office including the Rupbasan has become part of the prosecutor's office.

IV. Closing

There are several obstacles in the effort to optimize the Baitul Mal, these obstacles are in the form of limited facilities and infrastructure as well as technical obstacles such as the Baitul

Mal not functioning as a place to store confiscated goods, technical obstacles in the form of regulatory instruments in the form of implementing regulations from the Qanun on Jinayat procedures and the non-socialization of the Aceh Governor Regulation Number 59 of 2023 concerning the Management of Other Religious Assets at the Aceh Baitul Mal as the implementation of the Qanun Baitul Mal. Then there is still a lack of uniformity in court decisions which causes uncertainty, so that the function of the Baitul Mal does not run optimally. Another fundamental obstacle is because the management of confiscated goods has been integrated in the prosecutor's office including Rupbasan has become part of the prosecutor's office.

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