

FORMULATING A LEGAL FRAMEWORK
FOR THE ADMINISTRATION
OF *BONA VACANTIA* (OWNERLESS ESTATE)
IN WEST MALAYSIA

BY

SITI KHADIJAH BINTI ABDULLAH SANEK

A thesis submitted in fulfilment of the requirement for
the degree of Doctor of Philosophy in Law

Ahmad Ibrahim Kulliyyah of Laws
International Islamic University Malaysia

SEPTEMBER 2025

ABSTRACT

The concept of *Bona vacantia*, denoting ownerless estates, arises when a deceased person's estate lacks rightful heirs. This research explores the formulation of a legal framework for the administration of *Bona vacantia* (ownerless estate) in West Malaysia, with a comprehensive examination of legal and procedural aspects. The existing legal provisions for *Bona vacantia* in West Malaysia are fragmented, leading to inconsistencies in administration, especially concerning Muslims and non-Muslims. This research aims to address these issues by investigating applicable laws and administrative variations towards proposing a comprehensive legal framework. The study explores the legal landscape governing *Bona vacantia* in West Malaysia, emphasising state-based legal provisions for Muslims and dual-level administration for non-Muslims. Undeniably, the lack of uniformity in law and the absence of mechanisms to locate potential beneficiaries have resulted in the denial of their rights. The study utilises a multi-faceted methodology that includes a doctrinal approach by analysing the legal and non-legal literature and field studies that involve semi-structured interviews with authorities in West Malaysia. A comparative analysis with international models from the United Kingdom (UK) and Singapore is conducted to obtain valuable insights into successful global practices that can be adapted to the West Malaysian context. Tables and figures are also incorporated to visualise and clarify the data. In conclusion, the proposed legal framework is delineated, emphasising legislative changes, key legal principles, and procedural aspects that aim to enhance the administration of *Bona vacantia* in West Malaysia, drawing on international best practices. Special attention is given to the identification of *Bona vacantia* assets, notification and registration procedures, handling of funds and assets, and dispute resolution mechanisms. The study contributes valuable recommendations for legislative changes, administrative reforms, and strategies for successful implementation. The goal is that this research will pave the way for improved asset management, inheritance procedures, and legal administration in the context of *Bona vacantia* for Muslims and non-Muslims in alignment with international best practices while considering regional legal frameworks for compatibility.

ملخص البحث

مفهوم "بونا فاكانتيا" يشير إلى الممتلكات التي لا يوجد لها ورثة شرعيون بعد وفاة الشخص. هذه الدراسة تستكشف وضع إطار قانوني لإدارة "بونا فاكانتيا" في غرب ماليزيا من خلال فحص شامل للجوانب القانونية والإجرائية. القوانين الحالية في ماليزيا الغربية مجزأة، مما يؤدي إلى تباينات في الإدارة، خاصة بين المسلمين وغير المسلمين. تهدف هذه الدراسة إلى معالجة هذه المشكلات من خلال دراسة القوانين المعمول بها والاختلافات في الإدارة، مع تقديم إطار قانوني شامل. تستعرض الدراسة النظام القانوني لإدارة "بونا فاكانتيا" في ماليزيا، مع التركيز على القوانين الخاصة بالمسلمين والإدارة المزدوجة لغير المسلمين. ومن المؤكد أن عدم توحيد القوانين وغياب آليات تحديد المستفيدين قد أدى إلى حرمانهم من حقوقهم. تعتمد الدراسة على منهج متعدد يشمل التحليل القانوني للأدبيات القانونية وغير القانونية بالإضافة إلى دراسات ميدانية تتضمن مقابلات مع الجهات المسؤولة في غرب ماليزيا. كما يتم إجراء تحليل مقارنة مع النماذج الدولية من المملكة المتحدة وسنغافورة للحصول على رؤى حول الممارسات العالمية الناجحة التي يمكن تطبيقها في السياق الماليزي. تم استخدام الجداول والرسوم لتوضيح البيانات. في الختام، يتم اقتراح إطار قانوني يركز على التغييرات التشريعية والمبادئ القانونية والإجراءات لتحسين إدارة "بونا فاكانتيا" في ماليزيا، مع الاهتمام بتحديد الأصول وإجراءات التسجيل وحل النزاعات. تساهم الدراسة في تقديم توصيات هامة للإصلاحات التشريعية والإدارية واستراتيجيات التنفيذ الناجح، بهدف تحسين إدارة الأصول وإجراءات الإرث بما يتماشى مع الممارسات الدولية مع مراعاة السياق الإقليمي.

APPROVAL PAGE

The thesis of Siti Khadijah Binti Abdullah Sanek has been approved by the following:

Akmal Hidayah Halim
Supervisor

Wan Noraini Mohd Salim
Co-Supervisor

Muhammad Amrullah Nasrul
Co-Supervisor

Mohamad Asmadi Abdullah
Internal Examiner

Nor Azlina Mohd Noor
External Examiner

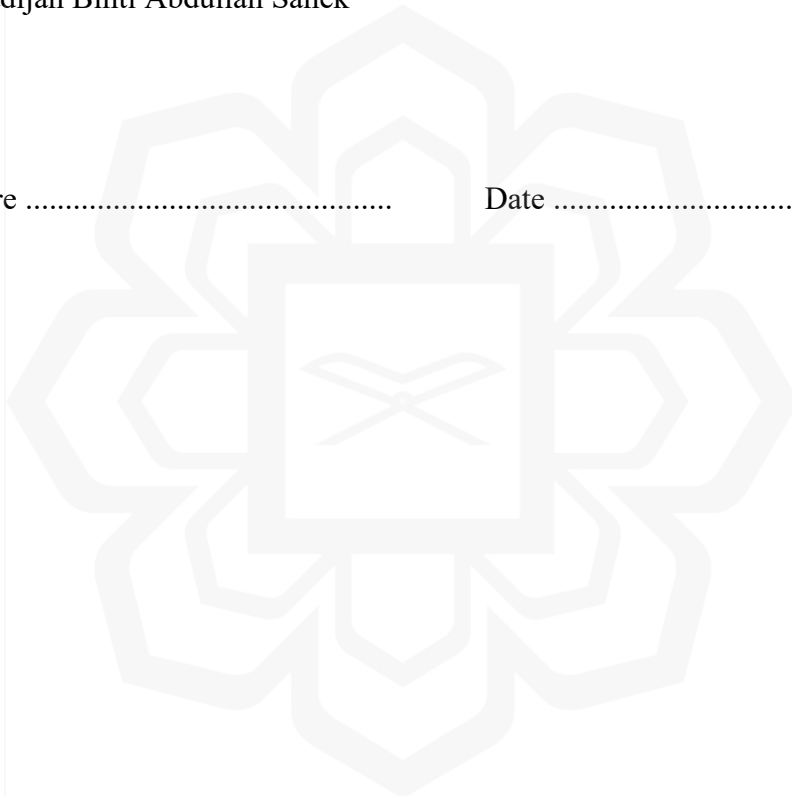
Aida Mokhtar
Chairman

DECLARATION

I hereby declare that this thesis is the result of my investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Siti Khadijah Binti Abdullah Sanek

Signature Date



INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

**DECLARATION OF COPYRIGHT AND AFFIRMATION OF
FAIR USE OF UNPUBLISHED RESEARCH**

**FORMULATING A LEGAL FRAMEWORK
FOR THE ADMINISTRATION
OF *BONA VACANTIA* (OWNERLESS ESTATE)
IN WEST MALAYSIA**

I declare that the copyright holder of this thesis is
Siti Khadijah binti Abdullah Sanek

Copyright © 2024 Siti Khadijah Binti Abdullah Sanek. All rights reserved.

No part of this unpublished research may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission of the copyright holder, except as provided below.

1. Any material contained in or derived from this unpublished research may be used by others in their writing with due acknowledgement.
2. IIUM or its library will have the right to make and transmit copies (print or electronic) for institutional and academic purposes.
3. The IIUM library will have the right to make, store in a retrieved system, and supply copies of this unpublished research if requested by other universities and research libraries.

By signing this form, I acknowledged that I have read and understand the IIUM Intellectual Property Rights and Commercialisation policy.

Affirmed by Siti Khadijah binti Abdullah Sanek

.....
Signature

.....
Date

ACKNOWLEDGEMENTS

Firstly, I begin by expressing my profound appreciation to Allah the Almighty, the Supreme Being of the universe, for bestowing rules and providing guidance. May the Prophet Muhammad (ﷺ), his family members, companions, and all those who adhere to his teachings until the day of judgement all be showered with the peace and blessings of Allah Divine.

I extend my gratitude and sincere thanks to all individuals who dedicated their time, effort, and assistance to this study endeavour entitled “Formulating Legal Framework for the Administration of *Bona vacantia* (Ownerless Estate) in West Malaysia.” I would particularly acknowledge and appreciate my supervisor, Associate Professor Dr Akmal Hidayah binti Halim, whose consistent and invaluable support, encompassing constructive criticism and recommendations, has made a substantial contribution to the success of this research endeavour. Along with that, I would like to thank my co-supervisors, Assistant Professor Dr Wan Noraini binti Mohd Salim and Assistant Professor Dr Muhammad Amrullah Nasrul, for all the help, support, and encouragement they gave me while I was doing this study. May the continued beneficence of Allah Almighty provide their families with wisdom and understanding for the benefit of Islam, the Ummah, and mankind.

Additionally, I would like to thank my husband and support system, Mohd Sani Bin Ahmad, as well as my children, Haziq Ulwan, Husna Mardhiah, and Harraz Sufi, for their love and patience throughout my academic pursuits. My sincere appreciation to the following individuals for their unwavering support and patience: my late mother, Rokeah Hj Mahamud (who passed away in November 2019); my father, Abdullah Sanek bin Hj Mad Arsat; and my parents-in-law, Hjh Naimah binti Hj Abdul Rahim and Hj Ahmad bin Hassan. I am content with supplication to Allah Almighty in the hope that He may have mercy and pardon them. I would like to extend my sincere appreciation to all my siblings, especially to my elder sisters Rabihaatul ‘Adawiyah and Rahimah, and also to my sister-in-law Nor Paizah Ahmad, for their continuous encouragement. Furthermore, it is imperative to consider my other siblings, brothers- and sisters-in-law, nephews and nieces.

Furthermore, I would also like to express my heartfelt appreciation to all lecturers and staff in the Ahmad Ibrahim Kulliyah of Laws who have undeniably contributed to the accomplishment of my studies. Especially in the Postgraduate Office, Associate Professor Dr Mohd. Wan Zulhafiz Wan Zahari (Deputy Dean), Sister Noraini Zakaria, Sister Suzie Liana binti Abidin and Brother Muhamad Zaki bin Hanafee for their usual kind responses and patient attitudes to my frequent enquiries. Not forgetting

Associate Prof. Dr Majdah binti Zawawi and Prof. To' Puan Dr Nor Asiah binti Mohamad (former Deputy Deans), Sister Hamizah binti Zainuddin, Sister Norhanieza binti A. Hamid and Brother Alif (former PG AIKOL staff). I sincerely appreciate each of them, and I sincerely hope Allah Ta'ala will reward them.

My appreciation also goes to the respondents who took part in gathering and data collection particularly to the following people for affording me the time and opportunity to have them interviewed, namely, Tuan Haji Baharuddin bin Aziz, Director of Estates Distribution Section (BPP), Department of Director General of Lands and Mines (JKPTG) (Director), Puan Shafinie Binti Abd Aziz, Chief Deputy Director, Unit Pembahagian Pusaka Negeri Perlis, Tuan Mohamad Zaim Bin Johari, Penolong Pengarah, Unit Pembahagian Pusaka Perak Timur (Kuala Kangsar), Puan Nur Fatin Amirah Binti Samsuddin, Penolong Pengarah Kanan and Puan Nurazmiah binti Azri, Ketua Penolong Pengarah, Unclaimed Money Managing Division of the Accountant General's Department, Puan NurSyakirah Bte Ismadi, Executive (*Baitulmal*), Islamic Religious Council of Singapore (MUIS), Sheikh Ahmad Zaki bin Haji Ghazali, Ketua Bahagian *Baitulmal*, Majlis Agama Islam Negeri Kedah (MAIK), Pn Noor Jamimah Binti Ahmad (Officer) dan Ustaz Faiz Ikmal bin Ahmad Rafie (Assistant Officer), Bahagian Agihan Zakat, Baitulmāl, Majlis Agama Islam Wilayah Persekutuan (MAIWP), Puan Nur Farahain Abu Bakar, Pegawai Pusaka, Majlis Agama Islam dan Adat Istiadat Melayu Kelantan (MAIK) and Ustaz Mohd Azri Esa, Assistant Director of *Baitulmal*, Johor Islamic Religious Council Affairs (MAINJ).

In concluding this research, I would like to extend a special mention to Universiti Teknologi MARA (UiTM) Kedah branch for allowing me to pursue part-time studies while employed. My heartfelt thanks go to my colleagues and friends at UiTM Kedah, who provided support and encouragement, especially to Puan Siti Nurbaya Ismail; from UiTM Melaka, Miss Ekmil Krisnawati Erlen Joni; from UiTM Johor, Dr Rahmawati Mohd Yusoff; and also to my study colleague, Puan Noor Rashidah binti Ramli, the Chief Deputy Director of the Estates Distribution Section (BPP) from the Department of Director General of Lands and Mines (JKPTG). I also acknowledge whose assistance, whether direct or indirect, may not have been explicitly mentioned. I genuinely hope that Allah blesses each one of you. *Jazaakumullah Khair.*

TABLE OF CONTENTS

Abstract.....	ii
ملخص البحث.....	iii
Approval Page.....	iv
Declaration.....	v
Acknowledgements.....	vii
Table of Contents.....	ix
List of Tables.....	xvi
List of Figures.....	xix
List of Cases.....	xxi
List of Statutes.....	xxii
List of Abbreviations.....	xxiv
CHAPTER ONE: INTRODUCTION.....	1
1.1 BACKGROUND OF THE STUDY.....	1
1.2 RESEARCH OBJECTIVES.....	14
1.3 STATEMENT OF THE PROBLEM.....	14
1.4 RESEARCH QUESTIONS.....	15
1.5 HYPOTHESIS.....	16
1.6 RESEARCH METHODOLOGY.....	17
1.7 LITERATURE REVIEW.....	20
1.8 SCOPE AND LIMITATION OF THE RESEARCH.....	27
1.9 STRUCTURE OF THE RESEARCH.....	31
1.10 CHAPTER SUMMARY.....	32
CHAPTER TWO: THE GOVERNING LAWS OF BONA VACANTIA IN WEST MALAYSIA	34
2.1 Introduction.....	34
2.2 Governing Laws for Muslims.....	35
2.2.1 Immovable Estates.....	40
2.2.1.1 Federal Constitution.....	40
2.2.1.2 National Land Code 1965.....	41
2.2.1.3 Small Estates (Distribution) Act 1955.....	42
2.2.1.4 Administration of Islamic Law (Federal Territories) Act 1993.....	43
2.2.2 Movable Estates.....	44
2.2.2.1 Federal Constitution.....	44
2.2.2.2 Civil Law Act 1956.....	46
2.2.2.3 Small Estates (Distribution) Act 1955.....	46
2.2.2.4 Administration of Islamic Law (Federal Territories) Act 1993.....	47
2.3 Governing Laws for Non-Muslims.....	49
2.3.1 Immovable Estates.....	50
2.3.1.1 Federal Constitution.....	50
2.3.1.2 National Land Code 1965.....	50

2.3.1.3 Small Estates (Distribution) Act 1955.....	51
2.3.1.4 Distribution Act 1958.....	51
2.3.2 Movable Estates.....	52
2.3.2.1 Federal Constitution.....	52
2.3.2.2 Civil Law Act 1956.....	52
2.3.2.3 Small Estates (Distribution) Act 1955.....	53
2.3.2.4 Distribution Act 1958.....	53
2.4 Insights from Case Law.....	55
2.4.1 Muslims.....	55
2.4.2 Non-Muslims.....	57
2.5 An Analysis through Legislation.....	58
2.5.1 Types of Movable and Immovable Property or Estates in West Malaysia.....	58
2.5.2 Comparative Analysis for Muslim and Non-Muslim.....	58
2.5.3 SWOT (Strengths, Weaknesses, Opportunities, Threats) Analysis..	61
2.6 An Analysis through Case Law for Muslim and Non-Muslim.....	64
2.6.1 Muslims.....	64
2.6.2 Non-Muslims.....	68
2.6.3 Comparative Analysis Between Muslims And Non-Muslims Case Law.....	70
2.6.4 SWOT Analysis.....	71
2.7 Comparative Conclusion.....	73
2.8 The Theories Underlying the Concepts of <i>Bona Vacantia</i> Estate in Islamic and Civil Law.....	75
2.8.1 Doctrine of Justice (<i>Adl</i>) and Benevolence (<i>Ihsan</i>) under Islamic Law.....	76
2.8.2 The Doctrine of Escheat under Civil Law.....	81
2.9 Chapter Summary.....	83

CHAPTER THREE: THE ADMINISTRATION OF BONA VACANTIA FOR MUSLIMS AND NON-MUSLIMS IN WEST MALAYSIA 85

3.1 Introduction.....	85
3.2 Practice and Value of <i>Bona vacantia</i> held by the <i>Baitulmal</i> (Moveable and Immoveable Estates) for Muslims.....	86
3.2.1 Kedah.....	90
3.2.2 Kelantan.....	95
3.2.3 Johor.....	101
3.2.4 Wilayah Persekutuan Kuala Lumpur (WPKL).....	109
3.3 Practice and Value of <i>Bona Vacantia</i> Held by the YDPA Fund and State Authority for Non-Muslims.....	113
3.3.1 Movable Estates (West Malaysia, Including Kedah, Kelantan, Johor, and Wilayah Persekutuan KL).....	113
3.3.2 Immoveable Estates (West Malaysia, including Kedah, Kelantan, Johor and Wilayah Persekutuan KL).....	117
3.4 Analysis of Practice and Value.....	124
3.5 Chapter Summary.....	126

CHAPTER FOUR: THE ADMINISTRATION OF BONA VACANTIA IN SINGAPORE AND THE UNITED KINGDOM..... 128

4.1 Introduction.....	128
4.2 The Administration of <i>Bona Vacantia</i> in Singapore.....	130
4.2.1 The Statutes.....	131
4.2.1.1 Muslim.....	131
4.2.1.1.1 Administration of Muslim Law Act 1966 (2020 Revised Edition).....	131
4.2.1.1.2 Civil Law Act 1909 (2020 Revised Edition).....	132
4.2.1.1.3 Central Provident Fund Act 1953 (2020 Revised Edition) Formerly Known as Central Provident Fund Act (Chapter 36).....	132
4.2.1.1.4 Child Development Co-Savings Act 2001 (2020 Revised Edition) Formerly known as Child Development Co-Savings Act (Chapter 38a).....	133
4.2.1.1.5 Education Endowment and Savings Schemes Act 1992 (2020 Revised Edition) Formerly Known as Education Endowment and Savings Schemes Act (Chapter 87a).....	133
4.2.1.2 Non-Muslim.....	135
4.2.1.2.1 Civil Law Act 1909 (2020 Revised Edition).....	135
4.2.1.2.2 Civil Law (Bona vacantia Laws) Order 2013.....	136
4.2.1.2.3 Central Provident Fund Act 1953 (2020 Revised Edition) Formerly Known as Central Provident Fund Act (Chapter 36).....	137
4.2.1.2.4 Child Development Co-Savings Act 2001 (2020 Revised Edition) Formerly Known as Child Development Co-Savings Act (Chapter 38a).....	138
4.2.1.2.5 Education Endowment and Savings Schemes Act 1992 (2020 Revised Edition) Formerly Known as Education Endowment and Savings Schemes Act (Chapter 87a).....	139
4.2.1.2.6 Intestate Succession Act 1967 (Formerly Known as Intestate Succession Act (Chapter 146)).....	141
4.2.1.2.7 Public Trustee Act 1915 (Formerly Known as Public Trustee Act (Chapter 260)).....	142
4.2.2 The Procedural Aspect.....	143
4.2.2.1 Muslims.....	144
4.2.2.2 Non-Muslims.....	150
4.2.3 The Issues.....	153
4.2.3.1 Distinct Legal Frameworks for Muslim and Non-Muslim Estates.....	153
4.2.3.2 Eligibility for Bona vacantia: Differences for Muslims and Non-Muslims.....	154
4.2.3.3 Conflicting Distribution Paths for Bona vacantia Estates...	154
4.2.3.4 Varying Processes for Claims Against Bona vacantia Estates.....	154
4.2.3.5 Religious Affiliation May Result in Conflicting Outcomes	155

4.2.3.6	Handling of CPF Monies: Separate Procedures for Muslims and Non-Muslims.....	156
4.2.3.7	Distribution of Baby Bonus, Edusave, Post-Secondary Education Account (PSEA), and Child Development Account (CDA) Money.....	156
4.2.3.8	Jointly Owned Properties: Rules Dependent on Ownership Type and Religion	156
4.2.4	Cases.....	158
4.2.4.1	Muslims.....	158
4.2.4.2	Non-Muslims.....	160
4.3	The Administration of Bona vacantia in the United Kingdom.....	162
4.3.1	The Statutes.....	166
4.3.1.1	Administration of Estates Act 1925.....	167
4.3.1.2	Companies Act 2006.....	167
4.3.1.3	Succession (Scotland) Act 1964.....	169
4.3.1.4	Administration of Estates Act (Northern Ireland) 1955.....	170
4.3.1.5	Additional Laws and Regulations.....	170
4.3.1.5.1	England & Wales: List of Laws and Regulations	171
4.3.1.5.2	Scotland: List of Laws and Regulations.....	172
4.3.1.5.3	Northern Ireland: List of Laws and Regulations	172
4.3.2	The Procedure.....	173
4.3.3	The Issues.....	180
4.3.3.1	Lack of Transparency.....	181
4.3.3.2	Ethical Concerns.....	181
4.3.3.3	Charitable Contributions.....	181
4.3.3.4	Historical Privileges.....	181
4.3.3.5	Public Outcry and Political Response.....	182
4.3.3.6	Ethical Investment Policy.....	182
4.3.3.7	Intellectual Property.....	182
4.3.4	Cases.....	183
4.3.4.1	How the Crown Claims or Disclaims Bona vacantia in the UK.....	183
4.3.4.2	Property held by a company.....	185
4.3.4.3	The Choice of Law Rules.....	188
4.3.4.4	Conclusion.....	189
4.4	Comparative Legal Analysis.....	192
4.4.1	Singapore.....	193
4.4.1.1	Legal Framework of Bona vacantia.....	193
4.4.1.2	The Inheritance of Property.....	193
4.4.1.3	Equitable or Moral Claims on Bona vacantia Estates.....	194
4.4.1.4	Transfer to the Government.....	195
4.4.1.5	Knowledge and Experience.....	195
4.4.2	The UK.....	196
4.4.2.1	Bona Vacantia Legislation.....	196
4.4.2.2	Administrative Bodies and Procedures of Bona Vacantia.....	197
4.4.2.3	Public Disclosure Regarding Bona vacantia Estates.....	197

4.4.2.4 Claiming Process and Policy.....	198
4.4.2.5 Use of Bona vacantia Estates.....	198
4.4.2.6 Stakeholder Engagement and Participation in the Use of the Assets.....	199
4.4.3 An Analysis.....	200
4.4.3.1 Legal Framework for Bona vacantia.....	201
4.4.3.2 Intestate Succession for non-Muslims.....	202
4.4.3.3 Islamic Inheritance.....	203
4.4.3.4 Transfer to the Government.....	204
4.4.3.5 Equitable or Moral Claims on Bona vacantia Estates.....	205
4.4.3.6 Claiming Process and Policy Relating to Bona vacantia.....	206
4.4.3.7 Use of Bona vacantia Estates.....	208
4.4.3.8 Public Disclosure.....	209
4.4.3.9 Stakeholder Engagement.....	210
4.4.3.10 Knowledge and Experience.....	211
4.5 Chapter Summary.....	213

**CHAPTER FIVE: ISSUES, CHALLENGES AND PROPOSED LEGAL
FRAMEWORK FOR THE ADMINISTRATION OF BONA VACANTIA IN
WEST MALAYSIA217**

5.1 Introduction.....	217
5.2 Current Legal and Procedural Framework of Bona Vacantia in West Malaysia.....	218
5.2.1 Overview of the Existing Laws Governing <i>Bona vacantia</i> in West Malaysia.....	219
5.2.2 Overview of the Procedural Framework of <i>Bona vacantia</i> in West Malaysia.....	219
5.2.2.1 Responsible Authorities.....	219
5.2.2.2 Process of Administration.....	221
5.2.3 Issues.....	223
a) Jurisdictional Split.....	223
b) Unclear Definition of Bona Vacantia.....	224
c) Fragmented Legal Provisions.....	225
d) Inefficiency in Administration and Lack of Resources.....	226
e) Inconsistencies in Administration Across States.....	227
f) Setbacks in Claiming Small Estates and the Redemption Problem.....	228
g) Lack of data on Bona Vacantia.....	230
5.2.4 Challenges.....	230
a) Legal and Policy Standardisation.....	230
b) Improving Administrative Efficiency.....	231
c) Educating the Public.....	232
d) Making it Easier for Families to Claim.....	232
e) Utilising Technology.....	232
f) Protective Measures for People and the Environment.....	233
5.2.5 Analysis of Issues and Challenges.....	234
5.2.6 Areas of Improvement.....	237
1. Streamlining the Process.....	237
2. Enhanced Public Awareness.....	237

3. Digitalisation.....	237
4. Interest Incentives.....	238
5. Cross-Jurisdictional Learning.....	238
6. Legal Reforms.....	238
5.3 Current Legal Status in Singapore.....	239
5.3.1 Governing Laws and Regulations.....	239
5.3.2 Administration Process.....	241
5.4 Current Legal Status in the UK.....	244
5.4.1 Governing Laws and Regulations.....	244
5.4.2 Administration Process.....	247
5.5 Comparative Analysis.....	251
5.5.1 Comparative Analysis: Key Differences and Similarities Between Singapore and West Malaysia.....	253
5.5.2 Comparative Analysis: Key Differences and Similarities Between the United Kingdom and West Malaysia.....	255
5.5.3 Hybrid Model.....	256
5.6 Proposed Legal and Administrative Framework for West Malaysia.....	261
5.7 Chapter Summary.....	263
CHAPTER SIX: RECOMMENDATIONS AND CONCLUSION.....	266
6.1 Introduction.....	266
6.2 Adoption of Best Practices Jurisdictions.....	267
6.3 Recommendations.....	269
6.3.1 Establishment of a Centralised Authority and Public Registry.....	270
6.3.2 Legal and Regulatory Reforms.....	273
6.3.2.1 Civil Law Act.....	273
6.3.2.2 Distribution Act 1958.....	274
6.3.2.3 Bona Vacantia Act.....	274
6.3.3 Integration with State Islamic Religious Councils (SIRC).....	278
6.3.4 Implementation of Uniform Procedures and Audits.....	279
6.3.4.1 Standardised Procedures.....	279
6.3.4.2 Ethical Use and Distribution of Bona vacantia Assets.....	281
6.3.5 Training Implementation and Capacity Building.....	282
6.3.5.1 Digital Databases and Artificial Intelligence (AI) Technology.....	282
6.3.5.2 Capacity Building.....	283
6.3.5.3 Training Programs.....	283
6.3.6 Monitoring and Evaluation.....	284
6.3.6.1 Regular Audits.....	284
6.3.6.2 Improved Claimant Support Mechanisms.....	284
6.3.6.3 Community Involvement.....	284
6.3.6.4 Feedback Mechanisms.....	285
6.4 Impact on Legal Practice in West Malaysia.....	286
6.5 Limitations of the Study.....	287
6.6 Future Research Directions and Policy Amendments of <i>Bona vacantia</i> in West Malaysia.....	289
6.7 Chapter Summary.....	291
6.8 Conclusion.....	292

REFERENCES.....	295
A. Books/e-books/online books.....	295
B. Conference/Seminar Papers.....	296
C. Government Links/Policy Documents.....	297
D. Journal Articles.....	299
E. News/Reports.....	305
F. Theses and Dissertations.....	306
G. Transliterated Re-Published Works.....	306
H. Websites/Wikipedia/Dictionaries/Encyclopedias.....	307
APPENDIX A - LIST OF RESPONDENTS.....	310
APPENDIX B - INTERVIEW QUESTIONS.....	312
RESPONDENT 1.....	312
RESPONDENT 2.....	314
RESPONDENT 3.....	316
RESPONDENT 4.....	318
RESPONDENT 5.....	320
RESPONDENT 6.....	322
RESPONDENT 7.....	324
RESPONDENT 8.....	326
RESPONDENT 9.....	328
APPENDIX C - INFORMED CONSENT FORMS.....	330
RESPONDENT 1.....	330
RESPONDENT 2.....	331
RESPONDENT 3.....	332
RESPONDENT 4.....	334
RESPONDENT 5.....	335
RESPONDENT 6.....	336
RESPONDENT 7.....	337
RESPONDENT 8.....	339
RESPONDENT 9.....	340

LIST OF TABLES

Table 2.1	Governing Laws for Muslims	48
Table 2.2	Governing Laws for non-Muslim	54
Table 2.3	Classification of Movable and Immovable Property	58
Table 2.4	Key Differences of <i>Bona vacantia</i> Administration for Muslims and Non-Muslims	59
Table 2.5	Comparison of Legislation Governing Estates for Muslims and Non-Muslims	60
Table 2.6	SWOT Analysis of the Legal Frameworks between Muslim and non-Muslim Estates	62
Table 2.7	Actionable Strategies Associated with the Legal Frameworks	63
Table 2.8	FIRAC Analysis Through Case Law for Muslims	64
Table 2.9	Critical Analysis Through Case Law for Muslims	66
Table 2.10	FIRAC Analysis Through Case Law for non-Muslim	68
Table 2.11	Critical Analysis Through Case Law for Non-Muslims	68
Table 2.12	SWOT Analysis of the Case Law between Muslim and non-Muslim Estates	71
Table 2.13	Actionable Strategies Associated with the Case Law	73
Table 3.1	<i>Baitulmal</i> Overview of Muslim Estate	89
Table 3.2	Associated Issues with Case Studies No. 2 and 3	106
Table 3.3	Overview of Case Study No. 5	108
Table 3.4	Overview of Case Studies No. 6 & 7	109
Table 3.5	MAIWP KL Interview Summary	112
Table 3.6	Unclaimed Money Management Division Interview Summary	116
Table 3.7	Interview Summary with the Director of Estate Distribution Section (BPP), JKPTG	118

Table 3.8	Interview Summary with the Deputy Director of Estate Distribution Unit, JKPTG (Kuala Kangsar branch)	122
Table 3.9	Interview Summary with the Chief Deputy Director of Estate Distribution Unit, JKPTG (Perlis)	124
Table 4.1	Overview of Statutes and Provisions for the Administration of non-Muslim Estates in Singapore	142
Table 4.2	Procedure for Obtaining an Inheritance Certificate for <i>Baitulmal</i>	148
Table 4.3	Procedure for Making a Claim of a Non-Muslim's Estate	152
Table 4.4	Comparison of Estate Administration for Muslims and Non-Muslims in Singapore	152
Table 4.5	Comparative Analysis of Estate Administration for Muslims and Non-Muslims	157
Table 4.6	Summary of Muslim Case Law	159
Table 4.7	Summary of non-Muslim Case Law	161
Table 4.8	Process for Handling <i>Bona vacantia</i> Estates in Scotland	176
Table 4.9	Process for Handling <i>Bona vacantia</i> Estates in Northern Ireland	177
Table 4.10	Comparison Matrix of <i>Bona vacantia</i> Procedures Across the UK with Hyperlinks	178
Table 4.11	Overview of Case Law for non-Muslim Estates in Singapore	191
Table 4.12	Comparative Analysis of <i>Bona vacantia</i> Administration in West Malaysia, Singapore, and the UK	213
Table 5.1	Legal Provisions Empowering Authorities in the Administration of <i>Bona vacantia</i> in West Malaysia	221
Table 5.2	Summary Overview of <i>Bona vacantia</i> Administration Procedures in West Malaysia for Muslim and Non-Muslim	223
Table 5.3	Issues and Challenges Analysis	234
Table 5.4	Estate Administration Comparison in Singapore	243
Table 5.5	Comparative Overview of <i>Bona vacantia</i> Administration in West Malaysia, Singapore, and the UK	250

Table 5.6	Hybrid Model Summary	260
Table 6.1	Structured Approach Overview to Managing <i>Bona vacantia</i> in West Malaysia	270
Table 6.2	Critical Alignment of Research Objectives, Questions, Methodology, Theories and Findings	294



LIST OF FIGURES

Figure 2.1	Legal Framework of <i>Bona vacantia</i> for Muslims and non-Muslims in West Malaysia	75
Figure 3.1	Map of Kedah	90
Figure 3.2	<i>Baitulmal</i> Kedah Collection in 2024	95
Figure 3.3	Map of Kelantan	97
Figure 3.4	Statistics of <i>Bona vacantia</i> Cases Handled by <i>Baitulmal</i> in Kelantan from 2000 to 2023	98
Figure 3.5	Total Receipt by Kelantan <i>Baitulmal</i>	100
Figure 3.6	Gratuity Payment Incentive	101
Figure 3.7	Property Value Received by Johor <i>Baitulmal</i>	103
Figure 3.8	Map of Johor	104
Figure 3.9	Overview of Case Study No. 1	105
Figure 3.10	Overview of Case Study No. 4	107
Figure 3.11	Total Receipts by Kuala Lumpur <i>Baitulmal</i>	111
Figure 3.12	<i>Bona vacantia</i> administration by <i>Baitulmal</i> in West Malaysia	113
Figure 4.1	Map of Singapore	131
Figure 4.2	Overview of Statutes and Provisions for the Administration of Muslim Estates in Singapore	135
Figure 4.3	Comparison between Edusave Pupil Funds and PSE Funds for non-Muslims	141
Figure 4.4	Steps for Muslim Estate Administration	146
Figure 4.5	<i>Faraid</i> Heirs	147
Figure 4.6	Map of the UK	164
Figure 4.7	The Dukedoms of England	165

Figure 4.8	Comparison of <i>Bona vacantia</i> Management and Legislation in the UK	166
Figure 4.9	Process Flowchart for <i>Bona vacantia</i> Estate Distribution	175
Figure 4.10	Geographical Context and Regional Highlights in <i>Bona vacantia</i> Administration: West Malaysia, Singapore, and the UK	192
Figure 6.1	Overview of the Centralised Authority for <i>Bona vacantia</i> Estates (CABVE)	272



LIST OF CASES

Malaysia

Abdul Malik bin Saham (undecided case)

In the Matter of Khairil Albrecht bin Abdullah (undecided case)

Kaliammal a/p Sinnasamy v Pengarah Jabatan Agama Islam Wilayah Persekutuan (JAWI) dan Lain-lain [2006] 1 MLJ 685

Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Anor [1971] 2 MLJ 217

Re Itam binti Saad v Chik binti Abdullah [1974] 2 MLJ 53

Re Mutchilim Alias Ashrhin, Decd; Ji Mawar v Attorney-General [1960] MLJ 25

Re Soo-Hoo Hem Leng (1963) MLJ 38

Re Timah binti Abdullah [1941] MLJ 51

Singapore

Lee Chen Seong Jeremy v Official Assignee [2018] SGCA 51

Re Will of Samuel Emily [2001] SGHC 299

Shafeeg bin Salim Talib and Another (Administrators of the estate of Obeidillah bin Salim bin Talib, deceased) v Fatimah bte Abud bin Talib and Others [2009] SGHC 100

Shafeeg bin Salim Talib and Another v Fatimah bte Abud bin Talib and others [2010] SGCA 11

UK

Addlesee v Dentons Europe LLP [2019] EWCA Civ 1600

ELB Securities Limited v Alan Love and Preswick Homes Limited [2015] CSIH 67 2

Hamilton v Her Majesty's Attorney-General [2022] EWHC 2132 (Ch)

Hindcastle Ltd. and Barbara Attenborough Associates Ltd. [1997] AC 70 (HL)

In the Estate of Musurus [1936] 2 All E.R. 1666

Leon v Attorney General & Ors [2019] EWCA Civ 2047

Malcolm Huntley Potier v Bona vacantia Division [2019] EWHC 4015 (Ch)

Quadracolor Ltd. v Crown Estate Commissioners [2013] EWHC 4842 Ch

Re Barnett's Trusts [1902] 1 Ch. 847

Re C W Dixon Ltd. [1947] Ch. 251

Re Fivestar Properties Ltd [2015] EWHC 2782 (Ch)

Re Maldonado [1954] P 223

UBS Global Asset Management (UK) Ltd v Crown Estate Commissioners [2011] EWHC 3368 (Ch)

LIST OF STATUTES

Administration of Estates Act 1925 (United Kingdom)
Administration of Estates Act (Northern Ireland) 1955
Administration of Muslim Law Act 1966
Administration of Muslim Law Act (Chapter 3)
Administration of Islamic Law (Federal Territories) Act 1993 (Act 505)
Administration of Islamic Religious Administration (State of Johor) Enactment 2003
Administration of Islamic Law (Kedah Darul Aman) Enactment 2008
Central Provident Fund Act 1953 (Singapore)
Central Provident Fund Act (Cap. 36) (Singapore)
Child Development Co-Savings Act 2001 (Singapore)
Child Development Co-Savings Act (Cap. 38A) (Singapore)
Civil Law Act 1909 (Singapore)
Civil Law Act 1956 (Act 67)
Civil Law (*Bona vacantia* Laws) Order 2013 (Singapore)
Companies Act 1967 (Singapore)
Companies Act (Cap. 50) (Singapore)
Companies Act 2006 (United Kingdom)
Crown Estate Act 1961 (United Kingdom)
Data Protection Act 2018 (United Kingdom)
Deposit Insurance and Policy Owners' Protection Schemes Act 2011 (Singapore)
Distribution Act 1958 (Act 300)
Education Endowment and Savings Schemes Act 1992 (Singapore)
Education Endowment and Savings Schemes Act (Chapter 87A) (Singapore)
Estate Duty Act 1929 (Singapore)
Family Law (Scotland) Act 2006
Federal Constitution
Freedom of Information Act 2000 (United Kingdom)
Inheritance (Family Provision) Act 1971 (Act 39)
Inheritance (Provision for Family and Dependants) Act 1975 (United Kingdom)
Interpretation Acts 1948 and 1967 (Act 388)
Intestate Succession Act (Chapter 146) (Singapore)
Intestate Succession Act 1967 (Singapore)
Islamic Family Law (Federal Territories) Act 1984
Kelantan Islamic Religious Council and Malay Customs Enactment 1994
Land (Group Settlement Areas) Act 1960 (Act 530)
Land Registration Act 1925 (United Kingdom)
Land Registration etc. (Scotland) Act 2012
Land Registration Act (Northern Ireland) 1970
Law of Property Act 1925 (United Kingdom)
Mental Capacity Act 2008 (Singapore)
National Land Code 1965 (Act 56)
Probate and Administration Act 1959 (Act 97)
Public Trustee Act 1915 (Singapore)
Public Trustee Act (Chapter 260) (Singapore)

Public Trustee Act (Northern Ireland) 1958
Small Estates (Distribution) Act 1955 (Act 98)
Small Estates (Distribution) (Amendment) Act 2022 (Act A1643)
State Lands Act 1920 (Singapore)
Succession (Scotland) Act 1964
Treasury Solicitor's Act 1876 (United Kingdom)
Trustee Act (Northern Ireland) 1958
Unclaimed Estates Act 1975 (United Kingdom)
Unclaimed Moneys Act 1965 (Act 370)



LIST OF ABBREVIATIONS

AI	Artificial Intelligence
AMLA	Administration of Muslim Law Act
ARB	Amanah Raya Berhad
ASB	Amanah Saham Bumiputera
ASM	Amanah Saham Malaysia
ASW	Amanah Saham Wawasan
BVD	<i>Bona vacantia</i> Division
BPP	Estates Distribution Section
CABVE	Centralised Authority for <i>Bona vacantia</i> Estates
CDA	Child Development Account
CPF	Central Provident Fund
DP	Digital platform
DoF	Department of Finance
EPF	Employees Provident Fund
eGUMIS	Electronic Government Unclaimed Money Information System
e.g.	<i>exempli gratia</i> , for example
FELDA	Federal Land Development Authority
GLD	Government Legal Department
GSA	Group Settlement Areas
HDB	Housing & Development Board
HM Treasury	His Majesty's Treasury
IC	Identity Card
IP	Intellectual Property
JID	Jawhar Intellectual Discourse
JAWHAR	Jabatan Wakaf, Zakat & Haji
JKPTG	Department of Director General of Lands and Mines
JPN	National Registration Department
JPPH	Valuation and Property Services Department
JUPEM	Department of Survey and Mapping Malaysia
KLTR	King's and Lord Treasurer's Remembrancer
LO	Land Office
MAIJ	Majlis Agama Islam Negeri Johor
MAIK	Majlis Agama Islam Dan Adat Istiadat Melayu Kelantan
MAIK	Majlis Agama Islam Negeri Kedah
MAIN	Majlis Agama Islam Negeri
MAIWP	Majlis Agama Islam Wilayah Persekutuan
MPTP	Management of Redemption of Estates
MUIS	Islamic Religious Council of Singapore
NLC	National Land Code 1965
NEA	National Environment Agency
NUHU	National Ultimus Haeres Unit
PSEA	Post-Secondary Education Account
PTO	Public Trustee's Office
QLTTR	Queen's and Lord Treasurer's Remembrancer
SIRC	State Islamic Religious Council
SOP	Standard Operating Procedures
UK	United Kingdom
WTD	Wang Tak Dituntut
WPKL	Wilayah Persekutuan Kuala Lumpur



CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The property left behind by any deceased person is known as an estate or inheritance property. Generally, for Muslims, the property is distributed upon death according to the rule of *faraid* after deducting all funeral expenses and debts.¹ *Faraid* is a central subject within the broader discipline of *mawarith*.² It is the knowledge of the distribution of inheritance³ to their heirs as mandated by the Quran and Sunnah.⁴ Distribution is made after deducting funeral expenses, debts, and the settlement of *wasiyyah* (wills) or *hibah* (gifts), if any.

According to Islamic law, all property ultimately belongs to Allah, and people are only responsible for managing and allocating their money as trustees (*amanah*).⁵

1 Mohd Shahril Ahmad Razimi, "Concept of Islamic Inheritance Law (Faraid) in Malaysia: Issues and Challenges," *Research Journal of Applied Sciences* 11, no. 12 (2016): 1461, <https://docsdrive.com/pdfs/medwelljournals/rjasci/2016/1460-1464.pdf>; Chee Ying Kuek and Tay Eng Siang, "Religious Conversions and the Conflicts between Civil and Islamic Law of Inheritance in Malaysia," *Malayan Law Journal* 6, (2013): lxxv, <https://tinyurl.com/279uha53>; Portal Rasmi Majlis Agama Islam Selangor, "Harta Pusaka," *Portal Rasmi Majlis Agama Islam Selangor*, <https://mais.gov.my/perkhidmatan-harta-pusaka/> (accessed June 4, 2023); MyGovernment – The Government of Malaysia's Official Portal, "Managing Faraid Application," *MyGovernment*, accessed October 5, 2020, <https://tinyurl.com/yytk9y7f>; Mohd Khairy Kamarudin and Nasrul Hisyam Nor Muhammad, "Islamic Estate Planning and Management: Malaysian Experience," *International Journal of Management Applications* 1, no. 1 (2018): 9, <https://shorturl.at/o9hrQ>; P. Selvarani, "When There Is a Will, There Is a Way," *Malaysian Bar*, <https://tinyurl.com/yxhwa7s4> (accessed July 31, 2011).

² Mustofa Al-Khin, Mustofa Al-Bugho, and Ali Asy-Syarbaji, *Kitab Fikah Mazhab Syafie*, trans. Solehan Ayub, vol. 5 (Kuala Lumpur: Pustaka Salam, 2003), 841; Wan Abdul Halim Wan Harun, *Mengurus Harta Pusaka* (Kuala Terengganu: Ikon Syabab Resources, 2018), 6.

³ Wahbah Zuhaili and Muhammad Ali Shabuni, *Hukum Harta Pusaka Dan Ilmu Faraid*, trans. Abdul Rahman Mohd Adil (Johor Bahru: Pustaka Azhar, 2011), 70; Sadali Rasban, *Baitulmal in the Fara'id System: Rethink and Revise* (Singapore: HTH Advisory Services Pte Ltd, 2014), 3; Wan Abdul Halim Wan Harun, *Pengurusan dan Pembahagian Harta Pusaka*, 4th ed. (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2016), 1.

⁴ Wan Noraini Mohd Salim, *Islamic Law of Succession: A Practical Guide to the Laws of Faraid* (Ampang: CLJ Publication, 2012), 8.

⁵ Mohammad Muhibbin, "The Concept of Land Ownership in the Perspective of Islamic Law," *Al-Risalah* 17, no. 1 (2018): 61.

Sharia, based on the *faraid* (Qur'anic principles of inheritance), has a significant influence on property ownership and the division of assets among successors. In keeping with divine directives, these principles require a fair distribution of a deceased person's estate, ensuring that each eligible heir has a specific share, and Islam does not deny any inheritor's claim to inheritance.⁶ Furthermore, Islamic inheritance laws are designed to align with both individual rights and the overall aims of Islamic principles.⁷ However, in cases where no heirs exist, the estate cannot be distributed under *faraid* and instead defaults to the state.⁸

This situation gives rise to the doctrine of *bona vacantia*, which refers to ownerless property. The origin of "*Bona vacantia*" was borrowed into English from Latin around 1750–60 and derived from a Latin term meaning "ownerless goods" or "property without an owner or claimant."⁹ It is a legal concept associated with property that has no owner¹⁰ and is referred to as "vacant goods" or "ownerless goods", which are left without any clear owner or property left by someone who has died intestate and has unknown heirs.¹¹ *Bona vacantia* also means land of which no one is entitled, and it includes property of dissolved corporations other than the property of people who have died intestate with no next of kin. The estate of which shall then revert to the Crown.¹²

Bona vacantia is also referred to as escheat. The term 'escheat' is a common

⁶ Raihanah Abdullah et. al., "The Islamic Legal Provisions for Women's Share in the Inheritance System: A Reflection on Malaysian Society," *Asian Women* 30, no. 1 (2014): 34, <https://doi.org/10.14431/aw.2014.03.30.1.29>

⁷ Lorinza Hartomo Razy, "Islamic Inheritance Law in the Modern Era: Contemporary Aspects and Applications," *An-Nur: Jurnal Studi Islam* 15, no. 2 (2023): 288, <https://doi.org/10.37252/annur.v15i2.568>; Mohd Kamarul Khaidzir Saadan and Mohamad Sabri Haron, "Teori Masalah dalam Sistem Pewarisan Harta Orang Islam," *Journal of Muwafaqat* 1, no. 1 (2018): 5, <https://muwafaqat.uis.edu.my/index.php/journal/article/view/62/48>

⁸ Mahiuddin Abu Zakaria Yahya Ibn Sharif En Nawawi, *Minhaj Et Talibin*, trans. E. C. Howard (London: W. Thacker & Co., 1914), 247.

⁹ Dictionary.com, "Bona Vacantia," <https://www.dictionary.com/browse/bona-vacantia> (accessed May 17, 2018).

¹⁰ Wikipedia, "Bona Vacantia," https://en.wikipedia.org/wiki/Bona_vacantia (accessed May 17, 2018).

¹¹ Elizabeth Blessing, "Bona Vacantia," *Investopedia*, <https://www.investopedia.com/terms/b/bona-vacantia.asp> (accessed May 1, 2023).

¹² The Free Dictionary, "Bona Vacantia," <https://tinyurl.com/b83t3ed6> (accessed December 4, 2020).

law doctrine that transfers the real property (applies to freehold properties only) of any deceased person leaving no heirs to the feudal lord. The Crown has the authority to dispose of escheat property.¹³ Nearly all common-law jurisdictions have abolished this feudal land tenure and substituted it with *Bona vacantia*, where the Crown can acquire such property if no one else is eligible for it.¹⁴ Today, *Bona vacantia* includes the estates of deceased persons with no heirs as well as the assets of dissolved corporations. The doctrine ensures that property does not remain ownerless but reverts to public authority for orderly management.

Bona vacantia, as a legal doctrine, has evolved to address estates left without valid wills or heirs.¹⁵ During medieval times, this doctrine was significant in preventing land from becoming ownerless and reverting it to the Crown.¹⁶ As modern legal systems developed, the *bona vacantia* concept was formalised into laws that help manage and distribute unclaimed property, ensuring it is responsibly administered.¹⁷ This principle is crucial in secular and Islamic legal systems, ensuring the orderly transfer of ownerless estates and maintaining legal and property rights across different jurisdictions.

In terms of terminology, unclaimed estates or property are operationally defined as movable or immovable assets left by a deceased person which, upon death, are not claimed under the relevant inheritance laws. It denotes the practical category of assets without heirs or valid claims. *Bona vacantia* represents the legal doctrine by which

¹³ Tom Stanton, "Escheat and the Restructuring of Property Ownership," *Taylor Wessing*, <https://tinyurl.com/mtcjfm69> (accessed September 9, 2021).

¹⁴ Conrad Bower, "Inequitable Escheat?: Reflecting on Unclaimed Property Law and the Supreme Court's Interstate Escheat Framework," *Ohio State Law Journal* 74, no. 3 (2013): 520, <https://www.academia.edu/85237320/>.

¹⁵ Maeve McClenaghan, Rob Evans, and Henry Dyer, "King's Estate to Transfer £100m into Ethical Funds after Bona Vacantia Revelations," *The Guardian*, November 25, 2023, <https://www.theguardian.com/uk-news/2023/nov/25/kings-estate-transfer-cash-ethical-funds-bona-vacantia-revelations>.

¹⁶ Graeme Watt, "A Defence of Estates and Feudal Tenure," *Northern Ireland Legal Quarterly* 66, no. 3 (2015): 246, <https://doi.org/10.53386/nlq.v66i3.152>

¹⁷ Santiago Poli, "Bona Vacantia: Legal Concept Explained," *Vintti*, <https://www.vintti.com/blog/bona-vacantia-legal-concept-explained> (accessed March 2, 2024).

ownerless property is vested in the state or relevant authority.

In West Malaysia, the administration of *Bona vacantia* reflects the dual legal system. It provides a legal framework for addressing ownerless property (*bona vacantia*), where ownerless Muslim estates, whether moveable or immovable property, are administered through the institution of *Baitulmal*, while non-Muslim estates revert to the civil authorities.¹⁸ The rule provides that the remainder of the estate is to be passed to *Baitulmal*, the public treasury constituted under the State enactments and within the jurisdiction of the State Islamic Religious Council (SIRC) accordingly.¹⁹ This is in line with the Federal Constitution, following Schedule 9, List II, State List. All Islamic affairs outside those within the authority of the Shariah courts and muftis fall under SIRC.²⁰ It also manages Islamic wealth such as *Waqaf*,²¹ *Zakat* and *Baitulmal*.²²

The provision of Section 25 of the Civil Law Act 1956 also acknowledges that the administration of a Muslim's property should follow Islamic law. In furtherance, the right of *Baitulmal* is statutorily acknowledged under section 13(1) of the Small Estates (Distribution) Act 1955, where it is stipulated by the proviso of the sub-section. The provision of this section mandates that if there is any existing law concerning *Baitulmal*,

¹⁸ Akmal Hidayah Halim and et al, "The Administration of Muslims's and Non-Muslims's Ownerless Estate (Bona vacantia) in West Malaysia: An Analysis," *International Journal of Law, Government and Communication* 4, no. 16 (2019): 28, <http://irep.iium.edu.my/id/eprint/75096>

¹⁹ Akmal Hidayah Halim et al., "Administration of Unclaimed Estates in Malaysia: The Peculiarities of Unclaimed Money, Undistributed Fund and Bona Vacantia," *The Journal of Social Sciences Research*, no. SPI6 (2018): 1078, <https://doi.org/10.32861/jssr.spi6.1075.1079>

²⁰ Rozaidy Mahadi and et al, "Corporate Governance Structure of State Islamic Religious Councils in Malaysia," *International Journal of Asian Social Science* 8, no. 7 (2018): 389, <https://doi.org/10.18488/journal.1.2018.87.388.395>; S. Noor-Kaziemah and et al, "Understanding the Organisational Structure of State Islamic Religious Council and Baitulmal in Malaysia," *Journal of Islamic, Social, Economics and Development (JISED)* 4, no. 16 (2019): 30, <https://jised.com/PDF/JISED-2019-16-03-11.pdf>

²¹ Hisham Yaacob and Hairul Suhaimi Nahar, "Investigating Awqaf Management, Accounting and Investment Practices in Malaysia: The Case of a State Religious Institution," *Global Journal al Thaqafah* 7, no. 1 (2017): 61, <https://doi.org/10.7187/gjat12720170701>

²² Hairunnizam Wahid et al., "Perakaunan Untuk Aset Wakaf, Zakat dan Baitulmal oleh Majlis Agama Islam Negeri di Malaysia: Satu Cadangan Kerangka Kerja Syariah," paper presented at The 13th Malaysian National Economic Conference, Bangi, September 26–27, 2018.

the Land Administrator must ensure that any portion of a deceased Muslim's estate owed to *Baitulmal* is either paid or adequately provided for before distributing the estate.

While Islamic law regulates the administration of *bona vacantia* for Muslim estates, there is no explicit legal provision for *Baitulmal* to claim such estates.²³ Despite this, the practice has evolved, with the Syariah Court determining the inheritance distribution, often involving *Baitulmal* as a respondent in claims for ownerless estates.²⁴

Judicial decisions and administrative practice have recognised its entitlement. The principle of *bona vacantia*, as it pertains to the assets of deceased individuals who adhere to the Islamic faith, can be comprehended by examining the following legal precedents. The right of *Baitulmal* has been acknowledged in the case of *Re Mutchilim Alias Ashrhin, Decd; Ji Mawar v Attorney-General*²⁵, the party referred to as the plaintiff was the spouse of Mutchilim, also known as Ashrhin. It is worth noting that the deceased individual did not leave behind any offspring or other living relatives. The key matter under consideration in this case pertained to the entitlement of the plaintiff, in her capacity as the widow of the deceased individual. The question at hand was whether she had a claim to the entirety of the deceased's inheritance, or if her entitlement was limited to a one-quarter portion, with the remaining three-quarters being allocated to the Crown, namely the *Baitulmal*. It is worth mentioning that the deceased individual adhered to the Shafie school of thought within the Islamic faith. Consequently, according to the doctrine of *radd* as stated in the *Minhaj et Talibin*, in default of persons legally entitled to the remaining goods of the deceased's inheritance, the remainder is

²³ Juraish Kamaruddin, "Memperkasa Baitulmal Menerusi Undang-Undang Syariah," *Jurnal Pengurusan JAWHAR* 2, no. 2 (2008): 134, <https://tinyurl.com/2wph5984>

²⁴ Ibid.

²⁵ [1960] MLJ 25.

escheated to the State,²⁶ specifically, the *Baitulmal*.

The same rule was also upheld in the case of *Re Itam binti Saad v Chik binti Abdullah*;²⁷ it was observed that the deceased lacked any male heirs and was instead survived by his widow and daughter. Therefore, the daughter was allocated a share of 7/16, the widow was allocated a share of 2/16, and the remaining share of 7/16 was assigned to *Baitulmal*.

However, *in practice*, *Baitulmal* may allocate a certain percentage of the inheritance for distribution to other heirs through *takharuj*, which is a withdrawal from the inheritance²⁸ and relinquishing the property. This is exemplified in the example case of *Abdul Malik bin Saham*,²⁹ as recorded by the Jabatan Wakaf, Zakat, and Haji. The individual in question was transferring ownership of a parcel of land located in Pontian, Johor. The deceased individual is left by a sole heir, namely his sister, Jamilah binti Saham. According to the legal entitlements, Jamilah can receive a 50% share of the land, while the remaining 50% is to be transferred to Johor's *Baitulmal*. Nevertheless, Jamilah proceeded to apply for the redemption of *Baitulmal*'s share in the land. Following the payment of the redemption cost, which amounted to RM37,000, by the applicant.

Moreover, cases involving converts (*muallaf*) highlight further complexities where non-Muslim relatives are barred from inheriting Muslim estates, thereby transferring such property to *Baitulmal*.³⁰ The estate of the *Muallaf* deceased can be

²⁶ Ibn Sharif En Nawawi, 247.

²⁷ [1974] 2 MLJ 53.

²⁸ Al-Sabuni (1995) and Abu Zuhrah (1923), as cited by Md. Yazid Ahmad et al., "Flexibility of Takharuj Principle in Solving the Inheritance Issues," *International Journal of Civil Engineering and Technology* 8, no. 11 (2017): 869.

²⁹ Undecided case, as cited in Jabatan Wakaf, Zakat dan Haji (JAWHAR), *Manual Pengurusan Tebus Pusaka*, accessed June 3, 2020, <https://shorturl.at/70uwD>.

³⁰ Sofiyah Mohd Suhaimin, Md Yazid Ahmad, and Anwar Fakhri Omar, "Prakarsa Baitulmal dalam Menyantuni Tuntutan Harta Pusaka Mualaf oleh Waris Non-Muslim Menerusi Pendekatan Siyāsah Shar'iyah," *Journal of Contemporary Islamic Law* 7, no. 2 (2022): 67.

considered *Bona vacantia* if the deceased dies leaving no Muslim heir.³¹ The cases of *Re Timah binti Abdullah*³² and *Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Another*³³ highlight conflicts arising from claims made by non-Muslim heirs. Religious differences impede inheritance, as non-Muslims cannot inherit from Muslims and *vice versa*.³⁴

By referring to the case of *Re Timah binti Abdullah*³⁵, the deceased was a Japanese woman who married a Malay and became Muslim. Her spouse, who died before her, lived in Pahang with her. The wife administered his estate, making the deceased a beneficiary. The deceased died soon after her husband's death. The Official Administrator received letters of administration with the husband's appended will and the deceased's estate. The question was whether the deceased's non-Muslim relatives could inherit his property. It was decided that non-Muslims could not inherit Muslim estates. Thus, Pahang state was entitled to her estate, which *Baitulmal* surrendered to the state.

Further, in the case of *Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Another*³⁶, the High Court dealt with the issue of inheritance rights when a deceased individual had converted to Islam. The court ruled that since the deceased had converted to Islam, his non-Muslim wife and daughter could not inherit from his estate under Islamic law. This case highlights the complexities and legal challenges that arise in

³¹ Rahmawati Mohd Yusoff, "The Administration of Unclaimed Estates in West Malaysia: Formulating a Legal Framework" (unpublished Ph.D. thesis, International Islamic University Malaysia, 2019), 43.

³² [1941] MLJ 51.

³³ [1971] 2 MLJ 217.

³⁴ Nurul 'Izzah Baharudin and Noor Lizza Mohamed Said, "Masalah Dan Kaedah Penyelesaian Pewarisan Harta Pusaka Mualaf di Malaysia Method of Resolving Inheritance Problem of New Muslim Converts in Malaysia," *ISLAMIYYAT* 39, no. 1 (2017): 48, <https://journalarticle.ukm.my/11926/1/21595-67920-1-PB.pdf>; Abdur Rahman I. Doi, *Shari'ah: The Islamic Law*, (Ta Ha Publishers, 1984), 290, <https://archive.org/details/sharahislamiclaw0000doia/page/290/mode/2up?q=apostate>; Ying Kuek and Eng Siang, "Religious Conversions and the Conflicts." lxxx.

³⁵ [1941] MLJ 51.

³⁶ [1971] 2 MLJ 217.

Malaysia when dealing with inheritance matters involving converts to Islam, emphasising the need for clear legal frameworks to address such situations fairly.

Apostates' estates are also traditionally considered to revert in full to *Baitulmal*. Many Muslim jurists hold the view that all his estates ought to be bequeathed exclusively to the *Baitulmal*³⁷ without regard even to his relatives, who are Muslims or non-Muslims.³⁸ On the other hand, Muslim jurists hold divergent opinions regarding the heirs' claim to the estate of a deceased apostate. Under the Islamic Rule of Inheritance, the apostate is prohibited from inheriting the property of a deceased Muslim.³⁹ Meanwhile, the deceased apostate's property shall pass to *Baitulmal*.⁴⁰ Classical Islamic law holds that the estate of an apostate (an individual who renounces Islam) is automatically relinquished to the state or the Muslim community. This perspective is based on historical interpretations of certain Quranic verses and hadiths (sayings and actions of the Prophet Muhammad ﷺ). Historical perception of apostasy as a crime against the Muslim community and the subsequent attribution of ownership to the apostate's property formed the basis for this perspective.

For non-Muslims, the estate distribution is to be made according to the deceased's last will or, in cases of intestacy where there is no will, the estate will have to be made according to the rules of intestacy as laid down by the Distribution Act 1958. Non-Muslims in Sarawak are subject to the same law, while Sabah and Sarawak natives

³⁷ Al-Sabuni as cited by Wan Abdul Halim Wan Harun, 62; Al-Khin, Al-Bugho, and Asy-Syarbaji, 851-852.

³⁸ Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu, Jilid 10, Hak-Hak Anak; Wasiat; Wakaf; Warisan*, (Darul Fikir & Gema Insani, 2021), 353, <https://tinyurl.com/2dv6fe4h>; Zaki al-Din Sya'ban and Ahmad al-Ghandur, *أحكام الوصية والميراث والوقف في الشريعة الإسلامية* (n.d.), accessed August 8, 2024, https://waqef.com.sa/site_books_show.php?show=135

³⁹ Ibn Sharif En Nawawi, 253; Wan Noraini Mohd Salim, "The Effects of Apostasy on the Entitlement to Property upon Death: The Malaysian Position," *IIUM Law Journal* 24, no. 2 (2016): 370, <https://doi.org/10.31436/iiumlj.v24i2.269>; Abdur Rahman I. Doi, 290; Ying Kuek and Eng Siang, "Religious Conversions and the Conflicts." lxxx.

⁴⁰ Wan Noraini, "The Effects of Apostasy," 371; Ying Kuek and Eng Siang, "Religious Conversions and the Conflicts." lxxx.

are subject to a separate set of laws.⁴¹

According to Section 24 of the Civil Law Act 1956, *Bona vacantia* refers to the right of a personal estate of any deceased person who dies intestate without any rightful beneficiary, which will be accumulated in the Consolidated Fund and established for public purposes. However, saved following the Civil Law Act 1956, this provision is subject to Muslim law, a law in Sabah and Sarawak, native law and custom. It could be deduced that *Bona vacantia* in West Malaysia does not include property of dissolved corporations, like in the UK.

Hence, in West Malaysia, the administration of *Bona vacantia* is governed by the same set of laws, namely the Federal Constitution, Civil Law Act 1956, National Land Code 1965, Small Estates (Distribution) Act 1955 and Small Estates (Distribution) (Amendment) Act 2022 (the amendments raise the threshold to RM5 million, expanding coverage regardless of property type). Other governing laws include the Distribution Act 1958.

For non-Muslims, the deceased's ownerless estate (*bona vacantia*) should be accumulated by the federal government, except for land subject to reversion to the respective state authority. So, in an intestacy case where there is no ascertainable next of kin, the estate, other than immovable properties, escheats to the Federal Government as *Bona vacantia* for being ownerless goods.⁴² Under section 351 of the National Land Code, reversion to State Authority applies for land without successors⁴³ and no petition is made for the deceased estate's distribution.⁴⁴

⁴¹ Johore Bar Committee. "Non-Muslim Inheritance Law," Johore Bar Committee, accessed June 19, 2024, <https://johorebar.org.my/non-muslim-inheritance-law>.

⁴² Mohammad Tahir Sabit Haji Mohammada and Robiah Suratman, "Complexity of Intestate Estates Distribution and Escheat Law," *International Journal of Law, Government and Communication* 2, no. 4 (2017): 1–2, <https://tinyurl.com/29ecxj3p>

⁴³ Akmal Hidayah et al., "Administration of Unclaimed Estates." 1078.

⁴⁴ Akmal Hidayah et al., "The Administration of Muslims's." 28; Rahmawati, "The Administration of Unclaimed Estates." 37.

Interestingly, the *Bona vacantia* in terms of movable estates for non-Muslims shall revert to the Federal Consolidated Fund (YDPA Fund) as interpreted by Section 2 of the Unclaimed Moneys Act 1965 and Section 24 of the Civil Law Act 1956. Similarly, Section 3 of the Interpretation Act 1948 defines “Consolidated Fund” or “Federal Consolidated Fund” as the Federal Consolidated Fund established by Article 97 of the Federal Constitution. In the context of the Federal Constitution, Article 97 states that at the federal level, the fund is to be known as the Federal Consolidated Fund, whereas at the state level, the fund is to be known as the Consolidated Fund of that State.

Bona vacantia could be classified into two (2) types, namely movable and immovable property, or estates. Section 3 of the Interpretation Acts 1948 and 1967 defines “estate” as all property which, if a person died without a will, would vest in the Corporation (Amanah Raya Berhad), and “property” consists of a thing in action and any interest in moveable or immovable property. Therefore, the terms 'property' and 'estate', in a way, can be used interchangeably. In furtherance, the same section defines “immoveable property” as land and any interest in, right over or benefit arising or to arise out of land, whereas “moveable property” means all property other than immoveable property.

Comparatively, jurisdictions such as Singapore and the United Kingdom have established clearer and more structured frameworks. Singapore, for instance, the *Bona vacantia* administration is under the jurisdiction of the Ministry of Law, Singapore, under the Civil Law (*Bona vacantia* Laws) Order 2013. It signifies that anyone who has an equitable or moral claim can make a claim, subject to the required documents and evidence. The estates shall revert to the government unless individuals possess a valid

equitable or moral claim.⁴⁵ Any claims against *Bona vacantia* estates in Singapore are to be made to the Public Trustee under the Ministry of Law.⁴⁶

However, the application of *bona vacantia* does not extend to Muslim estates, as the Administration of Muslim Law Act (AMLA) governs it. The implementation of this legislation stems from Singapore's colonial history and integration into Malaysia, ensuring that Muslim estates are distributed according to Islamic law.⁴⁷ For Muslims, Section 27(6) of the Law on Civil Law (Cap. 43) expressly excludes Muslim properties. Therefore, the monies would be paid to *Baitulmal* in compliance with the rules of Muslim inheritance.⁴⁸

This can be seen in the case of *Re Will of Samuel Emily*,⁴⁹ where the court has ruled that the testatrix's residuary estate is subject to intestacy, and as such, it should be disbursed to the state following the settlement of all gifts and expenses. This disbursement does not require any funds to be held by the Public Trustee for any duration. It is evident that if there is no identifiable next of kin, the funds will be allocated to the state rather than an individual or private organisation. However, Muslim estates are to be administered by Muslim inheritance laws as provided under the Administration of Muslim Law Act 1966 (AMLA).

In England and Wales, *Bona vacantia* property, or ownerless property, is administered by the Treasury Solicitor, who acts for the Crown, including the assets of

⁴⁵ Ministry of Law, Singapore. "Claims against Bona Vacantia Estates," Ministry of Law, Singapore, accessed September 15, 2023, <https://pto.mlaw.gov.sg/deceased-cpf-estate-monies/claims-against-bona-vacantia-estates/>.

⁴⁶ Rahmawati, "The Administration of Unclaimed Estates." 110.

⁴⁷ Feirul Maliq Intajalle and Luqman Abdullah, "Pembahagian Pusaka Islam dan Permasalahannya di Singapura (Distribution of Muslim's Estate and Issues in Singapore)," *Journal of Southeast Asian Studies* 19, no. 1 (2014): 81, <https://doi.org/10.22452/jati.vol19no1.6>.

⁴⁸ Ministry of Law, Singapore. "Claims against Bona Vacantia Estates."

⁴⁹ [2001] SGHC 299.

dissolved companies and several other ownerless goods.⁵⁰ Similarly, like in Singapore, there is one official website⁵¹ of the *Bona vacantia* Division, which is administered by the Government Legal Department and applicable to England and Wales. The Division publishes a *Bona vacantia* list every working day, and it is removed once claimed. All information and guidelines can be found on their website.⁵² However, the *Bona vacantia* estate belongs to the Crown when it remains unclaimed after a certain period.

Hence, in West Malaysia, the administration of *Bona vacantia* is less uniform and remains legally ambiguous in the absence of a uniform legal and procedural manner in the administration of the *Bona vacantia* estate by the relevant and respective state authorities. While the *faraid* system governs Muslim inheritance, unclaimed Muslim estates are directed to *Baitulmal* without a comprehensive statutory framework. Non-Muslim estates fall under the Civil Law Act 1956, the National Land Code 1965, and the Distribution Act 1958, with further reference to the Small Estates (Distribution) Act 1955 (as amended in 2022 to raise the threshold to RM5 million). Section 13(1) of the Small Estates (Distribution) Act recognises *Baitulmal's* entitlement in cases where applicable, while Section 25 of the Civil Law Act affirms that the distribution of Muslim property must follow Islamic law. Despite these provisions, no centralised mechanism exists, and there is no official data on the value or frequency of *Bona vacantia* estates in Malaysia.

Thus, the absence of a comprehensive and uniform framework creates uncertainty in the administration of *Bona vacantia*. The current scattered provisions

⁵⁰ GOV.UK. "Bona Vacantia," GOV.UK, accessed September 15, 2023, <https://www.gov.uk/government/organisations/government-legal-department>.

⁵¹ Ministry of Law, Singapore, "Claims against Bona Vacantia Estates."

⁵² GOV.UK, "Bona Vacantia."

leave gaps in tracing heirs, allocating unclaimed estates, and determining jurisdiction between federal, state, and Islamic authorities.

Therefore, this work aims to critically analyse the laws and procedures governing *Bona vacantia* in West Malaysia by identifying the lacunae or ambiguity of how it came into being. Further, there is no specific data regarding the actual accumulated amount of *Bona vacantia* thus far. This research is also undertaken to identify the estate and its actual administrative practice and procedure, and the actual accumulated value for Muslims and non-Muslims, and to formulate a comprehensive framework and mechanism for the administration of the *Bona vacantia* estate in West Malaysia. By comparing the West Malaysian approach with the more developed models of the UK and Singapore, this study seeks to provide practical recommendations for ensuring fairness, clarity, and effective administration of *bona vacantia* estates in West Malaysia.

The proposed legal framework is meant to be applied by Malaysia's federal and state governments. It is also expected that the proposed legal framework should be able to trace the rightful beneficiaries (if any) for the distribution of the estate, since the current laws are still deficient in tracing them. The new knowledge and findings would serve as guidelines in assisting lawmakers, policymakers, and stakeholders on the various provisions of laws relating to the administration of *Bona vacantia* in Malaysia. The main reason for the awakened interest in the *Bona vacantia* estate lies in the fact that if this issue is left unattended, it could lead to an inappropriate perception in terms of a socio-legal perspective. The administration and procedure of *Bona vacantia* remain uncertain and are not specifically identified.

1.2 RESEARCH OBJECTIVES

The study aimed to achieve the following objectives:

- (1) To analyse the applicable laws and procedures and their adequacy regarding the *Bona vacantia* in West Malaysia with special reference to Kedah, Kelantan, Kuala Lumpur, and Johor, representing the Northern, Eastern, Central, and Southern regions in West Malaysia, respectively.
- (2) To identify the *Bona vacantia* estate as well as legal and procedural constraints in the administration of such estate by the relevant administrative bodies concerned, governing Muslims and non-Muslims, namely the YDPA Fund, State Authority and *Baitulmal*.
- (3) To examine and compare the legal frameworks governing the administration of *Bona vacantia* in Malaysia, Singapore, and the United Kingdom, with a view to identifying similarities, differences, and potential reforms for enhancing the West Malaysian system.
- (4) To propose a comprehensive legal framework for the administration of *Bona vacantia* in West Malaysia.

1.3 STATEMENT OF THE PROBLEM

It was reported that the diversity of agencies in managing Muslim estates in Malaysia has caused inconsistencies in the performance of their respective duties and responsibilities, and hence, it instigates confusion among the general public.⁵³ In this

⁵³ Mohd Shahril, "Concept of Islamic Inheritance." 1464; Suhaimi Ab Rahman et al., "Pemeriksaan Mahkamah Syariah Dalam Pentadbiran Harta Pusaka Masyarakat Islam Menurut Kerangka Federalisme di Malaysia," *Akademika* 88, no. 3 (2018): 120, <https://journalarticle.ukm.my/13229/1/27433-87839-1-PB.pdf>; Suhaimi Ab Rahman et al., "Kajian Keberkesanan Undang-Undang Faraid Di Malaysia Studies of Effectiveness Islamic Inheritance Law in Malaysia," *Akademika* 89, no. Special Issue 2 (2019): 78, <https://journalarticle.ukm.my/19439/1/33759-106442-1-PB.pdf>

regard, it was since there is a variety of laws and procedures involving the administration of such estates for Muslims between each respective state. Similarly, for the non-Muslims, the administration of BV is governed by different agencies with different applicable laws based on the type of estates left by a deceased.

Thus, this research is undertaken based on the premise that the scattered legal provisions relating to the administration of *Bona vacantia* in West Malaysia have led to non-uniformity of the law for movable and immovable estates. In addition, for the Muslims, the administration is state-based. In contrast, non-Muslims encounter a multifaceted situation due to the dual-level administration originating from both federal and state levels for movable and immovable estates, respectively. The absence of legal mechanisms and initiative-taking efforts by the authorities to trace potential beneficiaries to the deceased's estate has eventually denied the rights of potential beneficiaries to claim the estate. The beneficiaries are consequently being deprived of an opportunity to utilise the prospective advantages from the ownership of such estates; besides, the rightful beneficiaries may reappear with a claim for their share after the dissemination of the estate is completed.

Hence, legal and procedural constraints relating to the administration of such an estate should be identified clearly, and a legal framework should be formulated so that the *Bona vacantia* estate can be properly and uniformly administered throughout West Malaysia.

1.4 RESEARCH QUESTIONS

This research endeavours to ponder the following issues.

- (1) What are the applicable laws and procedures of the *Bona vacantia* in West Malaysia?

- (2) What are the legal and procedural constraints in the administration of the *Bona vacantia* by the relevant administrative bodies concerned in governing Muslims and non-Muslims, namely the YDPA Fund, State Authority and *Baitulmal*?
- (3) What are the existing international instruments or models in the administration of *Bona vacantia*?
- (4) What is the legal framework concerning our existing legislation and policy governing the administration of *Bona vacantia* in West Malaysia?

1.5 HYPOTHESIS

1. The existence of various administrative bodies governing *Bona vacantia* and the absence of a specific legal mechanism to trace the potential beneficiary have coherently caused non-standard procedures and difficulties in monitoring its administration and distributing the estate accordingly.
2. The existence of accurate and systematically organised data related to *Bona vacantia* estates holds the potential to significantly improve the current legal landscape by facilitating the development of a new and more effective legal framework for the administration of these estates. Consequently, it is imperative to advocate for a comprehensive reform of the current laws and administrative procedures governing *Bona vacantia* to align with contemporary needs and ensure a more efficient and equitable management of such estates.

1.6 RESEARCH METHODOLOGY

This study adopted a qualitative legal research design that combines doctrinal and non-doctrinal approaches, supplemented by comparative analysis, in order to answer the research questions and achieve the stated objectives. The design integrated three complementary research methods: The following methods have been undertaken to accomplish this research:

- i. Doctrinal Legal Research (Content Analysis of Primary and Secondary Sources).

The doctrinal component forms the backbone of the study. It encompasses the examination of legal cases, the organisation and structuring of legal theories, and the investigation of legal establishments.⁵⁴ It is also known as traditional, black-letter,⁵⁵ or library-based research. It involves a critical examination of legal principles, statutes, and case law governing *Bona vacantia* in West Malaysia. The primary legal sources of data consist of the relevant Malaysian Statutes as primary sources and relevant textbooks, journals, newspaper articles, and periodicals as secondary sources. The primary legal sources include the Federal Constitution, the Small Estates (Distribution) Act 1955, the Unclaimed Moneys Act 1965, the Civil Law Act 1956, the Distribution Act 1958, the National Land Code 1965, and relevant State Enactments. These are supplemented with secondary materials such as textbooks, journal articles, newspaper reports, seminar

⁵⁴ S. N. Jain, "Doctrinal and Non-Doctrinal Legal Research," *Journal of the Indian Law Institute* 24, no. 2/3 (1982): 341, <http://www.jstor.org/stable/43953840>

⁵⁵ Shane Kilcommins, "Doctrinal Legal Method (Black-Letterism): Assumptions, Commitments and Shortcomings," in *Legal Research Methods: Principles and Practicalities*, eds. Laura Cahillane and Jennifer Schweppe (University of Limerick, 2016), 10, https://researchrepository.ul.ie/articles/chapter/Doctrinal_legal_method_Black_Letterism_assumptions_commitments_and_shortcomings/19830022?file=35240272

papers, theses, and other scholarly works. Unpublished materials are also analysed such as case law, as well as other legal and non-legal literature such as textbooks, articles, newspaper clippings, conference proceedings and seminar papers, theses, and various related materials, are also analysed and examined. This also includes files which are accessible during interviews. This qualitative research utilises secondary data gained from scientific databases to furnish the relevant information.

From the Islamic perspective, the Qur'an and Sunnah serve as primary sources, alongside classical juristic opinions from the four Sunni schools, contemporary Muslim scholars, and fatwas issued by selected jurisdictions. The analysis focuses on synthesising these legal materials to establish the current state of the law and its conceptual foundations.

ii. Non-Doctrinal Legal Research (Empirical Fieldwork via Purposive Sampling)

The data for qualitative evaluation typically comes from fieldwork.⁵⁶ This non-doctrinal legal analysis research method is also known as social-legal research. It employs methods taken from other disciplines to generate empirical data that answers research questions.⁵⁷ To complement the doctrinal analysis, empirical insights are gathered through semi-structured interviews and direct observation. This non-doctrinal (socio-legal) method allows for assessing the practical application of statutory and doctrinal rules against real-world practices. Respondents are purposively selected from key

⁵⁶ Michael Quinn Patton. "Qualitative Evaluation Checklist," Western Michigan University, accessed August 31, 2019, <https://tinyurl.com/47dbd86d>

⁵⁷ Apurva Neel. "Legal Research: Doctrinal and Non-Doctrinal," Legal Bites, accessed December 31, 2023, <https://www.legalbites.in/research-methodology/legal-research-doctrinal-and-non-doctrinal-896702>; Salim Ibrahim Ali et al., "Legal Research of Doctrinal and Non-Doctrinal," *International Journal of Trend in Research and Development (IJTRD)* 4, no. 1 (2017): 494, <http://www.ijtrd.com/papers/IJTRD6653.pdf>

agencies directly involved in *Bona vacantia* administration, including the *Baitulmal*, Land Registry, Land Administrators, and related authorities in four representative jurisdictions: Kedah (Northern region), Kelantan (Eastern region), Kuala Lumpur (Central region), and Johor (Southern region). These states were chosen due to their geographical spread and their distinct constitutional rulers, ensuring regional diversity in perspectives.

In total, 9 officials across four states, a federal and one international body, were interviewed, providing both descriptive and evaluative insights into the administration of Muslim and non-Muslim *Bona vacantia* estates. Each interview transcript was first carefully transcribed and then subjected to an open coding process, where significant statements and observations were highlighted. These codes were subsequently grouped into broader categories such as “legal gaps”, “institutional challenges”, “procedural inconsistencies”, and “best practices”. Once the categories were established, they were systematically compared with the doctrinal findings drawn from statutes, case law, and policy documents.

The integration of doctrinal and non-doctrinal methods ensures a comprehensive understanding of the administration of *Bona vacantia* estates. The doctrinal review establishes the normative legal framework by examining statutes, case law, and scholarly opinions, while the empirical interviews with key stakeholders provide practical insights into how these frameworks operate on the ground. By cross-analysing both sets of findings, the study can evaluate the consistency between law in theory and law in practice, identify gaps or inconsistencies in implementation, and generate recommendations for strengthening the existing system.

iii. Comparative Analysis.

Comparative insights from Singapore and the UK are used to evaluate the adequacy of Malaysia's legal position and propose reforms. Tables and figures are employed throughout to present data, summarise findings, and enhance clarity.

1.7 LITERATURE REVIEW

The concept of *bona vacantia*, or ownerless property, is rooted in both Islamic law and civil law, each with distinct underlying theories. To understand these concepts fully, this thesis focuses on two central doctrines: the Doctrine of Justice (*Adl*) and Benevolence (*Ihsan*), and the Doctrine of Escheat. In Islamic law, *bona vacantia* is linked to the principles of inheritance outlined in the Quran and Hadith. The Quranic injunctions in *An-Nisa*⁵⁸ prescribe specific shares for heirs, ensuring equitable distribution. The Prophet Muhammad (ﷺ) emphasised that property should be distributed to the rightful heirs,⁵⁹ with ownerless estates going to *Baitulmal*.⁶⁰ In Islam,

⁵⁸ "Allah prescribes for you concerning your children: for the male, what is equal to the share of two females. And if there are only women, more than two, for them is two-thirds of what he leaves. And if there is one, for her is half. And for his parents, to each of them is a sixth of what he leaves, if he has a child. But if he has no child and the parents inherit, then for his mother is a third. If he has siblings, then for his mother is a sixth, after any bequest he makes or debt. These are limits set by Allah. And whoever obeys Allah and His Messenger will be admitted to gardens [in Paradise] beneath which rivers flow, wherein they will abide eternally. And that is the great success." An-Nisa: 11.

"And for you is half of what your wives leave, if they have no child. But if they have a child, for you is one-fourth of what they leave, after any bequest they make or debt. And for them is one-fourth of what you leave, if you have no child. But if you have a child, for them is one-eighth of what you leave, after any bequest you make or debt. And if a man or a woman has no heirs and leaves a brother or a sister, then each one of them gets a sixth. But if they are more than two, they share a third, after any bequest which was made or debt, without prejudice to anyone. This is an obligation from Allah. And Allah is Knowing and Forbearing." An-Nisa: 12.

⁵⁹ "Allah (SWT) has given each person who has rights his rights, and there is no bequest for an heir." See Sunan Ibn Mājah, ḥadīth 2713 (Book 22, ḥadīth 19), narrated by Shurahbil bin Muslim al-Khawlānī from Abū Umāmah al-Bāhili, via IslamiCity, *Sunan Ibn Majah 2713 (Book 22, Hadith 19) Rights of Heirs*, accessed May 10, 2023, <https://www.islami city.org/hadith/search/index.php?q=32067&sss=1>.

⁶⁰ The four Sunni Schools also disagree about the residue of the net estate. The Shafie and Malikīs hold the view that the residual net estate should go to *baitulmal*. See Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu*. 435.

ownership of property is unequivocally regarded as a 'beneficiary' ownership, involving the transfer of rights from the first owner (Allah) to the steward (human beings).⁶¹ This approach reflects the principles of *Adl* (justice) and *Ihsan* (benevolence), where *Adl* denotes fairness and equity,⁶² and *Ihsan* involves acting with complete concentration in devotional duties, highlighting the importance of realising that Allah is always observant of His servants during their acts of worship.⁶³ Al-Quran emphasises the importance of fulfilling trust and being just in judgments. In contrast, the Doctrine of Escheat in civil law suggests that ownerless property reverts to the state when a person dies intestate and without legal heirs, based on the principle that the state is responsible for managing and redistributing such assets to prevent misuse and ensure societal benefit.⁶⁴ This doctrine, historically rooted in feudal systems, aligns with modern legal frameworks that seek to allocate unclaimed property efficiently for public welfare and resource optimisation. Thus, while Islamic principles focus on divine justice and benevolence, civil law emphasises state stewardship and societal order.

In West Malaysia, the administration of *bona vacantia* differentiates between Muslims and non-Muslims. The study reveals that, under state jurisdiction, *bona vacantia* estates for Muslims, whether immovable or movable, are transferred to *Baitulmal*, while for non-Muslims, movable properties are vested in the Yang di-Pertuan Agong (YDPA) fund, and immovable properties are transferred to the State

⁶¹ Muhammed Habib Dolgun, "Property Rights According to the Qur'an and Sunnah and Their Economic Implications for Contemporary Societies," *ISRA International Journal of Islamic Finance* 8, no. 1 (2016): 98.

⁶² "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." An-Nisa:58.

⁶³ Ihsan Arabic, "The Meaning of Ihsan," accessed September 15, 2024, <https://www.ihsan-arabic.com/blog/the-meaning-of-ihsan>; Mastura Ab. Wahab and Yusof Ismail, "Mas'uliyah and Ihsan as High-Performance Work Values in Islam," *International Journal of Economics, Management and Accounting* 27, no. 1 (2019): 197, <https://journals.iium.edu.my/enmjournal/index.php/enmj/article/view/660/321>

⁶⁴ William Blackstone, *Commentaries on the Laws of England*, Internet Archive, accessed August 20, 2024, <https://tinyurl.com/y838wds5>.

Authority.⁶⁵ However, the study did not explore the adequacy of these laws, leaving questions about their effectiveness and comprehensiveness unanswered. The lack of a uniform legal framework and procedure between states, as highlighted by various legal scholars, further complicates the administration of these estates.⁶⁶ Complementing this analysis, a bibliometric study was conducted to review global scholarly discourse on *bona vacantia*, emphasising its significant legal and economic impacts. The analysis of 645 articles from the Scopus database indicates a growing interest in legal frameworks and estate planning, particularly in the West Malaysian context, where *Baitulmal* authorities manage such estates. The study emphasises the need for future research, including broader databases and extended timelines, to address any identified gaps.⁶⁷

Similarly, in the UK, one of the asset tracing companies, known as Heirtrace, asserted that it is quite challenging for big financial institutions to trace and track down the owners of assets involving deceased investors or whose investors lost contact with the company.⁶⁸ In doing so, they are working with a few investment managers to explore the area. As far as this matter is concerned, there is one official website of the *Bona vacantia* Division in the United Kingdom.⁶⁹ It is administered by the Government Legal Department and applicable to England and Wales. The Division publishes the Unclaimed Estate list⁷⁰ every working day; they remove all admitted claims once

⁶⁵ Akmal Hidayah et al., “The Administration of Muslims’s.” 27.

⁶⁶ Siti Khadijah Abdullah Sanek et al., “Bona Vacantia in West Malaysia: Issues and Challenges,” *International Journal of Law, Government and Communication* 9, no. 36 (2024): 137, <https://doi.org/10.35631/ijlgc.936010>

⁶⁷ Siti Khadijah Abdullah Sanek and Akmal Hidayah Halim, “Bibliometric Examination of Bona Vacantia: Charting Patterns and Research Trends,” *Information Management and Business Review* 16, no. 2(I)S (2024): 234, [https://doi.org/10.22610/imbr.v16i2\(i\)s.3817](https://doi.org/10.22610/imbr.v16i2(i)s.3817)

⁶⁸ Judith Evans, “Lost: Owners of Billions in Unclaimed Assets,” *Financial Times*, May 25, 2014, <https://www.ft.com/content/478a6b18-e1ca-11e3-915b-00144feabdc0>

⁶⁹ GOV.UK, “Bona Vacantia.”

⁷⁰ The list is published in a Comma Separated Values (CSV) file format. See GOV.UK. “Unclaimed Estates List,” GOV.UK, accessed September 25, 2025, <https://www.gov.uk/government/statistical-data-sets/unclaimed-estates-list#the-list>.

completed. All information and guidelines can be found on their official website.⁷¹ However, where the estates belong to the deceased whose death occurred more than 30 years would be automatically removed from the list. In the absence of any claim, the estate goes to the Treasury.⁷² Thereafter, the Government's list would remove such estates. In the case of *Re Fivestar Properties Ltd*⁷³, the *Bona vacantia* property, which passed on to the Crown, was subsequently restored after the Crown disclaimed it. This shows that *Bona vacantia* in the UK affirms that the estate is initially to be administered by the Government Legal Department and published on their official website and thereafter removed once claimed. However, the *Bona vacantia* estate belongs to the Treasury when it remains unclaimed after a certain period.

In Singapore, for non-Muslims, the administration of *Bona vacantia* estates is under the jurisdiction of the Ministry of Law, Singapore, according to the Civil Law (*Bona vacantia* Laws) Order 2013. Any claims against *Bona vacantia* estates in Singapore are to be made to the Public Trustee under the Ministry of Law, which is responsible for the administration of *Bona vacantia* estates.⁷⁴ Whereas for Muslims, the current practice of the Syariah Court is that the residual net estate goes to the *Baitulmal*, which is under the Islamic Religious Council of Singapore (MUIS) in the absence of 'asabah heir in the family structure.⁷⁵ This tradition has however triggered uneasiness among the distant heir(s) or the *dhawū al-arham* as it seems to oppose the provision of the Administration of Muslim Law Act (AMLA), cap 3, s115, where the Syariah Court

⁷¹ GOV.UK, "Bona Vacantia."

⁷² Marc Shoffman and Rachel Rickard Straus, "Is There a Windfall Waiting for You? What the Heir Hunters Can Teach You about Tracking Down an Unclaimed Inheritance," *This is Money*, accessed February 28, 2015, <https://shorturl.at/fKHJM>

⁷³ [2015] EWHC 2782 (Ch).

⁷⁴ Ministry of Law, Singapore, "Claims against Bona Vacantia Estates."

⁷⁵ Ibid.; Singapore Legal Advice. "Muslim Inheritance Law in Singapore." accessed July 8, 2020. <https://tinyurl.com/3u3twrrs>; Sadali Rasban et al., "An Analysis of Residue Net Estate Distribution to Bayt Al-Mal in Singapore," *ISRA International Journal of Islamic Finance* 12, no. 1 (2020): 50, <https://doi.org/10.1108/IJIF-04-2019-0055>

states that *Baitulmal* is a beneficiary when there is no surviving legal heir in the Inheritance Certificate issued by the Syariah Court.⁷⁶ This practice explicitly denotes that the Ministry of Law, Singapore, shall administer the *Bona vacantia* estate, and anyone can make a claim if the person has an equitable or moral claim on the *Bona vacantia* estate of the deceased and provides the required documents and evidence. However, Muslim estates are to be administered by Muslim inheritance laws.

It was argued that there should exist clear legal standards and procedural mechanisms in West Malaysia to avoid the peculiarity of its administration and management between states.⁷⁷ For instance, if the estate administration is managed exclusively by one authoritative body without court or ministerial approval, it may expedite the administration process.⁷⁸ Hence, numerous administrative bodies have contributed to ambiguity in estate administration in West Malaysia⁷⁹ and the system is fractured, contradictory in some ways, not comprehensive and infested with redundancies. Furthermore, the current legal framework is inefficient and complicated as it is fragmented, conflicting in certain viewpoints, and redundant.⁸⁰ The distribution of the unclaimed estate also depends on whether they are recorded or not. Only then will the estate be claimed and then transferred to the heirs. However, none of the existing laws necessitate the estates to be recorded with any particular entity. Therefore, further study may additionally be explored to solve this issue. Additionally, a study is

⁷⁶ Sadali et al. "An Analysis of Residue."

⁷⁷ Akmal Hidayah et al., "Administration of Unclaimed Estates." 1079.

⁷⁸ Mohd Shahril, "Concept of Islamic Inheritance." 1464; Mohammad Tahir and Robiah, "Complexity of Intestate Estates." 10.

⁷⁹ Mohd Shahril, "Concept of Islamic Inheritance." 1464; Azhani Arshad, "Administration of Non-Contentious Estates in West Malaysia: Legal and Administrative Reforms" (unpublished Ph.D. thesis, International Islamic University Malaysia, 2015), 169-170.

⁸⁰ Mohammad Tahir and Robiah, "Complexity of Intestate Estates." 11.

also required to offer a single legal framework relating to inheritance law, specifically with an emphasis on quick dissemination and assertion of escheat.⁸¹

Hence, it should be noted that there is no specific data on the amount of *Bona vacantia* held by all state *Baitulmal*, state authorities and Federal Consolidated Funds by the Federal government thus far for Muslims and non-Muslims.⁸² The available statistics on the aggregate value and quantity of *Bona vacantia* estates in West Malaysia are highly limited. The only accessible figures pertaining to Muslim estates in Selangor and the Federal Territory of Kuala Lumpur, where the total value of *Baitulmal-administered Bona vacantia* estates, comprising both movable and immovable property, amounted to RM1,421,646.00⁸³ in Kuala Lumpur and RM2,320,282.06⁸⁴ in Selangor as of December 2018. However, no corresponding data is available for non-Muslim estates. Despite direct inquiries and interviews with the Office of the Director of Lands and Mines in the Federal Territories, Kuala Lumpur, information regarding *Bona vacantia* estates of non-Muslims, which the law confers in the Federal Government⁸⁵ as immovable property, remains inaccessible. This lack of transparency and disaggregated reporting highlights a significant gap in the literature, as it prevents a comprehensive assessment of the administration and economic impact of *Bona vacantia* in West Malaysia, particularly when compared with jurisdictions such as Singapore and the United Kingdom, where systematic data collection and publication are practised. Therefore, it is suggested that further research be conducted with a specific focus on the management of *Bona vacantia*, as well as the tracing of its overall value, which was

⁸¹ Ibid.

⁸² Rahmawati, "The Administration of Unclaimed Estates." 96.

⁸³ Ustaz Mohd Noor Ihsan bin Kamaruzaman, interview by Rahmawati Mohd Yusoff, Kuala Lumpur, January 16, 2019.

⁸⁴ Ustazah Noraishah binti Ismail and Ustaz Muhamad Fazil bin Kamarul Zaman, interview by Rahmawati Mohd Yusoff, Shah Alam, Selangor, January 23, 2019.

⁸⁵ Encik Azrulrizal bin Awang, interview by Rahmawati Mohd Yusoff, Putrajaya, January 29, 2019.

held by Baitulmāl and the State Authority of each respective state, given the lack of integration in the current state-led *Bona vacantia* management.⁸⁶

According to the official website of the Director General of Lands & Mines Federal (JKPTG), the Estate Distribution Section (BPP) has 36 (thirty-six) units nationwide. Each unit is responsible for receiving applications, hearing, and issuing division orders.⁸⁷ It signifies the possibility that each state would have different practices concerning the administration and management of the *Bona vacantia* estate due to the number of these offices. Moreover, different departments of the State and Federal Governments closely protect their data.⁸⁸ Thus, it could be inferred that to obtain reliable and comprehensive data, it would certainly require a high effort to get an opportunity to peruse any available materials and appropriate files during interviews optimally.

In addition, the issue with *Baitulmal* is that there is no uniformity between the states in terms of the method of redemption of the *Baitulmal* portion. Some states asked for the *baitulmal* section to be registered first, and the redemption process is done like normal buying and selling.⁸⁹ There are other states where *baitulmal* agreed to follow the property value set by the Land Administrator, and some wanted to make their own assessment.⁹⁰ In furtherance, from this viewpoint, there are state *baitulmal* who refused

⁸⁶ Rahmawati, “The Administration of Unclaimed Estates.” 96.

⁸⁷ Estate Distribution Section (BPP), Department of Director General of Lands and Mines (JKPTG), “Profil Bahagian / Bahagian Pembahagian Pusaka (BPP).” Accessed September 25, 2025. <https://www.jkptg.gov.my/en/korporat/profil-bahagian/bahagian-pembahagian-pusaka-bpp>

⁸⁸ Mohammad Tahir and Robiah, “Complexity of Intestate Estates.” 10.

⁸⁹ Baharuddin Aziz, “Kertas 5: Hal Ehwal Pentadbiran Harta Pusaka di Malaysia dan Permasalahannya,” paper presented at Kursus Asas Kaedah Pengurusan Harta Keluarga Islam, Kuala Lumpur, October 14–15, 2019, <https://www.ikim.gov.my/new-wp/wp-content/uploads/2019/09/Kertas-5-1.pdf>; Seh Nilamuddin Hassan, “Isu-Isu dan Permasalahan dalam Pembahagian Pusaka Orang Islam di Malaysia,” paper presented at Jawhar Intellectual Discourse, Putrajaya, June 13, 2012, <https://e-muamalat.islam.gov.my/en/bahan-ilmiah/kertas-ilmiah/372-isu-isu-permasalahan-dalam-pembahagian-harta-pusaka-orang-islam-di-malaysia>.

⁹⁰ Seh Nilamuddin, “Isu-Isu dan Permasalahan.”

to make an application despite being informed that the deceased did not leave an heir, and there are also those who refused to make payment as ordered after the estate was acquired by the *baitulmal*.

From the above discussion, despite the limited number of studies available regarding *Bona vacantia*, it is, however, indicated that our legislation and administration are not uniform and inadequate in the absence of specific mechanisms in dealing with the *Bona vacantia* administration for Muslims and non-Muslims in West Malaysia. Overall, the integration of Islamic doctrines like justice and benevolence with the doctrine of *bona vacantia* reveals the varying theoretical foundations of *bona vacantia* in different legal systems. The civil and Islamic frameworks aim to manage unclaimed estates responsibly, yet they face challenges in terms of legal uniformity, data management, and procedural efficiency. Addressing these gaps requires legal reform and more comprehensive studies to ensure the effective administration of *bona vacantia* estates, particularly in West Malaysia.

1.8 SCOPE AND LIMITATION OF THE RESEARCH

Undeniably, given the extensive number of offices and agencies involved, it is impractical to gather data from all respondents across West Malaysia. This would require interviews with 12 State *Baitulmal*, 12 Land and Mines offices (PTG), 36 units of the Small Estate Distribution Section and Unit,⁹¹ and more than 90 district and land offices. Specifically, Kedah has 12; Kelantan has 11; Johor has 13; and the Federal

⁹¹ Small Estate Distribution Section refers to the head office at Putrajaya or one of the twelve sections under the Director General Land & Mines Department. Whereas Small Estates Distribution Unit refers to the unit established or located at the State or District level, as the case may be. See Estate Distribution Section (BPP), “Profil Bahagian / Bahagian Pembahagian.”

Territory of Kuala Lumpur has one Land and Mines office (PTG) and no District and Land offices.⁹²

Geographically, Peninsular Malaysia is divided into the East Coast and the West Coast. The Peninsular Malaysian states of Kelantan, Pahang, and Terengganu, which are located along the South China Sea, a marginal sea of the Pacific Ocean, are referred to as the East Coast. Conversely, the term "West Coast" informally refers to a group of states in Peninsular Malaysia located on the western coast, facing the Strait of Malacca. It is further divided into three regions: The Northern Region includes Perlis, Kedah, Penang, and Perak; the Central Region comprises Selangor and the federal territories of Kuala Lumpur and Putrajaya; and the Southern Region encompasses Negeri Sembilan, Melaka, and Johor.⁹³ Therefore, this research shall be undertaken and confined to Kedah, Kelantan, Wilayah Persekutuan Kuala Lumpur, and Johor only to identify and demonstrate the real practices and procedures of *Bona vacantia* for the respective authorities when dealing with such an estate.

In furtherance, it also examines the existing laws and procedures on its administration when dealing with *Bona vacantia*, which might revolve around the following:

⁹² In Kedah, there are 12 District and Land Offices (Kota Setar, Kuala Muda, Kulim, Kubang Pasu, Baling, Sik, Padang Terap, Langkawi, Yan, Bandar Baharu, Pendang and Pokok Sena). See Kedah State Land and Mines Office (PTG Kedah), "Maklumat Negeri," accessed September 25, 2025, <https://ptg.kedah.gov.my/maklumat-negeri>; 11 in Kelantan (Machang, Kota Bharu, Tumpat, Bachok, Gua Musang, Lojing (Gua Musang), Pasir Mas, Kuala Krai, Pasir Putih, Tanah Merah and Jeli). See also Government of Kelantan, "Pejabat Tanah dan Jajahan," accessed September 25, 2025, https://www.kelantan.gov.my/index.php/kerajaan-negeri/jabatan-dan-agensi-kerajaan-negeri-2/peja_bat_tanah-dan-jajahan; 13 land offices in Johor (Johor Bahru, Muar, Batu Pahat, Segamat, Kluang, Kota Tinggi, Pontian, Mersing, Kulai, Tangkak, Labis, Pengerang, Rengit). See also Government of Johor, "Pejabat Tanah dan Jajahan," accessed September 25, 2025, <https://ptj.johor.gov.my/>; See also PTG WP, "Alamat dan Lokasi," accessed September 25, 2025, <https://www.ptgwp.gov.my/portal/web/guest/alamat-dan-lokasi?target=adl>

⁹³ "Semenanjung Malaysia," *Wikipedia*, accessed September 15, 2024, https://ms.wikipedia.org/wiki/Semenanjung_Malaysia.

1. The main statutes regulating the rules and procedures for estate management vis-à-vis the Federal Constitution, the 1956 Civil Law Act (Act 67), and the 1965 National Property Code (Act 56). Other statutes relating to the administration of *Bona vacantia* estates, such as the Distribution Act 1958, the Probate and Administration Act 1959, the Small Estates (Distribution) Act 1955 and the Administration of Islamic Law Statutes are, however, also to be examined and listed wherever appropriate when addressing laws and procedures in detail. The study only focuses on the *Bona vacantia* estates due to the foregoing reasons.
 - 1.1 For non-Muslims, the deceased's *bona vacantia* estate in terms of movable estates shall revert to the Federal Consolidated Fund (YDPA Fund), except land, which is subject to reversion to the respective State Authority.
 - 1.2 However, this does not apply to Muslims, where all the *Bona vacantia* property, whether movable or immovable, is returned to *Baitulmal*. Under the Federal Constitution's Ninth Schedule, Islamic Law falls under List II – State List. As Islamic law is a state matter, the State Legislative Assembly may, therefore, enact such laws for the state. Each State shall be empowered to make laws relating to Muslims, for example, in matters relating to succession and *Baitulmal*; and
2. The current structure of administrative bodies is established according to the Federal and State Lists of the Federal Constitution; thus, this ultimately led to several processes and procedures involving Muslim and non-Muslim *Bona vacantia* estate administration in West Malaysia by the respective states of general application.

3. The actual practice of the administration of *Bona vacantia* for both Muslims and non-Muslims in Kedah, Kelantan, Kuala Lumpur, and Johor by the available administrative bodies. The study only focuses on the *Bona vacantia* estates in four (4) states, only representing each region, because the same laws govern their administration, and the same rules apply throughout West Malaysia, regardless of whether the state has hereditary rulers. Moreover, since *Baitulmal* and Land offices are distinct and located distantly from one state to another, field research may also be difficult, time-consuming, and emotionally demanding. Additionally, it is about gathering data so that it can enlighten a significant outcome. This qualitative research study will utilise judgemental sampling,⁹⁴ also known as Purposive⁹⁵ or authoritative sampling, as its sampling procedure by selecting respondents from specific administrative bodies, namely the *Baitulmal* and Land Office. This sampling procedure is useful for a case study to gain rich data and information for particular types of cases where the selected cases rarely represent the entire population,⁹⁶ and not to generalise the findings.⁹⁷ The selected respondents for this study have the required characteristics and capacity to provide information that satisfies the objectives of the study. Besides, the probability is that the outcome obtained will be highly accurate.⁹⁸

⁹⁴ Dan Fleetwood, "Judgmental Sampling: Definition, Examples and Advantages," *QuestionPro*, accessed December 7, 2023, <https://www.questionpro.com/blog/judgmental-sampling/>.

⁹⁵ Ibid.; W. Lawrence Neuman, *Social Research Methods: Qualitative and Quantitative Approaches*, 7th ed. (Boston: Pearson Education Limited, 2014), 273, <https://letrunghieutvu.yolasite.com/sources/w-lawrence-neuman-social-research-methods-qualitative-and-quantitative-approaches-pearson-education-limited-2013.pdf>.

⁹⁶ Neuman, *Social Research Methods*, 274.

⁹⁷ Fleetwood, "Judgmental Sampling."

⁹⁸ Ibid.

1.9 STRUCTURE OF THE RESEARCH

This research is dedicated to a comprehensive exploration of the administration of *bona vacantia* estates in West Malaysia. The study's primary focus lies in defining the total value of these estates and understanding the diverse classifications that fall within the purview of *bona vacantia*. The research is thoughtfully structured across six chapters, each contributing to a systematic and in-depth analysis.

The first chapter serves as a vital introduction, setting the stage for the entire study. It frames the research, establishes the background of the thesis, and provides an overview of the study. This section outlines the study's background, presents a hypothesis, and articulates the problems driving the dissertation. It also defines research objectives and questions, formulates a research hypothesis, and addresses the identified problems. An analysis of existing literature is conducted to gauge its relevance to the research's scope and limitations.

Next, Chapter Two serves as the conceptual foundation for the study, examining two distinct categories of *bona vacantia* estates in West Malaysia. The primary objective is to establish a solid groundwork for the research. This section explores the definition of *bona vacantia* estates, scrutinises the associated legal frameworks, and identifies the institutions responsible for holding such estates. This exploration is pivotal in providing enhanced clarity on the nature of these estates.

Subsequently, Chapter Three critically examines the practice and value related to the administration of *bona vacantia* estates in West Malaysia, differentiating between Muslims and non-Muslims. The analysis is rooted in fieldwork, addressing aspects such as ownership, utilisation, and total value of these estates.

Subsequently, Chapter Four undertakes a comparative analysis of the regulatory frameworks, issues, and case studies concerning the administration of *bona vacantia*

estates in Singapore and the United Kingdom. This international review highlights useful lessons and best practices that could be adapted to improve the management of such estates in West Malaysia.

Following this, Chapter Five addresses the issues and challenges related to *bona vacantia* estates in West Malaysia. It calls for legal and administrative reforms, highlighting the urgent need for a detailed legal framework and procedural changes adapted specifically to these estates.

Lastly, the study concludes in Chapter Six with an overall summary, evaluation, and analysis of findings. Specific recommendations are presented for establishing a regulatory framework for the *bona vacantia* administration in West Malaysia. Areas for further study are suggested to inspire multidisciplinary research, particularly focusing on the administration of unclaimed estates with an emphasis on *bona vacantia*. This structured approach ensures a thorough exploration and a nuanced understanding of the complexities surrounding the administration of *bona vacantia* estates in the Malaysian context.

1.10 CHAPTER SUMMARY

The background of the study examines *Bona vacantia*, referring to ownerless estates without rightful heirs. Distribution methods differ for Muslims and non-Muslims in West Malaysia. Legal provisions and state-based administration contribute to inconsistencies for both Muslim and non-Muslim estates. Variations in administration exist across states, leading to confusion. Non-Muslims face dual-level complexities for movable and immovable estates. The scattered legal provisions result in non-uniformity and a lack of mechanisms to locate beneficiaries. The chapter stresses the need for a comprehensive legal framework to ensure uniform *Bona vacantia* administration

throughout West Malaysia, addressing disparities and uncertainties. The research objectives are outlined, aiming to explore applicable laws and procedures, highlight variations in *Bona vacantia* administration, define *Bona vacantia*, examine management by relevant administrative bodies, identify international models in Singapore and the UK, and recommend an effective legal framework. The proposed framework is envisioned to be applied at both the federal and state levels, tracing rightful beneficiaries and providing guidelines for policymakers. Addressing *Bona vacantia* is crucial from a socio-legal perspective to prevent inappropriate perceptions arising from uncertain and unidentified administration and procedures.

In addition, the chapter introduced the research questions and hypotheses. Subsequently, the research methodology of the study was articulated; it employs a dual-method approach, integrating a doctrinal approach with content analysis and a field study involving interviews with relevant authorities. Besides, the comparative analysis extends to Singapore and the United Kingdom, benchmarking practices within the common law legal system. Following this, the literature review section unfolded. Lastly, the study's limitations were acknowledged, followed by concise definitions of key terms employed in the research.

The next chapter introduces the central theoretical frameworks for understanding *bona vacantia* within the West Malaysian legal context. It primarily explores the complex interaction between Islamic and civil legal perspectives in the administration of *bona vacantia* estates, aiming to reconcile these differing viewpoints.

CHAPTER TWO

THE GOVERNING LAWS OF *BONA VACANTIA* IN WEST MALAYSIA

2.1 INTRODUCTION

The term '*bona vacantia*', originating from the Latin expression denoting ownerless goods or property without a rightful heir, encapsulates a legal concept of profound significance. This chapter serves as a gateway to the study of theoretical frameworks that underlie the exploration of *Bona vacantia* within the legal landscape of Malaysia. The central focus of this inquiry lies in resolving the complex relationship between Islamic and civil legal viewpoints when managing *Bona vacantia* estates.

The fundamental principle guiding this study is grounded in the great relationship that exists between the disposition of estates and the religious affiliations of the deceased. For Muslims, the handling of assets upon death is deeply rooted in Islamic principles, with a particular emphasis on the application of *faraid* (inheritance) principles and the involvement of *Baitulmal*, the Muslim treasury. On the contrary, non-Muslims are subject to a distinct set of legal frameworks outlined in civil laws, prominently featuring the Small Estates (Distribution) Act 1955 and the Distribution Act 1958. These laws impose the complex processes involved in the distribution of estates, leading to government possession in cases of intestacy.

This section's theoretical foundation not only clarifies the different approaches followed by Muslims and non-Muslims in disposing of *Bona vacantia*, but it also lays the groundwork for a detailed examination of the legal frameworks controlling these procedures in Malaysia. By starting this journey, the study anticipates discovering the details and complexity that are present in the handling of ownerless estates, offering a

thorough comprehension of the variables that determine what happens to these ownerless estates.

This theoretical framework acts as a road map for the next several chapters, outlining the steps required to conduct a thorough examination of the legal environment of *bona vacantia* in West Malaysia. Starting within the realms of civil law and religious doctrine, this investigation attempts to expose the complex layers determining the fate of ownerless estates with no rightful heirs. It aspires to provide insights that transcend jurisprudence, examining broader dimensions of social, cultural, and ethical considerations.

2.2 GOVERNING LAWS FOR MUSLIMS

If a Muslim dies intestate, his or her estate will be distributed to the legal heirs according to the *faraid* principles after all the *wasiyyat* and debts (including funeral expenses) have been disbursed. The Holy Quran guides the distribution of inheritance. According to Allah's instructions, for sons, their share is equal to that of two females, and for daughters, the share varies depending on their number. If there are two or more daughters, they collectively receive two-thirds of the estate; if only one daughter, she gets half. Parents are entitled to a share as well, with each parent receiving a sixth of the estate if the deceased left children. If there are no children, and only the parents inherit, the mother is allocated one-third. In the absence of children, brothers, or sisters, the mother receives a sixth.¹ The shares may be subject to bequests or debts.²

¹ "Allah prescribes for you concerning your children: for the male, what is equal to the share of two females. And if there are only women, more than two, for them is two-thirds of what he leaves. And if there is one, for her is half. And for his parents, to each of them is a sixth of what he leaves, if he has a child. But if he has no child and the parents inherit, then for his mother is a third. If he has siblings, then for his mother is a sixth, after any bequest he makes or debt. These are limits set by Allah. And whoever obeys Allah and His Messenger will be admitted to gardens [in Paradise] beneath which rivers flow, wherein they will abide eternally. And that is the great success." An-Nisa: 11.

² Ibid.

Additionally, the Quran outlines the inheritance for spouses, specifying that if there are no children, the husband is entitled to half of the wife's estate, and if there is a child, he receives one-fourth. Wives, in turn, receive one-fourth if there are no children and one-eighth if there is a child. If the deceased has neither ascendants nor descendants but has a brother or sister, each sibling is entitled to a sixth, with a sharing arrangement if there are more than two siblings. The Quranic beneficiaries, or *ahl al-fara'id*, whose offers are fixed by the Quran and the Sunnah. Nevertheless, the share differs per nature and the number of contending beneficiaries. These rules reflect divine injunctions, emphasising the religious and legal obligation to distribute property strictly in accordance with the Qur'an and Sunnah.

Faraid rules anticipate the possibility of unclaimed estates. Where no legal heirs exist, the estate does not remain ownerless but reverts to the *Baitulmal* as *Bona vacantia*. This is in line with Islamic law, where there exists remaining property, or in the absence of an heir from *Ashab al-furud* and *asabah*, then the estate will be handed over to the *baitulmal*. This opinion was submitted by Zayd bin Thabit and Saidina Abu Bakr. This position is also upheld by the Shafi'i and Maliki schools of thought. They argue that Allah S.W.T. has determined specific obligatory shares for each heir of *Ashabul Furud*, definitively³ in the verses of al-Mawarith.⁴ This ensures that unclaimed Muslim estates are redirected for the benefit of the wider Muslim community (*maslahah*), in line with fiqh principles that prioritise public good over individual claims.

³ Al-Nisa: 11- 12 and 176.

⁴ Jabatan Wakaf, Zakat dan Haji (JAWHAR), *Manual Pengurusan Tebus Pusaka*, accessed June 3, 2020, <https://shorturl.at/70uwD>

For reasons of *maslahah* (public interest), estates without heirs from *ashab al-furud* and *asabah* are channelled to *baitulmal*,⁵ as this benefits the wider Muslim community compared to distribution to *dhawi al-arham*. Shafie scholars, however, limit this entitlement to when the *baitulmal* is properly managed (*muntadzam*), otherwise, the estate reverts to *dhawi al-arham*.⁶ It is stated in the book *Al-Mawarith fi Al-Syariah Al-Islamiyyah fi, Dhawil Kitab wa Al-Sunnah*, authored by Al-Syeikh Muhammad Ali Al-Sobuni, fifth edition, printed by Al-Sobuni, year 1407H/1987AD, the Shafie and Maliki schools deny inheritance to *dhawi al-arham*, prioritising *baitulmal*. Thus, it is not permitted for such an estate to be distributed to *Dzawil Arham*.⁷ The argument presented by the Shafie and Maliki schools against returning the remaining net estate to the *farid* heirs or *dhawū al-arham* is grounded in a specific Quranic passage.⁸ The limits set by Allah are as follows: those who obey Allah and His Messenger will be granted entry into Gardens beneath which rivers flow, to dwell therein eternally, and that will be the ultimate achievement. However, those who disobey Allah and His Messenger, transgressing His limits, will be consigned to a Fire, to abide therein, and they shall face a humiliating punishment.⁹

Despite this perspective, it has been suggested that there is an alternative viewpoint endorsed by the Maliki and Shafie schools of thought.¹⁰ Hanafi and Hanbali agree that it should go to the *farid* heirs or *dhawū al-arham*.¹¹ In this view, the doctrine

⁵ Wahbah Zuhaili and Muhammad Ali Shabuni, *Hukum Harta Pusaka Dan Ilmu Fara'id*, trans. Abdul Rahman Mohd Adil (Johor Bahru: Pustaka Azhar, 2011), 70; Sadali Rasban, *Baitulmal in the Fara'id System: Rethink and Revise* (Singapore: HTH Advisory Services Pte Ltd, 2014), 3.

⁶ *Al-Fiqhul-Manhaji*, vol. 5, 167–68, as cited in Ahmad Adnan Fadhli, *Asas-Asas Memahami Ilmu Fara'id* (Alor Star: Pustaka Darus Salam, 2014), 18.

⁷ MyGovernment – The Government of Malaysia's Official Portal, "Managing Fara'id Application," *MyGovernment*, accessed October 5, 2020, <https://tinyurl.com/yytk9y7f>.

⁸ Al-Nisa: 13-14.

⁹ Sadali Rasban et al., "An Analysis of Residue Net Estate Distribution to Bayt Al-Mal in Singapore," *ISRA International Journal of Islamic Finance* 12, no. 1 (2020): 49-67, <https://doi.org/10.1108/IJIF-04-2019-0055>

¹⁰ Zuhaili and Shabuni, *Hukum Harta Pusaka dan Ilmu Fara'id*, 70.

¹¹ Sadali, *Baitulmal in the Fara'id System*, 30.

of *ar-radd* (return of property) applies only when a *baitulmal* exists but is either mismanaged or absent. Additionally, *ar-radd* is relevant if there is a remaining portion of the estate after it has been allocated to the *ashab al-furud* heirs,¹² excluding the husband or wife. If there are no qualifying heirs, the estate shall then be passed to *dhawī al-arham*.¹³

The prevailing view applied in Malaysia is the view of the Maliki and Shafie schools of thought, by which the estates shall revert to *Baitulmal*, as *Baitulmal* has more right to the residue estates than *dhawī al-arham*.¹⁴ Malaysia generally adopts the Shafie and Maliki stance, as seen in *Re Mutchilim alias Ashrhin*¹⁵ and *Re Itam binti Saad*,¹⁶ where residues passed to *baitulmal*. The same principle applied in *Re Timah binti Abdullah*¹⁷ and the unreported case of *Abdul Wahid*, where converts' estates without Muslim heirs were given to *baitulmal*. Courts have occasionally allowed compassionate distribution to non-Muslim relatives, as in *Kaliammal v Pengarah JAWI*.¹⁸

Apostasy (*al-riddah*) also results in estate transfer to *baitulmal* since an apostate cannot inherit under Islamic law. For apostasy, the hadith narrated by Bukhari and Muslim explicitly stated, "*Lā yariṣu al-muslim al-kāfir walā al-kāfir al-muslim*" (Muslim does not inherit the unbelievers, and vice versa). In another hadith, it is mentioned, "*Lā yatawāraṣu ahl millatain syatta*" (people from two different religions

¹² Hilmi Haniz Muhammad, *Faham Faraidh* (Seri Kembangan: Hilmi Haniz, 2019), 234; Adnan, *Asas-Asas Memahami Ilmu Faraid*, 156; Jasni Sulong and Zahari Mahad Musa, *Faraid A-Z* (Kuala Lumpur: Dewan Bahasa dan Pustaka, 2019), 223.

¹³ Zuhaili and Shabuni, *Hukum Harta Pusaka dan Ilmu Faraid*, 70.

¹⁴ Akmal Hidayah Halim et al., "The Administration of Muslims's and Non-Muslims's Ownerless Estate (Bona vacantia) in West Malaysia: An Analysis," *International Journal of Law, Government and Communication* 4, no. 16 (2019): 28, <https://doi.org/10.35631/ijlgc.416003>

¹⁵ [1960] MLJ 25.

¹⁶ [1974] 2 MLJ 53.

¹⁷ [1941] MLJ 51.

¹⁸ [2006] 1 MLJ 685; Wikipedia, "Moorthy Maniam," accessed November 21, 2021, <https://tinyurl.com/hsspfj2y>; Mergawati Zulfakar, "Moorthy's Widow to Get All Benefits," *The Star*, January 4, 2006, <https://tinyurl.com/4kjwavuj>.

do not inherit each other) (narrated by Ahmad, Abu Dawud, and Ibn Majah).¹⁹ As far as this matter is concerned, the overall principle is that an apostate does not belong to the religion of Islam anymore; therefore, neither his Muslim nor non-Muslim family members are entitled to acquire his property.²⁰ According to the majority of jurists of Maliki, Shafie, and Hanbali schools of contemplations, this is known as *fayy'*, and hence, *Baitulmal* will be entitled to his property.²¹ Thus, Malaysia's legal framework reflects the dominant Shafie–Maliki view, securing *baitulmal* as the ultimate recipient of Muslim estates without heirs.

Several laws govern *bona vacantia* for Muslims in West Malaysia, namely the Federal Constitution, National Land Code 1965 (Act 56), Small Estates (Distribution) Act 1955, Civil Law Act 1956, and Islamic Law Administration Enactment for the respective state. These frameworks differ depending on whether the estate comprises moveable or immovable property. According to Britannica, movables would be such things as cattle or personal belongings, which can either move or be moved in space.²² Movable property is also defined by Section 3 of the Interpretation Acts 1948 and 1967 as all property other than immovable property. Immoveable property, in contrast, encompasses land and rights attached to land. Section 5 of the National Land Code 1965 provides a comprehensive definition of land, including the surface, subsoil, vegetation, natural products, and anything permanently affixed to the earth.

On the other hand, 'estate' refers to the assets and liabilities left by an individual upon their demise.²³ The concept of "estate" itself, under Section 2 of the Probate and

¹⁹ Andi Asdar Yusuf, "Controversy of Islamic Law on the Distribution of Inheritance to the Heirs of Different Religion," *Hunafa: Jurnal Studia Islamika* 14, no. 2 (2017): 377–403, <https://doi.org/10.24239/jsi.Vol14.Iss2.490>

²⁰ Akmal Hidayah et al., "The Administration of Muslims's," 30.

²¹ Ibid.

²² The Editors of Encyclopaedia Britannica, "Movable and Immoveable," *Britannica*, accessed January 1, 2021, <https://www.britannica.com/topic/movable-and-immovable>.

²³ *Merriam-Webster*, s.v. "Estate," accessed January 31, 2022, <https://shorturl.at/NQfSz>.

Administration Act 1959, extends to all property vesting in the Corporation under Section 39 in the event of intestacy. Thus, these laws demonstrate how Muslim estate administration in West Malaysia balances divine guidance with legal structure. *Faraid* ensures rightful heirs receive their shares, while state laws manage asset classification and procedures. When no heirs exist, estates pass to *Baitulmal*, reflecting not only administrative necessity, but also a closer connection of Shariah and statutory law. This connection highlights key issues in the dual legal system: efficiency, consistency, and the need for reform.

2.2.1 Immovable Estates

2.2.1.1 Federal Constitution

The Federal Constitution is the supreme law of the Federation and serves as the foundational legal framework governing the administration of *bona vacantia*. Article 4(1) declares the Constitution as the highest law; any post-Merdeka legislation that is inconsistent with its provisions is declared invalid. This supremacy directly affects how estates, particularly immovable property such as land and buildings, are administered. Article 74, read with the Ninth Schedule, outlines the division of powers between the Federal and State governments. While land is a matter reserved to the States, Parliament enacted the National Land Code 1965 under Article 76(4) to ensure uniformity in land law and policy across the Federation. This dual provision of authority demonstrates the relationship between federal supremacy and state jurisdiction in estate matters.²⁴

²⁴ Ahmad Kamal Ihsan Anuar, "Pengenalan Kepada Sistem Pentadbiran Tanah di Malaysia & Kanun Tanah Negara," *Portal Pusat Informasi Tanah dan Ukur*, accessed March 9, 2023, <https://pintu.instun.gov.my/artikel/papar/pengenalan-kepada-sistem-pentadbiran-tanah-di-malaysia-dan-ktn>.

However, under Item 1, List II (State List), Ninth Schedule of the Federal Constitution, it is stipulated that issues concerning succession, testate and intestate matters, and also charity institutions, such as *Baitulmal*, are within the purview of Islamic law, forming part of Muslim personal and family law. This constitutional arrangement confirms that the administration of Muslim estates, including *bona vacantia* (ownerless property in the absence of heirs), falls within the legislative competence of the State Legislative Assembly and the jurisdiction of the Syariah Courts, albeit subject to federal law where applicable. Besides, land matters are under state jurisdiction as stipulated under Item 2, List II (State List), Ninth Schedule of the Federal Constitution.²⁵

Therefore, in practice, the administration of *bona vacantia* concerning Muslim estates reflects a dual legal structure: federal supremacy establishes uniform principles and boundaries, while state legislative power and Syariah jurisdiction operationalise the distribution and eventual vesting of estates in the *Baitulmal* when heirs are absent. This dual constitutional design illustrates the complexity of harmonising federal authority, state legislative power, and Islamic law in administering *bona vacantia* in West Malaysia.

2.2.1.2 National Land Code 1965

Based on the saving clause of Section 4(2)(e) of the National Land Code of 1965 (NLC), it explicitly states that the NLC should not infringe on any prior legislation, including

²⁵ See Item 2 of List II. Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, land including—

- (a) land tenure, relation of landlord and tenant; registration of titles and deeds relating to land; colonization, land improvement and soil conservation; rent restriction;
- (b) Malay reservations or, in the States of Sabah and Sarawak, native reservations;
- (c) permits and licences for prospecting for mines; mining leases and certificates;
- (d) compulsory acquisition of land; (e) transfer of land, mortgages, leases and charges in respect of land; easements; and
- (f) escheat; treasure trove excluding antiquities.

those concerning wakaf or *baitulmal*. The National Land Code 1965 (NLC) plays a crucial role in regulating immovable property, thereby recognising the precedence of Islamic law in matters involving Muslim estates. This safeguard reflects the constitutional balance between federal legislation on land and the authority of Islamic law in governing succession and *bona vacantia*.

Section 351 of the NLC outlines the reversion process for land left without a proprietor, allowing the Land Administrator to declare land ownerless when no heirs come forward or no estate representation has been filed within the statutory period. Such land then reverts to the State Authority. It can be inferred that, for Muslims, the principle of *faraid* dictates that in cases where the owner of any alienated land dies without successors and the land becomes ownerless or *bona vacantia*, the land shall then be returned to *Baitulmal*.²⁶ This demonstrates how the NLC not only sets out the legal mechanism for dealing with unclaimed land but also integrates with Islamic law, thereby illustrating the dual framework underpinning the administration of *bona vacantia* in West Malaysia and reinforcing that effective governance requires harmonisation of federal land laws with Islamic succession principles.

2.2.1.3 Small Estates (Distribution) Act 1955

Section 3 of the Small Estates (Distribution) Act 1955 (principal act) governs a small estate of a deceased person, regulating both movable and immovable estates. Before the Small Estates (Distribution) (Amendment) Act 2022, section 3 (2) of the principal Act referred to a "small estate" as "an estate of a deceased person which consists wholly or

²⁶ Mohammad Salleh Abdul Saha et al., "The Issues, Concepts and Functions of Baitulmal in Selangor Islamic Religious Council (MAIS) on the Reclamation of Muslim Inheritance," *International Journal of Academic Research in Business and Social Sciences* 12, no. 11 (2022): 2213–2221, <https://doi.org/10.6007/IJARBS/v12-i11/14835>; Muhd Farhan, "AL-KAFI #1704: Who Are the Rightful Heirs?," *Mufti of Federal Territory's Office*, accessed April 20, 2020, <https://shorturl.at/8qbyb>.

partly of immovable property situated in a State and the total value of which does not exceed two million ringgit". However, Subsection 3(2) of the principal Act is amended by replacing "wholly or partly of immovable" with "of any" and changing "two million" to "five million." This Act has been amended a few times since 1974.²⁷ In furtherance, this Act applies equally to Muslims and non-Muslims.

Section 13(1) of the Act is particularly significant to this thesis, as it explicitly recognises the entitlement of *baitulmal* in Muslim estates,²⁸ requiring the Estate Distribution Officer (formerly the Land Administrator) to ensure that *Baitulmal's* share is settled before distribution to beneficiaries. This provision illustrates how statutory mechanisms for small estate distribution align with Islamic law obligations, reinforcing the dual framework behind *bona vacantia* in West Malaysia. By mandating compliance with *baitulmal* provisions within the federal statutory framework, the Act integrates federal estate administration with Islamic obligations, highlighting the dual legal framework relevant to this thesis in addressing *bona vacantia*.

2.2.1.4 Administration of Islamic Law (Federal Territories) Act 1993

The Administration of Islamic Law (Federal Territories) Act 1993, particularly Section 60, establishes the role of *baitulmal* as the fund responsible for managing zakat, charitable contributions, and other assets of Muslims in the Federal Territories, with the Majlis Agama Islam Wilayah Persekutuan tasked to administer, invest, and record these funds. The same provision is also equivalent in Johor, Kedah and Kelantan; In Johor,

²⁷ Noraini Noordin and Adibah Shuib, "Cost-Effective Routes through NFP Model – an Alternative to Manage Unclaimed Estates," *International Journal of Advances in Engineering Science and Technology IJAEST* 3, no. 2 (2014): 95–104, <https://tinyurl.com/msfafa25>

²⁸ Akmal Hidayah Halim et al., "Administration of Unclaimed Estates in Malaysia: The Peculiarities of Unclaimed Money, Undistributed Fund and Bona Vacantia," *The Journal of Social Sciences Research*, no. SPI6 (2018): 1078, <https://doi.org/10.32861/jssr.spi6.1075.1079>

Section 81 of the Islamic Religious Administration (State of Johor) Enactment 2003 (*Enakmen Pentadbiran Agama Islam (Negeri Johor) 2003*);²⁹ in Kedah, Section 47 of the Administration of Islamic Law (Kedah Darul Aman) Enactment 2008 (*Enakmen Pentadbiran Undang-Undang Islam (Kedah Darul Aman) 2008*);³⁰ and in Kelantan, Section 41(1) of the Kelantan Islamic Religious Council and the Malay Customs Enactment 1994 (*Enakmen Majlis Agama Islam dan Adat Istiadat Melayu Kelantan 1994*).³¹

In relation to the thesis, these provisions illustrate how *baitulmal* functions as the institutional mechanism through which Muslim estates deemed *bona vacantia* are channelled, thereby supporting the dual legal system, where state Islamic institutions complement federal laws in estate administration.

2.2.2 Movable Estates

2.2.2.1 Federal Constitution

The Interpretation Acts 1948 and 1967, through Section 3, define movable property as encompassing all assets other than immovable, thus framing the scope of movable estates. This definition is significant, as it clarifies the type of property subject to succession and potential claims of *bona vacantia*. The Federal Constitution, being the supreme law under Article 4(1), establishes the main framework by recognising succession, charitable endowments, and the administration of *baitulmal* as matters of

²⁹ See Section: 81 – (1) A fund called Baitulmal is hereby established. (2) Baitulmal shall consist of all money and property, movable or immovable, that according to Islamic law or under this Enactment or regulations or rules made under it, has accrued or been contributed by any person to Baitulmal.

³⁰ See Section 47 - (1) A fund named Baitulmal is hereby established. (2) Baitulmal shall consist of all money and property, movable or immovable, that according to Sharia law or under this Enactment or regulations or rules made thereunder, accrue, or are contributed by any person, to Baitulmal.

³¹ See Section 41 – (1) A fund named Baitulmal is hereby established. Baitulmal shall consist of all money and property, movable or immovable, that according to Sharia law or under this Enactment or regulations or rules made thereunder, accrue, or are contributed by any person, to Baitulmal.

Islamic law under the State List (Ninth Schedule). This allocation reflects a policy choice to channel unclaimed assets into religious and charitable purposes through State Islamic Religious Councils (SIRCs). Still, it also raises challenges: the state-based jurisdiction may produce inconsistencies in administration across Malaysia, and it complicates coordination with federal agencies when estates involve mixed assets or cross-border elements. Thus, while the statutory and constitutional provisions provide clarity, they also expose tensions between uniformity, efficiency, and respect for religious governance in the administration of *bona vacantia*.

Furthermore, Article 97(3) emphasises the constitutional obligation to segregate Islamic revenues such as zakat, fitrah, and *baitulmal* into separate funds, with disbursements tightly regulated under state or federal law. In this regard, these provisions highlight how the governance of movable property, particularly in the context of *bona vacantia*, is constitutionally structured to preserve the role of Islamic law while ensuring compliance with the supreme authority of the Federal Constitution. However, concerns arise over accountability, as State Islamic Religious Councils are not always subject to uniform standards of financial oversight, which potentially declines transparency in the use of such funds. Thus, while the constitutional framework affirms the primacy of Islamic principles and prevents arbitrary state appropriation, it also exposes governance gaps that warrant harmonisation and stronger safeguards. This analysis, therefore, sets the stage for assessing whether the current framework in West Malaysia adequately secures both constitutional fidelity and effective administration, or whether reform is required.

2.2.2.2 Civil Law Act 1956

Section 24 of the Civil Law Act 1956 provides that the ownerless property (*bona vacantia*) of an individual who dies intestate without heirs passes into the government's Consolidated Fund. However, this provision applies strictly to movable property and excludes immovable assets. However, Section 25 modifies this rule by expressly exempting Muslims' estates. Scholars have noted that this provision performs a dual role: it affirms the non-applicability of English law to Muslims. It redirects Muslim *bona vacantia* estates away from the Consolidated Fund to the *Baitulmal*, an institution central to Islamic financial administration.³²

Hence, the Civil Law Act illustrates the dual legal framework in Malaysia, where civil legislation governs non-Muslim estates. In contrast, Muslim *bona vacantia* estates are channelled through *Baitulmal* under Islamic law, underscoring the coexistence and relationship of civil and Islamic legal systems in the administration of ownerless property.

2.2.2.3 Small Estates (Distribution) Act 1955

With the amendments introduced by the Small Estates (Distribution) (Amendment) Act 2022, Subsection 3(2) of the principal Act now extends its scope from “wholly or partly of immovable” to “of any” property and raises the jurisdictional maximum amount from two million to five million, thereby broadening its application to both movable and immovable assets and encompassing Muslims and non-Muslims alike. Notably, Section 13(1) of the Act explicitly safeguards the interest of *Baitulmal* by requiring the Estate Distribution Officer (previously Land Administrator) to ensure that *Baitulmal*'s

³² Bayu Taufiq Possumah and Abdul Ghafar Ismail, “Baitul Mal and Legal Constraint: Public Wealth Management in Malaysian Context,” *International Journal of Academic Research in Business and Social Sciences* 2, no. 11 (2012): 28–52, <https://tinyurl.com/d27rkppc>.

entitlement to a deceased Muslim's estate is settled before distribution. In relation to this, this statutory framework highlights how the administration of small estates integrates both civil and Islamic dimensions while recognising the unique position of *Baitulmal*, thereby illustrating the dual legal structure that supports the governance of *bona vacantia* in Malaysia.

2.2.2.4 Administration of Islamic Law (Federal Territories) Act 1993

In Section 60 of the Administration of Islamic Law (Federal Territories) Act 1993, the *Baitulmal* is cited. This fund oversees obtaining and allocating charitable contributions from Muslims residing in the Federal Territories, such as zakat. All funds and assets, whether they are immovable or not, will be a part of the Fund. Setting the rates, categories, and procedures for zakat collecting and distribution, as well as managing, investing, auditing, and administering the *Baitulmal* funds, are the duties of the Majlis Agama Islam Wilayah Persekutuan. This clause gives the Majlis the power to designate these duties. According to this clause, the Majlis must also keep correct accounting and records of the funds and issue receipts, certificates, and statements for the *Baitulmal* payments.

Comparable provisions are found in the legislation governing the administration of Islamic law in Johor, Kedah, and Kelantan. For instance, Section 81 of the *Enakmen Pentadbiran Agama Islam (Negeri Johor) 2003*, Section 47 of the *Enakmen Pentadbiran Undang-Undang Islam (Kedah Darul Aman) 2008*, and Section 41 of the *Enakmen Majlis Agama Islam Dan Adat Istiadat Melayu Kelantan 2004* establish similar frameworks for the establishment, collection, and administration of *Baitulmal* funds by their respective State Islamic Religious Councils (MAINJ, MAIK Kedah, and MAIK Kelantan). These provisions collectively highlight a consistent legal approach

across the selected states, whereby the *Baitulmal* functions as the central repository and administrator of Muslim charitable assets, including unclaimed estates falling under *Bona vacantia*. At the same time, minor procedural differences exist among the states, reflecting local administrative practices, but the main principle remains uniform: the *Baitulmal* serves as trustee and manager of such assets to ensure their use aligns with Shariah objectives. The summary of the governing laws for Muslims' *bona vacantia* can be understood by the illustration in Table 2.1, below:

Table 2.1: Governing Laws for Muslims

ACT	MOVABLE ESTATE	IMMOVABLE ESTATE
Federal Constitution	Islamic law applies to the personal laws of Muslims.	Islamic law applies to the personal laws of Muslims.
Small Estates (Distribution) Act 1955 and the Amendment Act 2022	This applies to estates that do not exceed RM5,000,000 in value. The Estate Distribution Officer has the power to distribute such estates	Apply to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value. The Estate Distribution Officer has the power to distribute such estates according to the law of succession applicable to the deceased.
National Land Code 1965	-	In cases when the Land Administrator receives evidence and is satisfied that the proprietor of any alienated land has died, and no petition has been filed for a grant of representation to the estate of the original proprietor, and no petition for the distribution of that estate has been lodged under the Small Estates (Distribution) Act 1955.
Administration of Islamic Law (Federal Territories) Act 1993 / Enakmen Pentadbiran Agama Islam (Negeri Johor) 2003 / Enakmen Pentadbiran Undang-Undang Islam (Kedah Darul Aman) 2008 / Enakmen Majlis Agama Islam Dan Adat Istiadat Melayu Kelantan 2004	All money and properties will be included in the <i>Baitulmal</i> Fund.	All money and properties will be included in the <i>Baitulmal</i> Fund.

2.3 GOVERNING LAWS FOR NON-MUSLIMS

Scholars in civil law have explored the theoretical foundations of property law and the concept of property without an owner. Legal philosophers such as Gray³³ in his work “The Rule Against Perpetuities” and Blackstone³⁴ in “Commentaries on the Laws of England” (Volume II), provide valuable insights into property rights in common law systems. Their works trace the development of legal concepts concerning ownership and succession, offering a basis for understanding how civil law systems comprehend situations where property lacks a rightful owner.

The treatment of *bona vacantia* in West Malaysia's civil law system is governed by statutory provisions and procedural frameworks established by the government. Civil law systems, influenced by British legal traditions, provide specific rules and procedures for handling unclaimed property or estates. Statutory provisions outline the process for identifying and managing *bona vacantia* estates, including procedures for notification, claims, and distribution of assets. These provisions may vary by jurisdiction but aim to ensure transparency, accountability, and efficiency in administering ownerless property. Legal scholars like Gray and Blackstone provide insights into the historical development of property law in common law systems,³⁵ thus shaping the statutory provisions and procedural frameworks governing *bona vacantia* in West Malaysia.

For non-Muslims, their estates are governed by specific acts such as the Civil Law Act 1956, the Inheritance (Family Provision) Act 1971, and the Distribution Act

³³ John Chipman Gray, *The Rule against Perpetuities* (Boston: Little, Brown, and Company, 1886), Internet Archive, accessed October 31, 2023, <https://archive.org/details/cu31924018785851>.

³⁴ William Blackstone, *Commentaries on the Laws of England*, Internet Archive, accessed August 20, 2024, <https://tinyurl.com/y838wds5>.

³⁵ Gray, *The Rule against Perpetuities*.; Blackstone, *Commentaries on the Laws of England*.

1958.³⁶ However, other statutes relating to estates also include the National Land Code 1965, the Small Estates (Distribution) Act 1955, as well as the Federal Constitution.

2.3.1 Immovable Estates

2.3.1.1 Federal Constitution

Article 74 of the Federal Constitution establishes that land matters, including escheat, fall within state jurisdiction under the State List in the Ninth Schedule, except in Federal Territories. This allocation of power means that the administration of *bona vacantia* estates, particularly involving non-Muslim land, is primarily regulated by state legislatures, while Parliament retains limited power under Article 76(4) to legislate for uniformity.³⁷ But this power conferred shall not apply to Sabah and Sarawak.³⁸ This division of authority underscores the thesis's central theme of how Malaysia's dual legal framework assigns responsibility for estate administration between Federal and State institutions, shaping the governance of *bona vacantia* according to both jurisdictional and religious boundaries.

2.3.1.2 National Land Code 1965

Building upon the constitutional division, the National Land Code 1965 (Act 56), enacted by Parliament to ensure uniformity in land law, outlines the process for the reversion of land when there is no surviving proprietor. Section 351 specifically addresses the fate of land when a proprietor dies without heirs, ensuring automatic reversion to the State Authority, subject to prevailing laws on *Baitulmal* in Muslim

³⁶ Akmal Hidayah et al., "The Administration of Muslims's," 27.

³⁷ Ahmad Kamal, "Pengenalan Kepada Sistem Pentadbiran Tanah."

³⁸ Malaysian Bar, "My Constitution: About Sabah and Sarawak," accessed January 10, 2011, <https://www.malaysianbar.org.my/article/about-us/committees/constitutional-law-committee/my-constitution-about-sabah-and-sarawak>.

cases. These provisions are significant to the thesis, as they illustrate how statutory land law provides a structured mechanism for absorbing ownerless property into state ownership, reflecting the balance between administrative efficiency, property rights, and the incorporation of Islamic legal principles in cases involving Muslims.

2.3.1.3 *Small Estates (Distribution) Act 1955*

Complementing the framework under the National Land Code, Section 3 of the Small Estates (Distribution) Act 1955, amended in 2022 to raise the jurisdictional value to RM5 million and extend the application to both movable and immovable assets, regulates the administration of small estates for both Muslims and non-Muslims. By doing so, it creates a procedure acknowledging the role of Islamic inheritance (*faraid*) for Muslims and civil distribution laws for non-Muslims. Its relevance to the thesis lies in how it demonstrates Malaysia's attempt to harmonise dual legal principles within one procedural framework, ensuring equitable estate administration while preserving religious distinctions, including the State's or *Baitulmal*'s claim over unclaimed estates.

2.3.1.4 *Distribution Act 1958*

Finally, the Distribution Act 1958 governs intestate succession for non-Muslims in West or Peninsular Malaysia only, regulating both movable and immovable property under a statutory scheme of inheritance. According to Section 4 of the Distribution Act 1958, if the deceased who died left movable property, his estate will be governed by federal laws, whereas his immovable property is subject to state laws.³⁹ Furthermore, Section 6 outlines the distribution of the estate among surviving relatives. In contrast,

³⁹ Rahmawati Mohd Yusoff, "The Administration of Unclaimed Estates in West Malaysia: Formulating a Legal Framework" (unpublished Ph.D. thesis, International Islamic University Malaysia, 2019), 96.

Section 6(1)(j) stipulates that in the absence of heirs, the Government inherits the estate, excluding land, which reverts to the State under land law. This Act is essential to the thesis as it highlights how non-Muslim estates are comprehensively governed by Federal law, ensuring that property either devolves to family members or ultimately benefits the State, thereby reinforcing the dual framework where civil law governs non-Muslims while Islamic principles govern Muslims.

2.3.2 Movable Estates

2.3.2.1 Federal Constitution

Article 97(1) of the Federal Constitution consolidates all revenues and funds received by the Federation into the Federal Consolidated Fund, which expressly includes *bona vacantia* estates involving movable property. This provision highlights the constitutional basis for directing unclaimed estates into a unified fund, ensuring transparent financial management under federal authority. The thesis examines how the Federal Constitution establishes the primary foundation for integrating *bona vacantia* assets, particularly moveable ones, into the federal consolidated fund, thereby stimulating consistency and accountability in estate management.

2.3.2.2 Civil Law Act 1956

Furthermore, Section 24 of the Civil Law Act 1956 extends this framework by stipulating that the personal estate of an individual who dies intestate without heirs is allocated to the government, forming part of the Consolidated Fund. While the estate generally becomes government property, the Yang di-Pertuan Agong retains discretionary power to release the estate, in whole or in part, to a person with an equitable or moral claim. This statutory arrangement is significant to the thesis because

it demonstrates how federal law operationalises the constitutional provision on *bona vacantia* while still allowing flexibility to account for fairness in exceptional cases, balancing state interests with potential moral obligations.

2.3.2.3 *Small Estates (Distribution) Act 1955*

In addition, the Small Estates (Distribution) Act 1955, particularly following the 2022 amendments, broadens its scope to encompass both immovable and movable property with a value of up to RM5 million, making the process applicable to Muslims and non-Muslims alike. This Act ensures that estates are administered efficiently while respecting religious distinctions, with Muslim estates distributed under *faraid* and non-Muslim estates distributed under the Distribution Act 1958. For the thesis, the Act illustrates how Malaysia provides a specialised mechanism for handling smaller estates, including those that may otherwise fall into *bona vacantia*, thereby reinforcing the dual legal structure and promoting procedural accessibility.

2.3.2.4 *Distribution Act 1958*

Lastly, the Distribution Act 1958 governs intestate succession for non-Muslims, with Section 6 providing detailed rules on asset distribution among surviving heirs. Importantly, Section 6(1)(j) directs that if no heirs exist, the federal government acquires the entire estate, except for land, which reverts to the State under land law. This provision is central to the thesis because it reveals how civil law secures the government's ultimate entitlement to ownerless personal estates while simultaneously respecting the constitutional and statutory distinction between movable property (falling to the Federation) and immovable property (falling to the State), thus underlining the layered complexity of Malaysia's *bona vacantia* framework. The

summary of the governing laws for non-Muslim *bona vacantia* can be illustrated in Table 2.2, below:

Table 2.2: Governing Laws for non-Muslim

ACT	MOVABLE ESTATE	IMMOVABLE ESTATE
Civil Law Act 1956	The personal estate of a person who dies intestate without next of kin accrues to the Government as <i>bona vacantia</i> and forms part of the Consolidated Fund, also known as the YDPA fund. The YDPA may transfer the estate or its proceeds to any person who has an equitable or moral claim to it.	-
Distribution Act 1958	The distribution of the movable property of a deceased person is regulated by the law of the country in which he was domiciled at the time of his death. If no person takes absolute interest under the Act, the government is entitled to the whole of the personal estate as <i>bona vacantia</i> .	The distribution of the immovable property of a person who died intestate is regulated by this Act wherever he may have been domiciled at the time of his death.
Small Estates (Distribution) Act 1955	Applies to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value, as amended by the Amendments Act 2022. The Estate Distribution Officer has the power to distribute such estates according to the law of succession applicable to the deceased.	Apply to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value. The Estate Distribution Officer has the power to distribute such estates according to the law of succession applicable to the deceased.
National Land Code 1965	-	Governs the administration of immovable property, such as land and buildings. If a person dies intestate without heirs, his immovable property is escheated to the State Authority as <i>bona vacantia</i> . The State Authority may dispose of the property as it thinks fit, subject to the payment of any debts and charges affecting the property.

ACT	MOVABLE ESTATE	IMMOVABLE ESTATE
Federal Constitution	The civil law applies to non-Muslims in matters of intestacy, testacy, and succession.	The civil law applies to non-Muslims in matters of intestacy, testacy, and succession. It also grants the legislative power to the Parliament and the State Legislatures to make laws regarding land and the distribution of property on death.

2.4 INSIGHTS FROM CASE LAW

2.4.1 Muslims

Bona vacantia, a concept signifying "ownerless goods", presents a complex legal and religious issue in Malaysia, particularly for Muslims. When a Muslim individual passes away without a valid will or identifiable legal heirs, their estate becomes subject to this principle. Understanding how *bona vacantia* applies to Muslims in Malaysia necessitates delving into relevant legal precedents, alongside Islamic law interpretations and ethical considerations.

Several legal cases have shed light on the interpretation and application of *bona vacantia* for Muslims in West Malaysia. In this landmark case of *Re Timah binti Abdullah, Deceased*⁴⁰, it was established that a fundamental principle is that non-Muslims cannot inherit the estate of a Muslim. The ruling solidified the legal boundaries around inheritance based on religious affiliation. This principle was further affirmed in *Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Anor*,⁴¹ reasserting the legal framework surrounding *bona vacantia* for Muslims. Building upon the precedent that non-Muslims have no claim to a Muslim's estate upon their passing.

⁴⁰ [1941] MLJ 51.

⁴¹ [1971] 2 MLJ 217.

Beyond these legal precedents, additional understanding can be gathered from other cases. The principle of *Baitulmal's* right to unclaimed estates was acknowledged in *Re Mutchilim Alias Ashrhin, Decd; Ji Mawar v Attorney-General*.⁴² Rooted in the Shafie school of Islamic law, this case acknowledged the principle of *Baitulmal's* right to unclaimed estates. The doctrine of “*radd*” was highlighted, which restricts the spouse’s inheritance to a specific portion while allocating the remainder to the *Baitulmal* (the treasury of the Islamic community).

Similarly, in the case of *Re Itam binti Saad*,⁴³ it illustrated the application of Islamic inheritance principles, where the remaining share of the deceased's estate not inherited by the daughter and widow was vested in the *Baitulmal*.

Furthermore, the undecided cases of *Abdul Malik bin Saham* and *Khairil Albrecht bin Abdullah* highlight the complexities and flexibilities within the Islamic inheritance framework in Malaysia. In the case of *Abdul Malik bin Saham (undecided case)*, the concept of “*takharuj*” was significant. *Takharuj* permits the *Baitulmal* to relinquish its share in an estate for a predetermined amount, allowing heirs to inherit the full asset under certain conditions. This flexibility demonstrates the adaptability of Islamic inheritance laws in accommodating specific circumstances.⁴⁴ Meanwhile, the case of *Khairil Albrecht bin Abdullah (undecided case)* involved a fatwa issued by the State Fatwa Committee of Selangor on behalf of the Selangor Islamic Religious Council (MAIS). The fatwa declared that Khairil Albrecht bin Abdullah, a German passport holder residing in Petaling Jaya, remained a Muslim at the time of his death because he still held the Islamic Card issued by the Muslim Welfare Organisation Malaysia (PERKIM). Despite his claims of converting to Christianity through an oath and a

⁴² [1960] MLJ 25.

⁴³ [1974] 2 MLJ 53.

⁴⁴ JAWHAR, *Manual Pengurusan Tebus Pusaka*.

newspaper declaration, the committee deemed the conversion invalid as the oath was witnessed by non-Muslims, which was considered illegal. Consequently, he was regarded as a Muslim at his death. However, his will to non-Muslims was considered valid under Islamic law, provided it did not exceed one-third of the estate, with the remainder vested in *Baitulmal*. These cases collectively underline the importance of adhering to Islamic principles and demonstrating the legal system's flexibility in certain instances.⁴⁵

In conclusion, Islamic law and Malaysian legal precedents are interconnected with the legal concept of *bona vacantia* in West Malaysia, particularly in relation to Muslims. A Muslim's estate typically falls under the category of *bona vacantia* when they pass away without a will or heirs. Notable legal cases have clarified that non-Muslims cannot inherit from Muslims, that the estates of converts are governed by Islamic law, and unclaimed estates often vest in the *Baitulmal*. The practice of *takharuj* demonstrates legal flexibility, enabling the *Baitulmal* to relinquish its share under specific conditions. The involvement of the Syariah Court in these matters highlights the intersection of religious and legal frameworks in administering such estates.

2.4.2 Non-Muslims

Bona vacantia for non-Muslims in West Malaysia follows a legal path distinct from that of Muslims, shaped by diverse cultural traditions and English legal influence. The key case, *Re Soo-Hoo Hem Leng*,⁴⁶ involved immovable property in Penang and Perak, left without identifiable heirs. The court applied English law, affirming that in the absence of next of kin, the estate reverted to the Government of the Federation of Malaya. This

⁴⁵ Jabatan Mufti Negeri Selangor, "Fatwa Harta Pusaka," accessed June 20, 2023, <https://www.muftiselangor.gov.my/2023/10/28/fatwa-harta-pusaka/>.

⁴⁶ (1963) MLJ 38.

case highlights how English legal principles continue to shape the handling of unclaimed estates for non-Muslims in Malaysia.

2.5 AN ANALYSIS THROUGH LEGISLATION

2.5.1 Types of Movable and Immovable Property or Estates in West Malaysia

Based on the above analysis, the estate or property in West Malaysia can be categorised as summarised in Table 2.3 below;

Table 2.3: Classification of Movable and Immovable Property

Category	Types of Property/ Estate	Description	Statute Reference
Immovable Property	Land and buildings	Includes all forms of land, whether agricultural, residential, commercial, or industrial buildings erected on land, including residential homes, commercial buildings, and factories.	National Land Code 1965, Section 5 Interpretation Acts 1948 and 1967, Section 3
Movable Property	All property other than immovable property.	Cash, bank deposits, and currency notes.	Interpretation Acts 1948 and 1967, Section 3

2.5.2 Comparative Analysis for Muslim and Non-Muslim

Table 2.4 below stipulates the key differences in *bona vacantia* management between movable and immovable property in West Malaysia for Muslims and non-Muslims. It highlights the significant differences in how movable and immovable property are treated under Malaysian law for Muslims and non-Muslims, particularly concerning the administration of *Bona vacantia* and the role of *Baitulmal*.

Table 2.4: Key Differences of *Bona Vacantia* Administration for Muslims and Non-Muslims

CATEGORY	MOVABLE PROPERTY (MUSLIMS)	MOVABLE PROPERTY (NON-MUSLIMS)
Legal Framework	Governed by Islamic law (personal and family law), exempt from certain provisions of the Civil Law Act 1956.	Governed by the Civil Law Act 1956, Section 24 directs ownerless estates to the Consolidated Fund.
Disposition of <i>Bona vacantia</i>	Directed to <i>Baitulmal</i> as per Section 25 of the Civil Law Act 1956, exempting Muslims from the Consolidated Fund.	Reverts to the Consolidated Fund as per Section 24 of the Civil Law Act 1956.
Small Estates (Distribution) Act	Applies to both Muslims and non-Muslims; Section 13(1) recognises <i>Baitulmal's</i> entitlement to Muslim estates.	This applies to Muslims and non-Muslims; there is no specific allocation to religious funds like <i>Baitulmal</i> .
Administration of Islamic Law Act	<i>Baitulmal</i> manages funds, including zakat, under Section 60; all funds and assets, movable or immovable, are included.	No provision specifically designates funds for Islamic purposes like zakat; it is managed under general civil law principles.
CATEGORY	IMMOVABLE PROPERTY (MUSLIMS)	IMMOVABLE PROPERTY (NON-MUSLIMS)
Legal Framework	Governed by Islamic law for succession and endowments; state jurisdiction under Item 1, List II of the Federal Constitution.	Governed by the National Land Code 1965, subject to federal authority under Article 76(4) of the Federal Constitution.
Disposition of <i>Bona vacantia</i>	Subject to Islamic law; reverts to <i>Baitulmal</i> if ownerless.	Subject to the National Land Code, it may revert to the State if unclaimed.
Small Estates (Distribution) Act	Applies to immovable estates; <i>Baitulmal's</i> entitlement is recognised for Muslim estates under Section 13(1).	Applies to immovable estates; no specific provision for <i>Baitulmal's</i> entitlement.
Administration of Islamic Law Act	Oversee zakat collection and distribution; manage <i>Baitulmal</i> funds under Section 60.	No provision for Islamic fund management under this Act; it focuses on the civil administration of estates.

Further, Table 2.5 compares the legislation governing movable and immovable estates for Muslims and non-Muslims in West Malaysia.

Table 2.5: Comparison of Legislation Governing Estates for Muslims and Non-Muslims

Act	Movable Estate (Muslims)	Immovable Estate (Muslims)	Movable Estate (Non-Muslims)	Immovable Estate (Non-Muslims)
Federal Constitution	Islamic law applies to the personal laws of Muslims.	Islamic law applies to the personal laws of Muslims.	The civil law applies to non-Muslims in matters of intestacy, testacy, and succession.	The civil law applies to non-Muslims in matters of intestacy, testacy, and succession.
Small Estates (Distribution) Act 1955	Apply to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value.	Apply to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value.	Apply to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value.	Apply to estates that consist, wholly or partly, of immovable property and do not exceed RM5,000,000 in value.
National Land Code 1965	-	In cases where the owner of any alienated land died without successors and the land becomes ownerless or <i>bona vacantia</i> , the land shall then be returned to <i>Baitulmal</i>	-	Governs the administration of immovable property. If a person dies intestate without heirs, his immovable property is escheated to the State Authority as <i>bona vacantia</i> .
Administration of Islamic Law (Federal Territories) Act 1993	All money and properties will be included in the <i>Baitulmal</i> Fund.	All money and properties will be included in the <i>Baitulmal</i> Fund.	-	-
Civil Law Act 1956	-	-	The personal estate of a person who dies intestate without next of kin accrues to the Government as <i>bona vacantia</i> in the Consolidated Fund (YDPA fund).	-
Distribution Act 1958	-	-	If no person takes absolute interest under the Act, the government is entitled to the whole of the personal estate as <i>bona vacantia</i> .	The distribution of the immovable property of a person deceased intestate is regulated by this Act

In West Malaysia, the legal framework for estate administration distinguishes between Muslims and non-Muslims based on their religious affiliations. For Muslims, Islamic law governs movable and immovable estates, ensuring adherence to Islamic principles in inheritance and succession. The Small Estates (Distribution) Act of 1955 provides mechanisms for smaller estates among Muslims, integrating Islamic succession laws. Additionally, under the Administration of Islamic Law (Federal Territories) Act 1993, all assets, including money and property, are directed to the *Baitulmal* Fund for distribution in accordance with Islamic principles.

Conversely, non-Muslims in Malaysia are subject to civil law concerning intestacy, testacy, and succession. The Civil Law Act 1956 stipulates that the personal estates of non-Muslims who die intestate and without next of kin are appropriated to the government as *bona vacantia*, managed under the Consolidated Fund. Similarly, the Distribution Act 1958 regulates the distribution of movable and immovable property among non-Muslims, depending on the deceased's domicile at the time of death; unclaimed estates may potentially revert to the government.

This legal distinction reflects West Malaysia's dual justice system, ensuring that Muslims and non-Muslims are governed by laws that align with their respective religious or civil contexts when managing estates and inheritance matters.

2.5.3 SWOT (Strengths, Weaknesses, Opportunities, Threats) Analysis

SWOT analysis, developed by the Stanford Research Institute in the 1960s, has become a widely used strategic tool across disciplines, including legal studies. It offers a clear framework for assessing internal strengths and weaknesses alongside external

opportunities and threats,⁴⁷ particularly useful in evaluating *bona vacantia* estate administration. In West Malaysia, it highlights strengths like established estate transfer procedures to *Baitulmal* and State Authorities, while exposing weaknesses such as inconsistent legal frameworks across states. It also reveals opportunities for procedural reform and threats from a fragmented legal system, supporting a more coherent strategy for managing *bona vacantia* estates.

This SWOT analysis highlights the importance of updating and refining these frameworks to ensure they always align with existing legal standards and societal expectations and balance religious adherence. The SWOT analysis is shown in Table 2.6 below.

Table 2.6: SWOT Analysis of the Legal Frameworks between Muslim and non-Muslim Estates

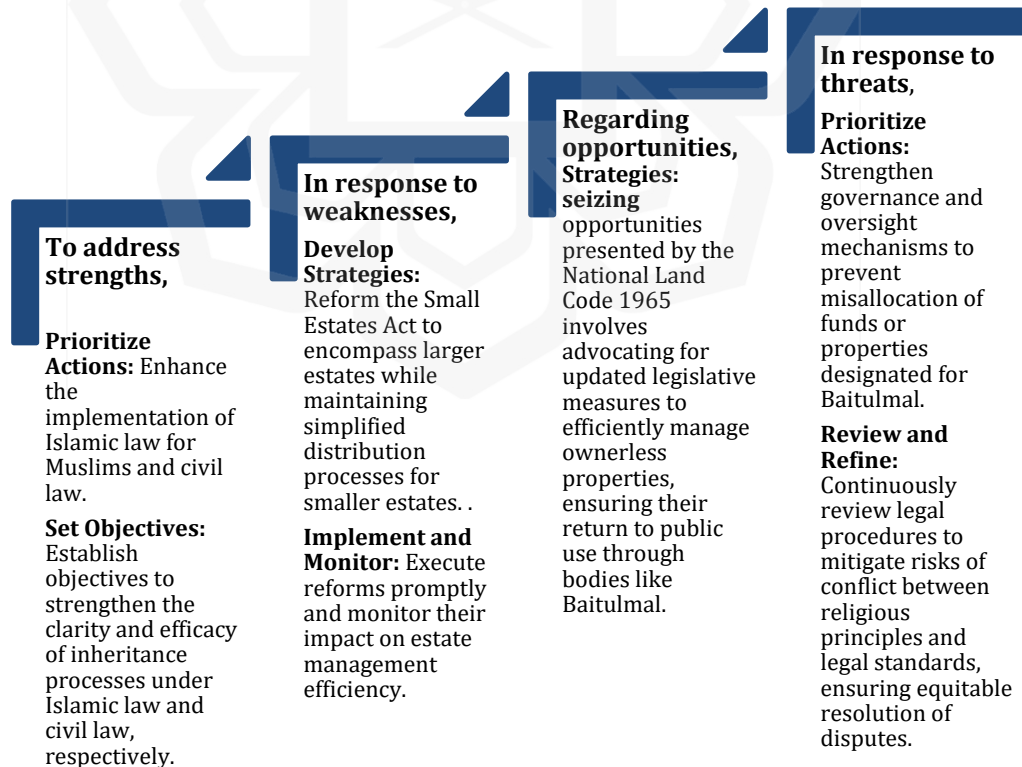
Aspect	Muslim Estates	Non-Muslim Estates
Strengths	<ul style="list-style-type: none"> • A clear religious foundation under <i>faraid</i> ensures fixed shares to heirs. • The existence of <i>Baitulmal</i> as custodian of unclaimed Muslim estates provides certainty. • The Small Estates (Distribution) Act 1955 accommodates Muslim distribution principles while providing an administrative structure. 	<ul style="list-style-type: none"> • The Distribution Act 1958 provides a comprehensive statutory framework for intestacy. • A clear fallback to the government in the absence of heirs ensures no property remains unadministered. • The Civil Law Act 1956 aligns estates with the Federal Consolidated Fund, ensuring financial integration.
Weaknesses	<ul style="list-style-type: none"> • Complexity arises when heirs are partly Muslim and partly non-Muslim (conversion issues). • Lack of uniformity in <i>Baitulmal</i> administration across states may create inconsistency. • Limited awareness among the public of <i>Baitulmal</i>'s role and rights. 	<ul style="list-style-type: none"> • The Distribution Act 1958 only applies to non-Muslims, excluding Muslim citizens and creating dual legal regimes. • Movable property accrues to the Federation, but immovable property goes to the State, leading to fragmented jurisdiction. • Discretionary power of the YDPA (under the Civil Law Act) may lead to perceptions of inequity.
Opportunities	<ul style="list-style-type: none"> • Strengthening institutional coordination between <i>Baitulmal</i>, land offices, and 	<ul style="list-style-type: none"> • Amendments to raise monetary thresholds (e.g., Small Estates Amendment Act 2022) increase efficiency.

⁴⁷ Marilyn M. Helms and Judy Nixon, "Exploring SWOT Analysis – Where Are We Now? : A Review of Academic Research from the Last Decade," *Journal of Strategy and Management* 3, no. 3 (2010): 215–251, <https://doi.org/10.1108/17554251011064837>; Mostafa Ali Benzaghta et al., "SWOT Analysis Applications: An Integrative Literature Review," *Journal of Global Business Insights* 6, no. 1 (2021): 55–73, <https://doi.org/10.5038/2640-6489.6.1.1148>; Susan E. Jackson, Aparna Joshi, and Niclas L. Erhardt, "Recent Research on Team and Organizational Diversity: SWOT Analysis and Implications," *Journal of Management* 29, no. 6 (2003): 801–830, https://doi.org/10.1016/S0149-2063_03_00080-1

	<p>Syariah courts can streamline administration.</p> <ul style="list-style-type: none"> • Greater public education on <i>faraid</i> and <i>Baitulmal</i> can reduce disputes and unclaimed estates. • Potential reforms to standardise <i>Baitulmal</i> practices across states. 	<ul style="list-style-type: none"> • Use of digital records and estate-tracking systems can improve administration of intestate estates. • Possibility of harmonisation or clearer guidelines to reduce federal–state overlap.
Threats	<ul style="list-style-type: none"> • Conflicts of jurisdiction between civil and Syariah courts risk delaying estate resolution. • Risk of disputes where heirs contest <i>Baitulmal</i>'s entitlement, especially in mixed-faith families. • Social resistance if reforms are perceived as diluting Islamic principles. 	<ul style="list-style-type: none"> • Overlap between federal and state powers may cause administrative bottlenecks. • Heirs may challenge government claims, leading to litigation. • Lack of awareness of intestacy rules among non-Muslims increases the likelihood of <i>bona vacantia</i> cases.

Based on the SWOT analysis conducted for both Muslim and non-Muslim legal frameworks regarding estate management, the SWOT analysis findings are translated into actionable strategies as illustrated in Table 2.7 below;

Table 2.7: Actionable Strategies Associated with the Legal Frameworks



2.6 AN ANALYSIS THROUGH CASE LAW FOR MUSLIM AND NON-MUSLIM

To effectively manage *bona vacantia*, a term that denotes the process of handling unclaimed properties of deceased persons, one must have a thorough understanding of the legal frameworks and challenges encountered by different communities in West Malaysia, encompassing both Muslim and non-Muslim groups. This study examines the fundamental differences and similarities between these two communities, drawing on relevant cases and legal provisions.

2.6.1 Muslims

Table 2.8 below provides a comprehensive analysis of the legal cases concerning *bona vacantia* for Muslims in West Malaysia using the FIRAC method, comprising the facts, issues, rules, applications, and conclusions of cases.

Table 2.8: FIRAC Analysis Through Case Law for Muslims

CASE	FACTS	ISSUE	RULE	APPLICATION	CONCLUSION
Re Timah binti Abdullah, Deceased [1941] MLJ 51	Timah binti Abdullah, a Muslim, passed away. Non-Muslim relatives attempted to claim her estate.	Can non-Muslims inherit the estate of a Muslim?	Non-Muslims cannot inherit from Muslims.	The court denied the claims of non-Muslim relatives, reinforcing the legal boundary around inheritance based on religious affiliation.	The principle was established that non-Muslims cannot inherit from Muslims.
Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Ors [1971] 2 MLJ 217	Non-Muslim individuals sought to inherit from a Muslim estate.	Can non-Muslims claim an estate belonging to a Muslim under <i>bona vacantia</i> principles?	Non-Muslims are not entitled to inherit from Muslims.	The court reaffirmed the legal framework that excludes non-Muslims from inheriting Muslim estates.	Reaffirmed that non-Muslims cannot inherit from Muslim estates.
Re Mutchilim @ Ashrhin, Deceased; Ji	Mutchilim's estate had no heirs.	How is the estate of a deceased Muslim	The doctrine of radd limits the	The court applied the doctrine of radd, allocating the remaining	<i>Baitulmal</i> inherits unclaimed estates under

Mawar v Attorney General (1960) MLJ 25		with no heirs managed?	spouse's inheritance; the rest goes to <i>Baitulmal</i> .	estate to <i>Baitulmal</i> .	the doctrine of radd.
Re Itam binti Saad v Chik binti Abdullah [1974] 2 MLJ 53	Itam Binti Saad's estate had no heirs beyond a daughter and a widow.	How is the remaining estate share managed when not inherited by close heirs?	The remaining share vests in the <i>Baitulmal</i> .	The court ruled that the <i>Baitulmal</i> administers the unclaimed portion.	<i>Baitulmal</i> administers the remaining shares not inherited by close heirs.
Abdul Malik bin Saham (undecided case)	Takharuj case, where <i>Baitulmal</i> relinquishes its share for a determined amount.	Can <i>Baitulmal</i> relinquish its share in an estate for a specific amount?	The practice of takharuj allows <i>Baitulmal</i> to relinquish its share.	The court demonstrated flexibility by allowing takharuj.	<i>Baitulmal</i> can relinquish its share, allowing heirs to inherit fully under takharuj.
In the Matter of Khairil Albrecht bin Abdullah (undecided case)	A German national residing in Malaysia held an Islamic Card issued by PERKIM. However, the Selangor Islamic Religious Council (MAIS) deemed these documents invalid and declared him a Muslim at the time of death.	Whether the deceased was a Muslim or a Christian at the time of death, and the validity of his will to non-Muslims.	Section 41(2) of the Administration of Islamic Law Enactment 1952, Islamic inheritance laws, rules of conversion document and legal testamentary provisions for non-Muslims.	The MAIS fatwa concluded that Khairil was a Muslim at the time of his death due to the validity of the Islamic Card, disregarding the conversion documents. The will he made to non-Muslims was considered valid only if it did not exceed one-third of his estate, with the remainder to be vested in <i>Baitulmal</i> .	Khairil was legally considered a Muslim at the time of death, and his will was partially honoured under Islamic law. The conversion to Christianity was not recognised, and the estate was distributed according to Islamic inheritance principles.

Based on the above cases, the critical analysis, including the strengths and weaknesses of the interpretation and application of *Bona vacantia* for Muslims in West Malaysia, is illustrated below in Table 2.9.

Table 2.9: Critical Analysis Through Case Law for Muslims

CASE	KEY ISSUE	OUTCOME	STRENGTHS	WEAKNESSES
Re Timah binti Abdullah, Deceased [1941] MLJ 51	Non-Muslims inheriting a Muslim estate	Non-Muslims cannot inherit from Muslims, solidifying religious boundaries	Established clear boundaries based on religious affiliation, ensuring Islamic inheritance principles are upheld	This may reinforce religious segregation, potentially leading to disputes in mixed-faith families and disregarding non-Muslim family members
Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Ors [1971] 2 MLJ 217	Reaffirmation of <i>bona vacantia</i> principles	Reinforced the legal framework surrounding <i>bona vacantia</i> for Muslims	Strengthened the precedent that non-Muslims cannot inherit Muslim estates, reinforcing religious exclusivity	Reinforces religious exclusivity, which might not align with modern views on inclusivity, upholding strict religious inheritance rules
Re Mutchilim @ Ashrhin, Deceased; Ji Mawar v Attorney General (1960) MLJ 25	<i>Baitulmal's</i> right to unclaimed estates and the doctrine of <i>radd</i>	Recognised <i>Baitulmal's</i> right and highlighted the doctrine of <i>radd</i>	Demonstrated application of Islamic law limiting the spouse's inheritance and allocating the remainder to <i>Baitulmal</i>	Limitations on a spouse's inheritance might be viewed as inequitable, potentially leading to dissatisfaction among surviving spouses & reducing their financial security
Re Itam binti Saad v Chik binti Abdullah [1974] 2 MLJ 53	Application of Islamic Inheritance Principles	The remaining share of the estate vested in the <i>Baitulmal</i>	Illustrated the consistent application of Islamic inheritance laws, ensuring unclaimed shares are managed by <i>Baitulmal</i>	Rigid application of these laws might not account for unique family circumstances, leading to potential injustices
Abdul Malik bin Saham (undecided case)	The practice of <i>takharuj</i> (Relinquishment)	<i>Baitulmal</i> relinquishes its share in an estate for a determined amount	Showcased the legal flexibility within the Islamic framework, allowing heirs to negotiate the inheritance distribution	The practice of <i>takharuj</i> might lead to disputes among heirs if not regulated. Still in an undecided status, which may lead to uncertainty in similar future cases
In the Matter of Khairil Albrecht bin Abdullah (undecided case)	Whether Khairil Albrecht bin Abdullah was a Muslim at	The fatwa issued by the Religious Law Committee, Selangor Islamic Religious Council (MAIS), declared Khairil a Muslim	Ensures adherence to Islamic law regarding the determination of religious status at death.	Potential conflicts with civil law and the individual's declaration of faith. May cause distress to the family if the decision contradicts

	the time of his death Legality of Khairil's will to non-Muslims	at the time of his death. The claim of conversion to Christianity was deemed invalid. The will of non-Muslims is valid under Islamic law if it does not exceed one-third of the estate. The remainder of the estate is to be vested in <i>Baitulmal</i> .	Clear guidelines on the validity of testimony and conversion processes. Allows partial fulfilment of the deceased's wishes within Islamic legal constraints. - Protects the rights of heirs under Islamic law.	the deceased's wishes. Restrictions on the will's distribution might not align with the deceased's intentions fully. - Possible legal challenges from non-Muslim beneficiaries.
--	--	---	--	---

Based on the above cases, to address the complexities surrounding Islamic inheritance and *bona vacantia* principles in Malaysia, there are several recommendations that can be made. Implementing clear guidelines and educational programmes for the Muslim community on Islamic inheritance principles and the implications of *bona vacantia* would mitigate ambiguities and conflicts arising from religious and legal complexities. Streamlining legal processes across Syariah and civil courts is essential, particularly in cases involving complicated issues like religious conversions. Strengthening inter-agency coordination between *Baitulmal* and other relevant authorities will ensure the smooth administration of unclaimed estates following Islamic principles. Promoting flexibility within the legal framework, such as through practices like *takharuj*, can facilitate negotiated settlements that accommodate both religious and family considerations. Additionally, launching awareness campaigns to educate non-Muslim spouses and family members about Islamic inheritance rules would prevent misunderstandings and legal disputes.

2.6.2 Non-Muslims

Table 2.10 below provides a comprehensive examination of the *Bona vacantia* case for non-Muslims in West Malaysia using the FIRAC method to detail the facts, issues, rules, application, and conclusion.

Table 2.10: FIRAC Analysis Through Case Law for non-Muslim

CASE	FACTS	ISSUE	RULE	APPLICATION	CONCLUSION
Re Soo-Hoo Hem Leng (1963) MLJ 38	The deceased, Soo-Hoo Hem Leng, passed away, leaving immovable properties in Penang and Perak.	Whether the deceased left ascertainable next of kin, and if not, whether his estate accrued to the government as <i>bona vacantia</i> .	English law applied in Penang in 1942 due to constitutional changes. The government of the Federation of Malaya is entitled to property as <i>bona vacantia</i> if no next of kin is found.	Court proceedings were initiated to determine the next of kin. English law applied as per constitutional provisions.	The government of the Federation of Malaya declared the deceased's estate as <i>bona vacantia</i> due to the absence of ascertainable next of kin.

Based on the above case, the critical analysis, including the strengths and weaknesses of the interpretation and application of *Bona vacantia* for non-Muslims in West Malaysia, is illustrated in Table 2.11 below.

Table 2.11: Critical Analysis Through Case Law for non-Muslim

CASE	KEY ISSUE	OUTCOME	STRENGTHS	WEAKNESSES
Re Soo-Hoo Hem Leng (1963) MLJ 38	whether the deceased, Soo-Hoo Hem Leng, left any ascertainable next of kin. If not, whether his estate should accrue	The court held that since there were no ascertainable next of kin and considering the applicable law in Penang in 1942 (English law due	Clear Application of Legal Principles: The court applied English law, which was the law applicable at the time in	Possibility of Inequity: In cases where potential heirs may exist but are unknown or not easily ascertainable, the strict application of <i>bona vacantia</i> laws can

	to the Government of the Federation of Malaya as <i>bona vacantia</i> .	to constitutional changes), the Government of the Federation of Malaya was entitled to the deceased's immovable properties as <i>bona vacantia</i> .	Penang, demonstrating a clear legal basis for determining <i>bona vacantia</i> . Protecting Public Interest: The decision ensured that unclaimed estates revert to the government, preventing assets from remaining in limbo and potentially benefiting the public through state administration.	lead to the inadvertent exclusion of rightful beneficiaries. Complexity in Determination: Ascertaining whether there are no next of kin can be challenging, potentially leading to prolonged legal proceedings and administrative complexities.
--	---	--	---	--

This case illustrates the importance of clear legal frameworks and the potential drawbacks of *bona vacantia* laws when dealing with estates without known heirs. It is advisable to regularly review and update the legal frameworks governing *bona vacantia* to ensure they align with contemporary collective expectations and legal standards. This includes considering amendments or additions that enhance fairness and transparency in distributing ownerless estates. Moreover, utilising advanced family research techniques or establishing centralised databases to facilitate the identification of potential heirs. Finally, improving public awareness about the implications of *bona vacantia* and enhancing access to information related to unclaimed estates could empower potential claimants. This could involve outreach campaigns, accessible online resources, and clear communication channels to guide individuals requesting their claims. By implementing these recommendations, the legal handling of cases like *Re*

*Soo-Hoo Hem Leng*⁴⁸ can evolve better to balance the principles of legal certainty with fairness, ensuring that unclaimed estates are managed in a manner that respects both the rule of law and the rights of potential heirs.

2.6.3 Comparative Analysis Between Muslims And Non-Muslims Case Law

In West Malaysia, the concept of *bona vacantia* presents distinct legal and procedural considerations for Muslims and non-Muslims alike, highlighting the intersection of Islamic law with secular legal frameworks. For Muslims, *bona vacantia* operates within the framework of Islamic law, which governs inheritance and estate distribution. Key cases such as *Re Timah binti Abdullah*⁴⁹ and *Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng & Anor*⁵⁰ have established that non-Muslims cannot inherit from Muslims. This principle underscores the religious boundaries in inheritance matters. Additionally, cases like *Re Mutchilim Alias Ashrhin*⁵¹ and *Re Itam binti Saad*⁵² illustrate the application of Islamic inheritance principles where unclaimed estates may revert to *Baitulmal* under the doctrine of *radd*. The flexibility of Islamic law is demonstrated in undecided cases like *Abdul Malik bin Saham*⁵³ and *Khairil Albrecht bin Abdullah*,⁵⁴ where concepts like *takharuj* allow for adjustments in estate distribution under specific conditions, highlighting the adaptability of Islamic legal principles.

Contrasting with Islamic law, the application of *bona vacantia* for non-Muslims, as seen in *Re Soo-Hoo Hem Leng*,⁵⁵ is governed by English common law integrated into Malaysian legal practices. This case exemplifies how unclaimed estates, when no

⁴⁸ (1963) MLJ 38.

⁴⁹ [1941] MLJ 51.

⁵⁰ [1971] 2 MLJ 217.

⁵¹ (1960) MLJ 25.

⁵² [1974] 2 MLJ 53.

⁵³ JAWHAR, *Manual Pengurusan Tebus Pusaka*.

⁵⁴ Jabatan Mufti Negeri Selangor, "Fatwa Harta Pusaka."

⁵⁵ (1963) MLJ 38.

ascertainable next of kin exists, revert to the Government of the Federation of Malaya as *bona vacantia*. The application of English law in Penang, influenced by historical constitutional changes, underscores the legal complexities involved in determining ownership of unclaimed properties. Such cases demonstrate Malaysia's dual legal tradition and secular law's role in managing estates where no direct heirs are identifiable.

2.6.4 SWOT Analysis

This SWOT analysis highlights the distinct legal frameworks, challenges, and opportunities surrounding *bona vacantia* for Muslims and non-Muslims in Malaysia, emphasising the need for balanced legal interpretations and community-focused approaches in handling inheritance matters. The analysis is shown in Table 2.12 below.

Table 2.12: SWOT Analysis of the Case Law between Muslim and non-Muslim Estates

ASPECT	MUSLIMS	NON-MUSLIMS
Strengths	1. Clear Legal Precedents: Established cases like <i>Re Timah binti Abdullah</i> [1941] MLJ 51 and <i>Majlis Agama Islam Wilayah Persekutuan v Lim Ee Seng</i> [1971] 2 MLJ 217 solidify legal boundaries for inheritance under Islamic law.	1. Legal Clarity: <i>Re Soo-Hoo Hem Leng</i> (1963) MLJ 38 provides a definitive application of English law and <i>bona vacantia</i> principles for non-Muslims.
	2. Flexibility in Interpretation: Cases like <i>Abdul Malik bin Saham</i> highlight the adaptability of Islamic inheritance laws through concepts like <i>takharuj</i> .	2. Government Entitlement: Non-Muslim cases demonstrate the state's entitlement to unclaimed estates, ensuring legal clarity and orderly estate administration.
Weaknesses	1. Complex Legal Procedures: Determining the absence of next of kin can lead to prolonged legal proceedings and administrative challenges.	1. Potential Legal Ambiguities: Legal frameworks for non-Muslims may lack the depth of religious guidance present in Islamic law, potentially leading to ambiguities.
	2. Religious Constraints: Adherence to strict Islamic inheritance laws may limit flexibility in asset distribution compared to secular legal systems.	2. Limited Religious Context: Non-Muslim cases lack the rich religious context that guides Islamic inheritance practices, potentially

		impacting cultural sensitivity in estate handling.
Opportunities	<p>1. Enhanced Public Education: Increasing awareness about Islamic inheritance principles can empower Muslims to plan their estates better.</p> <p>2. Improved Administrative Efficiencies: Streamlining processes for identifying and managing <i>bona vacantia</i> cases can enhance efficiency and reduce administrative burdens.</p>	<p>1. Legal Reform: Opportunities exist to refine and update legal frameworks governing non-Muslim estates to better reflect contemporary societal norms.</p> <p>2. Incorporation of Diverse Perspectives: Non-Muslim legal frameworks can benefit from incorporating diverse cultural and religious perspectives into estate management practices.</p>
Threats	<p>1. Potential Inequities: Strict adherence to Islamic law in inheritance may inadvertently exclude rightful heirs not easily ascertainable.</p> <p>2. Cultural Sensitivity: Balancing legal principles with cultural sensitivities is crucial to avoid conflicts and ensure equitable estate distribution.</p>	<p>1. Legal Disputes: Disputes over <i>bona vacantia</i> entitlements and next-of-kin determinations can lead to legal challenges and public dissatisfaction.</p> <p>2. Complex Jurisdictional Issues: Jurisdictional differences in handling non-Muslim estates across different states can create inconsistencies and legal complexities.</p>

Based on the above SWOT analysis, Table 2.13, as shown below, indicates the strategies that aim to leverage strengths, address weaknesses, seize opportunities, and mitigate threats in the management of Muslim and non-Muslim estates, ensuring efficient and equitable distribution while respecting legal and cultural sensitivities.

Table 2.13: Actionable Strategies Associated with the Case Law



2.7 COMPARATIVE CONCLUSION

In conclusion, these legal distinctions impact estate administration significantly, affecting inheritance rights and the disposition of assets upon death. For Muslims, adherence to Islamic law ensures compliance with religious principles, while non-Muslims navigate secular legal frameworks rooted in English common law.

Based on the cases discussed, addressing the complexities surrounding Islamic inheritance and *bona vacantia* in Malaysia requires several strategic recommendations. For the Muslim community, implementing clear educational programmes on Islamic inheritance principles and *bona vacantia* would reduce ambiguities and conflicts. Streamlining legal processes between Syariah and civil courts, especially in cases involving religious conversions, is crucial. Strengthening coordination among *Baitulmal* and relevant authorities can ensure the efficient administration of unclaimed estates according to Islamic principles. Promoting legal flexibility, such as through practices like *takharuj*, can facilitate settlements that respect both religious and familial considerations. Additionally, educating non-Muslim family members on Islamic inheritance rules would prevent misunderstandings and disputes.

Whereas for non-Muslims, the case of *Re Soo-Hoo Hem Leng*⁵⁶ underscores the need for clear legal frameworks and the potential pitfalls of *bona vacantia* laws. Regular review and updates to these frameworks should align with contemporary legal standards, ensuring fairness and transparency. Techniques like advanced family research and centralised databases can aid in identifying potential heirs. Enhancing public awareness about *bona vacantia* implications and improving access to information on unclaimed estates are crucial steps to empower potential claimants. By implementing these recommendations, Malaysia can evolve its legal handling of such cases to balance legal certainty with fairness, ensuring that unclaimed estates are managed in a manner that respects both legal principles and the rights of heirs.

From the aspect of the legislative framework, the administration of *bona vacantia* incorporates a complicated framework of regulations and processes, demonstrating variations in the way Muslims and non-Muslims are treated. How estates

⁵⁶ (1963) MLJ 38.

are managed is dependent on the religious association of the deceased, specifically concerning West Malaysia. When the deceased adheres to the Islamic faith, the assets are returned to *Baitulmal*, which stands as evidence of the unique legal principles that regulate Islamic estates. Conversely, for non-Muslims, the government acquires the property without their consent, highlighting the differing legal treatment based on religious affiliations. This contrast underscores the complex legal frameworks and the importance of thoroughly understanding the various legal procedures involved in managing *bona vacantia* in West Malaysia. This is exemplified as shown in Figure 2.1 as follows:

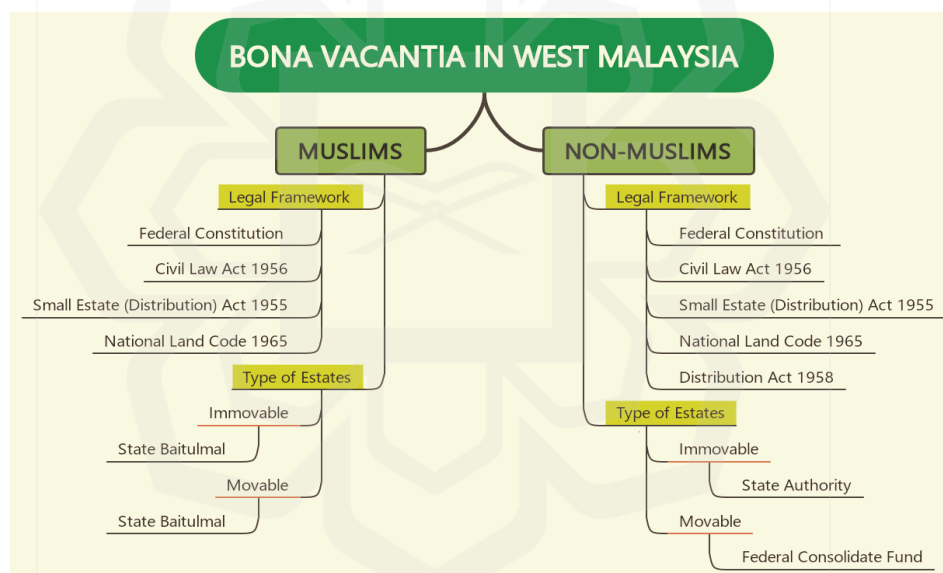


Figure 2.1: Legal Framework of *Bona vacantia* for Muslims and Non-Muslims in West Malaysia

2.8 THE THEORIES UNDERLYING THE CONCEPTS OF *BONA VACANTIA* ESTATE IN ISLAMIC AND CIVIL LAW

The concept of *bona vacantia*, or ownerless property, varies significantly between Islamic and civil law, each with its underlying theories. To understand the concepts of *bona vacantia*, the researcher has chosen the two (2) central concepts that are the

backbone of this thesis, namely, the Doctrine of Justice (*Adl*) and Benevolence (*Ihsan*) and the Doctrine of Escheat.

2.8.1 Doctrine of Justice (*Adl*) and Benevolence (*Ihsan*) under Islamic Law

In Islamic law, the concept of *bona vacantia* (ownerless property) is intricately linked to the principles of Islamic inheritance (*faraid*). The Quranic injunctions in An-Nisa⁵⁷ establish the framework for inheritance distribution among legal heirs. These verses prescribe specific shares (*faraid*) for heirs, ensuring equitable distribution based on familial relationships. An-Nisa states:

Allah instructs you regarding the (division of inheritance for) your children, that is, a son's share is equal to that of two daughters. But if the daughters are more than two, then their share is two-thirds of the deceased's estate. And if there is only one daughter, then her share is half of that estate. And for the parents (of the deceased), each one of them is entitled to one-sixth of the deceased's estate if the deceased had children. But if the deceased had no children and only the parents inherited, then the mother's share is one-third. If the deceased also has siblings, the mother's share is one-sixth. (This division) is to be carried out after settling any will be left by the deceased and paying off any debts. You and your parents and children do not know which of them is closer to you in benefit. (The distribution of inheritance and determination of each person's share, as explained) is a decree from Allah; surely Allah is All-Knowing, Most Wise.⁵⁸

Additionally, the Prophet Muhammad (ﷺ) emphasised the principles of inheritance in his sayings. Abu Bakr reported that he heard Allah's Messenger (ﷺ) say,

“Our property cannot be inherited, and whatever we leave is to be spent in charity, but the family of Muhammad may take their provisions from this property.”⁵⁹

In another hadith, narrated by 'Urwa:

⁵⁷ An-Nisa: 11.

⁵⁸ An-Nisa: 11.

⁵⁹ Sunnah.com, “Sahih Al-Bukhari 6725, 6726 – Laws of Inheritance (Al-Faraa'id) – كتاب الفرائض,” accessed August 31, 2024, <https://sunnah.com/bukhari:6725>.

'Aisha said, "When Allah's Apostle died, his wives intended to send 'Uthman to Abu Bakr asking him for their share of the inheritance." Then Aisha said to them, "Didn't Allah's Apostle say, 'Our (Apostles') property is not to be inherited, and whatever we leave is to be spent in charity?'"⁶⁰

This underscores the Islamic view that property belongs to Allah and should be managed and distributed according to His laws. When a Muslim passes away without legal heirs, their estate is allocated to *Baitulmal*, according to Islamic teachings. This principle is supported by the saying of the Prophet Muhammad (ﷺ):

“If anyone leaves behind property, it goes to their heirs. I am the heir of the one who has no heir; I pay blood-wit for them and inherit from them.”⁶¹

This hadith indicates the responsibility of *Baitulmal* in managing the property of Muslims who pass away without direct heirs, ensuring it is utilised for the welfare of the community.⁶²

This process ensures that wealth is used for the public good, reflecting the Islamic principles of *adl* (justice) and *ihsan* (benevolence). The doctrine of *Adl* and *Ihsan* encapsulates the core Islamic principles of justice (*adl*) and benevolence (*Ihsan*) that guide the distribution of *bona vacantia* estates. This name highlights the dual focus on fairness and community welfare, reflecting the broader aims of Islamic law in managing ownerless estates.

'*Adl*', or justice, is a fundamental principle that denotes fairness, balance, and equity in all aspects of life. The Quran emphasises the importance of justice as a divine commandment, stating,

⁶⁰ Hadith Collection, “Sahih Bukhari Volume 8, Book 80, Hadith Number 722,” accessed June 30, 2024, https://hadithcollection.com/sahihbukhari/sahih-bukhari-book-80-laws-of-inheritance-al-faraa_id/sahih-bukhari-volume-008-book-080-hadith-number-722.

⁶¹ Sunan Abu Dawud (2956) as cited by Farhan, “AL-KAFI #1704: Who Are the Rightful Heirs?”

⁶² Farhan, “AL-KAFI #1704: Who Are the Rightful Heirs?”

Indeed, Allah commands you to render trust 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.⁶³

This verse underscores the obligation to uphold justice impartially, ensuring that all individuals are treated fairly regardless of their backgrounds or circumstances.

Additionally, the Prophet Muhammad (ﷺ) exemplified justice in his teachings and actions. He said,

Beware! Whoever is cruel and hard on a non-Muslim minority, curtails their rights, burdens them with more than they can bear, or takes anything from them against their free will, I (Prophet Muhammad ﷺ) will complain against the person on the Day of Judgement.

(Sunan Abu Dawud)⁶⁴

This hadith highlights the Prophet's (ﷺ) commitment to justice, advocating for the rights and fair treatment of all, irrespective of faith or status. Justice in Islam extends beyond legal and social contexts to include moral conduct and interactions, emphasising the importance of treating others with dignity, respect, and equity. It serves as a cornerstone of Islamic ethics, guiding Muslims to strive for righteousness and uphold the principles of fairness and compassion in their daily lives.

'*Ihsan*' is derived from the Arabic word meaning 'to do right / act well / to master'. It also holds the meaning of charity, the performance of virtuous deeds, beautification, excellence, courtesy, grace, and kindness.⁶⁵ It implies that one is consciously endeavouring to communicate with God.⁶⁶ *Ihsan* signifies the importance of beneficence, the practice of good conduct, and acts of mercy. Thus, *Ihsan* involves

⁶³ An-Nisa: 58.

⁶⁴ Daniel Haqiqatjou, "The Hadith on 'Non-Muslim Minorities,'" *Muslim Skeptic*, accessed June 8, 2017, <https://muslimskeptic.com/2017/06/08/1025/>.

⁶⁵ Ihsan Arabic, "The Meaning of Ihsan," accessed September 15, 2024, <https://www.ihsan-arabic.com/blog/the-meaning-of-ihsan>.

⁶⁶ Ruqaiyyah Maqsood, *Islam*, Internet Archive, accessed July 1, 2024, <https://tinyurl.com/kcdw6wew>.

manifesting one's internal belief (*iman*) through actions and behaviour, reflecting a commitment to social responsibility rooted in religious beliefs.⁶⁷

The aim is to prevent wealth from being accumulated by individuals and instead ensure it circulates within the community to support those in need. This approach ensures that the wealth remains within the Muslim community and is used for public welfare, aligning with the Islamic principles of social justice and charity.

The Qur'an confirms that in the property of the wealthy class, there are rights of other people who need it because of their weak or incapable economic condition, whether they ask for it explicitly or not. Al-Quran in Al-Ma'arij and Adz-Zariyat address the Islamic perspective on wealth and its distribution.

And those (who determine their shares) in their wealth, it is a well-known right. For poor people who ask and poor people who hold back (from asking).⁶⁸

This verse states the obligation to allocate a due share of one's wealth to those in need and to the beggars, acknowledging their rights. This directive underscores the principle of social responsibility and charity in Islam, where individuals are encouraged to share their resources with the less fortunate as an act of righteousness and compassion. Further, it is also supported by another verse;

And in their wealth, there is an acknowledged right for the needy and the deprived.⁶⁹

This verse also touches upon the concept of wealth and its rightful distribution, emphasising duty towards the needy. Together, these verses highlight the ethical framework within which Muslims are urged to manage their wealth, ensuring it serves

⁶⁷ Ibn Manzur, *Lisan al- 'Arab* (Cairo: Dar al-Maarif, n.d.), 878; Ibn Manzur (1956) as cited by Mastura Ab. Wahab and Yusof Ismail, "Mas'uliyah and Ihsan as High-Performance Work Values in Islām," *International Journal of Economics, Management and Accounting* 27, no. 1 (2019): 187–212, <https://myjurnal.mohe.gov.my/public/article-view.php?id=147608>

⁶⁸ Al-Ma'arij: 24-25.

⁶⁹ Adz-Zariyat: 19.

both personal needs and communal welfare. This approach aligns with broader Islamic principles of justice and compassion, guiding believers towards equitable distribution and care for the disregarded.

In Islam, the concept of property ownership is deeply rooted in the principle that all wealth ultimately belongs to Allah. Muslims are considered trustees (*wakil*) of their possessions and are obligated to manage them responsibly and ethically. This responsibility includes adhering to *Maqasid Al-Syariah*, the objectives of Islamic law, which prioritise the protection and preservation of fundamental human interests such as religion, life, intellect, lineage, and property.⁷⁰

Maqasid Al-Syariah ensures that the management and distribution of wealth, including estates and property, serve the greater good (*maslahah*) of society.⁷¹ This framework guides Muslims in ensuring their actions align with the principles of justice and welfare as outlined in Islamic teachings. By upholding these principles, Muslims contribute to the preservation of public interest and the equitable distribution of resources, thus fulfilling their role as stewards of Allah's property.

In conclusion, Islamic principles of justice (*adl*) and benevolence (*ihsan*) govern the distribution of ownerless estates. Justice ensures fair and equitable treatment, while benevolence promotes good conduct and social responsibility as outlined in the Quran and Hadith. This aligns with the broader aims of Islamic law to promote social justice and charity, fulfilling the objectives of Islamic law (*Maqasid Al-Syariah*). The framework for wealth management and distribution in Islam ensures that all actions

⁷⁰ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Internet Archive, accessed October 30, 2023, <https://archive.org/details/principlesofisla0000kama>.

⁷¹ Siti Asishah Hassan et al., "The Preservation of Property in Maqasid Al-Syariah: With Special Reference to the Appointment and Duties of Wasi in Estate Administration," *International Journal of Law, Government and Communication* 7, no. 29 (2022): 318–328, <https://doi.org/10.35631/ijlgc.729022>

serve the greater societal good, adhering to principles of justice and welfare as outlined in Islamic teachings.

2.8.2 The Doctrine of Escheat under Civil Law

In civil law, the concept of *bona vacantia* refers to ownerless property that reverts to the state when a person dies intestate and without any legal heirs. This concept is based on the legal principle that the state authority has the ultimate responsibility to manage and redistribute such assets. It is rooted in the doctrine of escheat, where the state assumes ownership of ownerless property to prevent its misuse and to ensure that it is utilised. This concept has its historical roots in feudal systems where the king or lord would reclaim land that lacked a clear owner, thereby preventing disorder and ensuring the land's productive use.⁷²

Modern legal systems have codified the principles of *bona vacantia* to address contemporary property and inheritance issues. For instance, in the United Kingdom, the Treasury Solicitor's Department manages *bona vacantia* cases, ensuring that unclaimed estates are either liquidated for public funds or utilised in a manner that serves the community.⁷³ Similarly, in the United States, state escheat laws govern the reversion of unclaimed property to state custody, with unclaimed property offices managing the assets and attempting to locate potential heirs or claimants.⁷⁴

The doctrine of escheat and the concept of *bona vacantia* rest on the theoretical premise that property should serve a social function and not remain unowned or

⁷² Blackstone, *Commentaries on the Laws of England*.

⁷³ Faster Capital, "What Is Bona Vacantia," accessed June 2, 2022, <https://fastercapital.com/topics/what-is-bona-vacantia.html>.

⁷⁴ Uniform Law Commission, "Revised the Uniform Unclaimed Property Act," accessed June 5, 2022, <https://www.uniformlaws.org/viewdocument/enactment-kit-63?CommunityKey=4b7c796a-f158-47bc-b5b1-f3f9a6e404fa&tab=librarydocuments>.

susceptible to unlawful acquisition. Legal scholars argue that the state, as the ultimate guardian of public interest, is best positioned to manage these assets effectively.⁷⁵ This principle ensures that resources are allocated efficiently and contribute to societal welfare, reflecting broader legal and ethical obligations to uphold social justice and economic stability.

Practically, the implementation of *bona vacantia* policies involves various administrative and legal processes aimed at identifying, securing, and redistributing ownerless property. These processes include public notices, asset liquidation, and the use of proceeds for public projects or social programmes. By reappropriating ownerless assets, the state can generate revenue and fund initiatives that benefit the community, such as infrastructure development, educational programmes, and social services.⁷⁶

The concept of *bona vacantia*, therefore, not only addresses legal and administrative challenges related to intestate estates but also embodies a broader commitment to public welfare and resource optimisation. As legal frameworks evolve, the principles underlying *bona vacantia* continue to ensure that ownerless property is managed responsibly and utilised for the greater good.

The underlying theory is that ownerless property should be utilised for public benefit rather than remaining unowned or being misappropriated. In West Malaysia, the Distribution Act 1958 governs the administration of such estates for non-Muslims, ensuring that if no heirs are found, the property is transferred to the state. This approach

⁷⁵ Guido Calabresi and A. Douglas Melamed, "Property Rules, Liability Rules, and Inalienability: One View of the Cathedral," *Harvard Law Review* 85, no. 6 (1972): 1089-1128, <https://doi.org/10.2307/1340059>

⁷⁶ Thomas W. Merrill, "The economics of public use," *Cornell Law Review* 72, no. 1 (1985): 61-112, <https://scholarship.law.cornell.edu/clr/vol72/iss1/3/>

aligns with the idea of state guardianship over unclaimed assets, thereby preventing the misuse of ownerless property and ensuring it contributes to the public good.

2.9 CHAPTER SUMMARY

Chapter 2 explores the legal framework and case law regulating *Bona vacantia* in Malaysia. This concept is rooted in the Latin term representing ownerless property. The chapter particularly emphasises the contrast between Muslims and non-Muslims, elucidating the differing legal systems that govern each group.

For Muslims, the guiding principles of inheritance outlined in the Quran play a pivotal role in determining the rightful distribution of the deceased's estate. In instances where legitimate heirs are absent, the estate reverts to *Baitulmal*, marking a critical facet of Islamic law. The chapter particularly explores the legal foundations underpinning Muslim inheritance, exploring statutes such as the Federal Constitution, Civil Law Act 1956, National Land Code 1965, and Small Estates (Distribution) Act 1955. This examination sheds light on the elaborate nature of managing both movable and immovable assets within the context of *Bona vacantia*. Conversely, non-Muslims fall under a distinct legal framework governed by acts such as the Federal Constitution, Civil Law Act 1956, Small Estates (Distribution) Act 1955, Distribution Act 1958, and National Land Code 1965. The chapter addresses the legal complexities surrounding the reversion of land and assets to the State Authority or Consolidated Fund for non-Muslims. This comprehensive analysis provides an understanding of the multifaceted legal landscape surrounding *Bona vacantia*, catering to the diverse legal needs of Muslim and non-Muslim populations in West Malaysia.

The examination extends beyond legal statutes, exploring the complexities and conflicts of these parallel legal systems through case law. By analysing the legal

landscape, Chapter 2 identifies inconsistencies, gaps, and opportunities for improving the *Bona vacantia* administration. This foundational understanding prepares for subsequent chapters, which will address issues in the *Bona vacantia* administration and examine the practices and values of *Bona vacantia* estates managed by authorities for Muslims and non-Muslims in West Malaysia. The discussion involves the underlying theories of the Doctrine of Justice (*Adl*), Benevolence (*Ihsan*) and the Doctrine of Escheat, which are crucial for managing and preserving the deceased's property and ensuring just and fair distribution.

The forthcoming chapter examines the *bona vacantia* management issues in West Malaysia for Muslims and non-Muslims. It will also examine the value accumulated by the related authoritative bodies. Detailed issues and data analysis will be discussed henceforth.

CHAPTER THREE

THE ADMINISTRATION OF *BONA VACANTIA* FOR MUSLIMS AND NON-MUSLIMS IN WEST MALAYSIA

3.1 INTRODUCTION

The administration of *bona vacantia* (ownerless property) presents significant challenges within the legal framework of West Malaysia, particularly in distinguishing between Muslim and non-Muslim estates. Such estates, usually arising from intestate deaths without heirs, demand clear administrative procedures to ensure proper management and distribution. For Muslims, estate distribution follows the faraid system under Islamic law, with ownerless property reverting to *Baitulmal*, whether movable or immovable. Although no explicit statutory provision empowers *Baitulmal* to claim such estates, this practice is recognised through the Syariah Court's authority in inheritance matters, where *Baitulmal* may be named as a respondent to secure ownerless property.¹

In contrast, the administration of *bona vacantia* for non-Muslims is governed by civil law, primarily under the Director General of Lands and Mines and the Registrar of Unclaimed Money. Here, unresolved issues include unclaimed assets, legal ambiguities, and the absence of a centralised system, all of which complicate administration and expose gaps in the process. This chapter examines the practice and value of movable and immovable *Bona vacantia* estates held by the relevant authorities for Muslims and non-Muslims in West Malaysia. The necessity for reform and better interagency

¹ Juraish Kamaruddin, "Memperkasa Baitulmal Menerusi Undang-Undang Syariah," *Jurnal Pengurusan JAWHAR* 2, no. 2 (2008): 99-140, <https://e-penerbitan.jawhar.gov.my/wp-content/uploads/2022/07/Jurnal-No-2-2008.pdf>

coordination in the administration of *bona vacantia* estates is highlighted by examining both legal and procedural issues.

3.2 PRACTICE AND VALUE OF *BONA VACANTIA* HELD BY THE *BAITULMAL* (MOVABLE AND IMMOVABLE ESTATES) FOR MUSLIMS

For deceased Muslims, estate distribution is determined by *faraid* as prescribed in the Qur'an (Surah An-Nisa, verses 11, 12, and 176). In addition, Section 13(1) of the Small Estates (Distribution) Act 1955 (Act 98) recognises the rights of *Baitulmal* to receive the estate if no heirs exist or if no eligible heirs can claim the property as *asabah*. To guide such matters, the Department of Waqf, Zakat, and Hajj (JAWHAR) introduced the *Manual Pengurusan Tebus Pusaka* (MPTP) in 2008, providing all State Islamic Religious Councils (SIRC) with a framework for managing small estate redemption.² According to this manual, *Baitulmal* is entitled to inherit in three situations: when the deceased has no heirs; when heirs exist but are disqualified due to religious difference, apostasy, or culpability in the deceased's death; and when heirs are present but unable to fully exhaust the estate.

Historically, the word "*baitulmal*" is derived from the Arabic words "*bait*" (home) and "*al-maal*" (property). Thus, etymologically, *baitulmal* refers to an establishment used to collect or acquire property.³ *Baitulmal* acts as a trustee for Muslims. It is an old institution originating with the founding of Islam.⁴ In terminological aspects, as described by Zalloom in his book *Al-Amwaal Fi Daulah Al*

² Jabatan Wakaf, Zakat dan Haji (JAWHAR), *Manual Pengurusan Tebus Pusaka*, accessed June 3, 2020, <https://shorturl.at/70uwD>.

³ Dahlan Abdul Aziz et al., *Ensiklopedi Hukum Islam*, 2nd ed. (Jakarta: PT Ichtiar Baru van Hoeve, 1999), as cited in Sumadi and Muhammad Tho'in, "Paradigma Konsep Teori Dan Praktek Baitul Maal Dalam Perspektif Sistem Ekonomi Islam," *Jurnal Ilmiah Ekonomi Islam* 6, no. 2 (2020): 330–338, <https://doi.org/10.29040/jiei.v6i2.1111>.

⁴ Dayang Hummida Abang Abdul Rahman and Mustafa Omar Mohammed, "The Role of Baitulmal Towards the Education of Poor Muslims in Sarawak," *Journal of Contemporary Issues and Thought* 2, no. 1 (2012): 69–81, <https://ejournal.upsi.edu.my/index.php/JCIT/article/view/924>

Khilafah, a *baitulmal* is an organisation or entity (al-Jihat) uniquely entrusted with the management of all people's property, encompassing both revenue and expenditures.⁵

Thus, throughout the era of the Prophet Muhammad (ﷺ), *Baitulmal*, also known as the Islamic State's public treasury, was established and later expanded by Abu Bakr and Umar, who succeeded the Prophet (ﷺ) as the Caliphs of the Islamic State.⁶ *Baitulmal* is primarily responsible for managing the assets and funds committed to the Muslim community, such as zakat, wakf, usyur, khaaraj, and other sources authorised by Islamic law to reduce poverty and promote socioeconomic development. However, the name of *Baitulmal* was not officially used as the possessions during the Prophet's (ﷺ) time were not held for a long time and were redistributed instantly to the people. During the time of the Prophet (ﷺ), *Baitulmal* was one of the most important financial institutions in existence. The tradition was done remarkably by the *ṣahābah* until the name of *Baitulmal* was explicitly employed during Khalifah Umar al-Khattāb.⁷

Moreover, in early Islam, *Baitulmal* was the sole and principal repository for the state's treasury. However, the law hinders *Baitulmal*'s scope and role in the Malaysian context. The interpretation of *Baitulmal* in Malaysia has been restricted to a somewhat small number of sources.⁸ Despite this, the function of *Baitulmal* has been vastly diminished and overseen by the Islamic Religious Council as a minor entity.⁹ In furtherance, *Baitulmal* is administered by the state governments under the respective

⁵ Abdul Qadeem Zalloom, "Funds in the Khilafah State," *Docslib*, accessed August 18, 2023, <https://docslib.org/doc/9542180/the-funds-in-the-khilafah-state>.

⁶ Md. Habibur Rahman, "Bayt Al-Mal and Its Role in Economic Development: A Contemporary Study," *Turkish Journal of Islamic Economics* 2, no. 2 (2015): 21–44, <https://doi.org/10.15238/tujise.2015.2.2.21-44>.

⁷ *Ibid.*

⁸ Bayu Taufiq Possumah and Abdul Ghafar Ismail, "Baitul Mal and Legal Constraint: Public Wealth Management in Malaysian Context," *International Journal of Academic Research in Business and Social Sciences* 2, no. 11 (2012): 28–52, <https://tinyurl.com/d27rkppc>.

⁹ Muhammad (2006) as cited by Md Yazid Ahmad et al., "Inheritance Management by Baitulmal in Malaysia: Role and Challenges," *International Journal of Advanced Research IJAR* 8, no. 10 (2020): 1113–1120, <http://dx.doi.org/10.21474/IJAR01/11941>.

State Islamic Religious Councils (SIRC) following the Federal Constitution List II (State List), which places religious affairs under the state list headed by the King or Sultan of a state.

In Islam, there are three (3) circumstances in which *Baitulmal* will acquire the estate of a deceased person. First, when a Muslim dies without leaving any rightful heirs.¹⁰ Secondly, based on the Sunni Shafie madhhab (school of law) that is prevalent in these nation-states states that if there is surplus inheritance property and no living heir to inherit the deceased's remaining land (*asabah*), then the *Baitulmal* institution has the right to "*asabah*" (residual inheritance property).¹¹ Lastly, the legitimate heir may exist but is not permitted to inherit the land.¹² This circumstance arises when the heir is a *zawi al-arham* (relative), adheres to a different religion or apostates¹³ or is responsible for the deceased's death.¹⁴ Table 3.1 below provides a clear overview of the circumstances, summarising the three circumstances in which *Baitulmal* will acquire the estate of a deceased person in Islam.

¹⁰ MyGovernment – The Government of Malaysia's Official Portal, "Managing Faraid Application," *MyGovernment*, accessed October 5, 2020, <https://tinyurl.com/yvtk9y7f>; Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu, Jilid 10, Hak-Hak Anak; Wasiat; Wakaf; Warisan*, (Darul Fikir & Gema Insani, 2021), 471, <https://tinyurl.com/2dv6fe4h>; Jasni Sulong, "Kedudukan Mazhab Syafi'i dalam Amalan Pembahagian Pusaka dan Wasiat Islam di Malaysia," *Jurnal Syariah* 16, no. 1 (2008): 163–183, <https://tinyurl.com/2wa7xty6>; Andi Asdar Yusuf, "Controversy of Islamic Law on the Distribution of Inheritance to the Heirs of Different Religion," *Hunafa: Jurnal Studia Islamika* 14, no. 2 (2017): 377–403, <https://doi.org/10.24239/jsi.Vol14.Iss2.490>

¹¹ Jasni Sulong, "Kedudukan Mazhab Syafi'i," 163–183; Mohammad Salleh Abdul Saha et al., "The Issues, Concepts and Functions of Baitulmal in Selangor Islamic Religious Council (MAIS) on the Reclamation of Muslim Inheritance," *International Journal of Academic Research in Business and Social Sciences* 12, no. 11 (2022): 2213–2221, <https://doi.org/10.6007/IJARBSS/v12-i11/14835>; Ibn Rushd, *The Distinguished Jurist's Primer Volume II: Bidayat Al-Mujtahid wa Nihayat Al-Muqtasid*, trans. Imran Ahsan Khan Nyazee (Garnet Publishing, 2000), 426, <https://tinyurl.com/af5xs4hb>.

¹² According to Tyabji (1940) as cited by Rahmawati Mohd Yusoff et al., "The Administration of Bona Vacantia (Ownerless Property) in West Malaysia: A Comparative Analysis," *International Journal of Academic Research in Business and Social Sciences* 11, no. 5 (2021): 589, <https://doi.org/10.6007/ijarbss/v11-i5/9824>

¹³ Salih Abd al-Sami al-Azhari al-Abi, (n.d) as cited by Ismael Saka Ismael and Abdulmumini Adebayo Oba, "Legal Challenges Concerning Some Beneficiaries of Estates Governed by Islamic Law in Nigeria," *IJUM Law Journal* 25, no. 1 (2017): 63–92, <https://doi.org/10.31436/iiumlj.v25i1.306>

¹⁴ Rahmawati et al., "The Administration of Bona Vacantia," 589; Akmal Hidayah Halim et al., "The Administration of Muslims's and Non-Muslims's Ownerless Estate (Bona vacantia) in West Malaysia: An Analysis," *International Journal of Law, Government and Communication* 4, no. 16 (2019): 28, <https://doi.org/10.35631/ijlgc.416003>

Table 3.1: *Baitulmal* Overview of Muslim Estate

CIRCUMSTANCES	DESCRIPTION
1. No Rightful Heirs	When a Muslim dies without leaving any rightful heirs, <i>Baitulmal</i> acquires the estate.
2. Surplus Inheritance Property	If there is surplus inheritance property (<i>asabah</i>) and no living heir to inherit, <i>Baitulmal</i> has the right to " <i>asabah</i> ", or residual inheritance property, according to the Sunni Shafie madhhab
3. Legitimate Heir Not Permitted	If a legitimate heir exists but is not allowed to inherit due to being a <i>dhawi al-arham</i> (relative), adhering to a different religion, or being responsible for the decedent's death.

As far as *Muallaf* (revert or convert to Islam) is concerned, according to the *Fatwa Di Bawah Seksyen 34* (1999), issued by the Mufti of the Federal Territories on August 20, 1999, specific guidelines are outlined in cases where a *Muallaf* passes away without leaving any heirs. It is stipulated that their assets are to be surrendered to *Baitulmal*. Conversely, if the deceased *Muallaf* has Muslim heirs, the distribution of their estate is to follow the Islamic inheritance (*faraid*) system. Thus, in cases where the *Muallaf* bequeaths non-Muslim heirs, the Fatwa explicitly prohibits these non-Muslim heirs from inheriting the deceased's estate. This decision emphasises the significance of exercising prudence and conformity to Islamic tenets when administering the estate of a deceased *Muallaf*, considering the religious status of the heirs.¹⁵

The functions of *Baitulmal* across states in West Malaysia are generally similar, guided by Islamic principles. However, variations arise due to differences in organisational structures, policies, priorities, and legal frameworks. Despite these differences, the core aim remains to administer assets in accordance with Islamic principles for the welfare of the Muslim community. While these similarities and variations exist across states, a closer examination of individual jurisdictions such as

¹⁵ Jabatan Mufti Wilayah Persekutuan, "WARTA 12 - 1999 [Kedudukan Harta Seseorang Muallaf yang Telah Meninggal Dunia]," accessed September 4, 2022, <https://efatwa.muftiwp.gov.my/fatwa/1bf7c1773d2822fe794792cf6144fce1>.

Kedah, Kelantan, Johor, and Wilayah Persekutuan Kuala Lumpur (WPKL) helps illustrate how *Baitulmal*'s role and management are applied in practice within a specific geographical and administrative context.

3.2.1 Kedah

Figure 3.1 shows a map of Kedah, Malaysia, with colour-coded districts: Langkawi, Kubang Pasu, Padang Terap, Pokok Sena, Kota Setar, Pendang, Yan, Kuala Muda, Sik, Baling, Kulim, Bandar Baharu and also Langkawi Island.

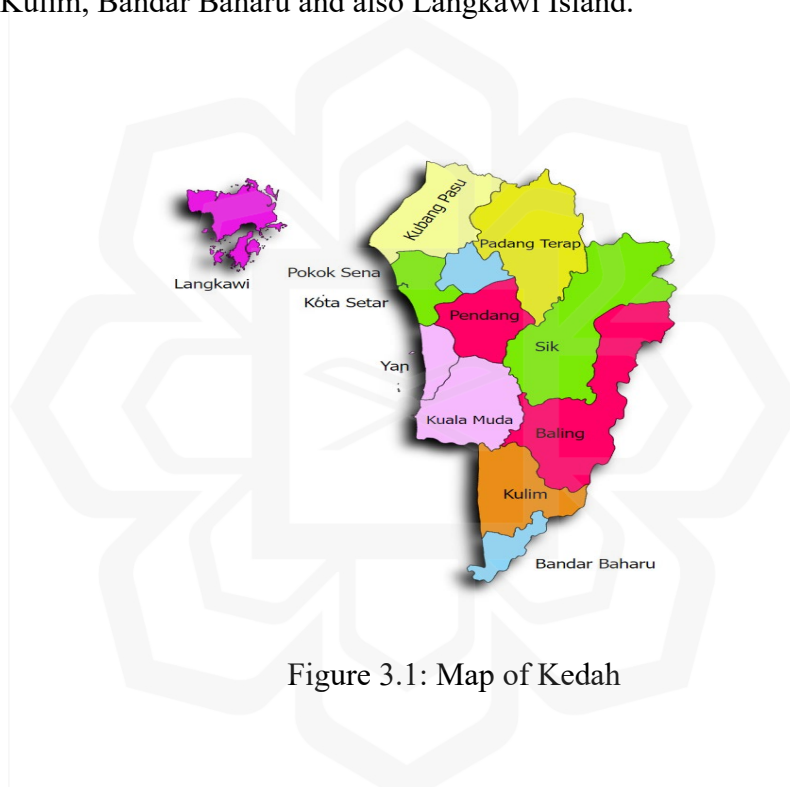


Figure 3.1: Map of Kedah

Based on an interview conducted in 2023 with Sheikh Ahmad Zaki bin Haji Ghazali, Head of the *Baitulmal* Division (Ketua Bahagian *Baitulmal*), Majlis Agama Islam Negeri Kedah (MAIK), the term used by *Baitulmal*/MAIK for a property that has no heirs is also "no heirs/heirless". Generally, *Baitulmal* receives the *faraid asabah* portion because it is not fully distributed, or in the absence of female heirs, or a husband leaves a wife without children. Specific parties notify *Baitulmal* to act, such as providing a death certificate, a grant, or information about the deceased's savings,

typically with the cooperation of ARB or related institutions like EPF, pension, or derivatives rewards. The category of inheritance handed over to *Baitulmal* includes inheritance with no heirs, such as *asabah*. For instance, if it is land, the grant will be registered in *Baitulmal*/MAIK's name; if it is a vehicle, the money will be added to the *Baitulmal* fund, and jewellery will be liquidated into cash. Additionally, money that does not comply with Shariah and trust money like *fidyah*, *kafarah*, *luqatah* (lost property), and *wakaf* (endowment) are managed by *Baitulmal* but kept separately due to their specific purposes, such as being given to the poor and needy or reclaimed by the original owner with proper evidence.

Baitulmal/MAIK follows a specific inheritance redemption procedure when dealing with property that has no remaining heirs. The *Manual Pengurusan Tebus Pusaka* (2008), published by JAWHAR, serves as the official guide for state Islamic councils, including Kedah.¹⁶ If the wife of the deceased receives a quarter of the inheritance due to having no children or only one daughter, the remaining portion becomes the right of *Baitulmal*, which can be repurchased by the heirs (*tebus pusaka*). Research indicates that *takharuj* enables heirs to relinquish their proprietary share to facilitate administration, reducing disputes and allowing *Baitulmal* to administer the asset. This aligns with the redemption practice described in Kedah.¹⁷

In Kedah, the procedures and methods for administering and distributing received property under the Administration of Islamic Law Enactment (Kedah Darul Aman) 2008 are governed by specific legal provisions. Section 5 empowers the Council to manage both movable and immovable property, including acquisition, disposal, and

¹⁶ JAWHAR, *Manual Pengurusan Tebus Pusaka*.

¹⁷ Md Yazid Ahmad, "Amalan Muafakat dan Aplikasi Takharuj dalam Pengagihan Pusaka Menurut Perspektif Undang-Undang Pusaka Islam," *Islamiyyat: International Journal of Islamic Studies* 39, no. 1 (2017): 21–28.

administration, in accordance with Shariah Law and relevant regulations. Furthermore, Section 47 establishes *Baitulmal* as a consolidated fund comprising all money and property received through legal accrual or donations under Shariah Law or related regulations. The Council is mandated to administer *Baitulmal* assets in compliance with the regulations stipulated in the enactment, ensuring proper management and distribution of these resources.

For the property without any rightful heirs, *Baitulmal* is required to prove the death certificate and a copy of the grant to proceed in making a claim. When dealing with assets like Amanah Raya Berhad (ARB) and EPF, the process is relatively straightforward, as ARB usually manages them for *Baitulmal*. However, for funds in ASB, ASN, or Tabung Haji (TH), an order is required to obtain information from the bank, which often involves obtaining a bank statement with the cooperation of the bank's internal party. This becomes complicated when the deceased's account details are unknown. Follow-up steps with the bank are necessary to gather the required documents for the trial at the inheritance office. Although no cases have been reported where someone informs *Baitulmal* about having no heirs after death, appointing ARB as an administrator can facilitate the process. In such cases, if a portion of the inheritance is due to *Baitulmal*, a small charge is imposed, and *Baitulmal* receives the net value after that.

According to Sheikh Ahmad Zaki, over the past 10 years, most properties without heirs that have been inherited and handed over to *Baitulmal* involve converts (Muallaf), with very few cases involving existing Muslims. Often, tracing information about land is challenging due to abandonment or the original owner moving to a different state, complicating the determination of heirs. The process is simpler when there are known heirs, as actions can be taken more efficiently; this year (2023), there

has been only one such case. In instances involving converts, it has occurred that the non-Muslim siblings of the deceased informed ARB to manage the property, and the case was then transferred to *Baitulmal* for further action.

In response to the question of whether property can be used for the welfare of non-Muslims, it is permissible, although priority is given to Muslims. Regarding the property inherited by *Baitulmal*, whether it has been redeemed back by heirs, primarily when the acquired inheritance, especially small parcels of land, is deemed impractical for *Baitulmal* to manage effectively. *Baitulmal* does not object to reselling such assets to ensure practical administration and maintenance.

Baitulmal and MAIK also encounter various challenges in administering properties, including time constraints, difficulties in determining *Baitulmal*'s share in land lots, unresolved inheritance disputes involving multiple heirs, and disagreements over the valuation of land by the Property Valuation Services Department (JPPH), which complicates repurchase efforts by heirs. In cases where there are multiple layers of heirs taken to the High Court, *Baitulmal* may receive a reduced portion or none. This also applies to cases involving hidden heirs, whether their omission was deliberate or accidental. The legitimate heirs must seek to annul the existing *faraid* distribution and request a retrial. The claimant must present their case in the High Court with supporting evidence, which often incurs substantial legal expenses due to lengthy proceedings or if the property's value is deemed minimal.

Also, there have been cases related to property brought to the Civil and Shariah Courts in Kedah. At the Shariah High Court, cases involve claims over joint property, wills or gifts, and issues regarding hidden heirs. At the Civil High Court, cases concern estates exceeding **RM5,000,000** and disputes over the Department of Director General of Lands and Mines (JKPTG) estate officer endorsements.

Another issue arises if information regarding the deceased's death has been received, but the Islamic status on the identity card (IC) has not been updated; delays in action by *Baitulmal* could lead to the inheritance distribution being contested in civil court. In such cases, the inheritance might be awarded to the deceased's non-Muslim heirs. The Islamic status is not recorded in the National Registration Department (JPN); only religious authorities are notified of changes in Islamic status. Complications arise when heirs are uncooperative. If property has already been transferred to non-Muslim heirs, *Baitulmal* can reclaim it through legal means by initiating court proceedings. *Baitulmal* suggests improving collaboration with the land office to facilitate searches using names or Identity Card (IC) numbers instead of relying solely on lot or grant numbers. This would allow *Baitulmal* to promptly place caveats on properties involved, pre-empting heirs from transferring them using the power of attorney.

So far, *Baitulmal*/MAIK has collaborated extensively with state and federal authorities to streamline property administration. This includes cooperation with JKPTG, Shariah Courts (Sulh), District Land Offices (LO), Valuation and Property Services Department (JPPH), Department of Survey and Mapping Malaysia (JUPEM), Amanah Raya Berhad (ARB), Employees Provident Fund (EPF), and other relevant agencies.

He suggested that to enhance property administration under *Baitulmal*, restructuring roles within *Baitulmal* is recommended to empower existing units. Establishing an integrated database system and basic facilities at JKPTG and land offices could further improve coordination and information management. These efforts aim to address challenges, enhance collaboration, and improve overall effectiveness in property administration by *Baitulmal* in Malaysia.

Unfortunately, currently, there is no available information regarding the recorded value of movable and immovable property that has been transferred to *Baitulmal* in Kedah. Similarly, there is no estimated value of properties that have been handed over to *Baitulmal* but are not yet recorded. By referring to Figure 3.2, as shown below, which was retrieved from the MAIK official portal,¹⁸ it shows the current collection details for *Baitulmal* in 2024, including three categories only: Fidyah Collection, Syariah Non-Compliant Money, and Infak Fisabilillah Collection. However, it does not mention any collection related to ownerless estates (*faraid*).

FIDYAH COLLECTION	SYARIAH NON-COMPLIANT MONEY	INFAK FISABILILLAH COLLECTION
RM 426,152.08	RM1,285,453.77	RM78,048.65
<small>Updated Date: 04 June 2024</small>	<small>Updated Date: 04 June 2024</small>	<small>Updated Date: 04 June 2024</small>

Figure 3.2: *Baitulmal* Kedah Collection in 2024

3.2.2 Kelantan

Next, in Kelantan, *Baitulmal* serves as the exclusive heir for assets that have no heirs. *Baitulmal* under Majlis Agama Islam Dan Adat Istiadat Melayu Kelantan (MAIK) has a specialised mandate in administering the estates of *muallaf* (Muslim converts) who die without Muslim heirs. In such situations, *Baitulmal* becomes the beneficiary in preserving estates within the Muslim community. Scholarly research highlights that this practice is grounded in Islamic jurisprudence, and *Baitulmal* often applies the principle

¹⁸ Portal Rasmi Majlis Agama Islam Negeri Kedah, “Baitulmal,” accessed June 4, 2025, <https://maik.kedah.gov.my/en/index.php/baitulmal/>.

of *maslahah mursalah* to handle inheritance claims from non-Muslim family members, balancing legal obligation with public benefit.¹⁹

Statistics on the reception of cases involving heirless assets are categorised into three subdivisions, namely North Kelantan, South Kelantan, and West Kelantan. Figure 3.3 below illustrates the map of Kelantan State in Malaysia, showing its various districts. The districts are colour-coded and numbered, with arrows pointing to their names. The map also includes a small inset map at the top left corner that shows Kelantan's location within Malaysia, highlighted in red. The main map is detailed with district boundaries and names such as Tumpat, Pasir Mas, Kota Bharu, Bachok, Pasir Puteh, Machang, Tanah Merah, Jeli, Kuala Krai and Gua Musang. The text on the left side provides additional information about the districts in Kelantan. North Kelantan comprises the districts of Bachok, Kota Bharu, and Pasir Puteh. West Kelantan consists of the districts of Pasir Mas, Tanah Merah, and Tumpat. The Southern zone of Kelantan covers the districts of Jeli, Kuala Krai, Machang, and Gua Musang.

¹⁹ Md Yazid Ahmad et al., "The Application of Maslahah Mursalah Principle in Resolving Inheritance Claims by Non-Muslim Heirs of Converts at Baitulmal," *International Journal of Academic Research in Business and Social Science* 14, no. 8 (2024): 3088-3099, <https://www.researchgate.net/publication/383768085>



Figure 3.3: Map of Kelantan

This administration can present the overall case reception and find that the Kota Bharu district has the highest number of cases. This includes cases that have been completed and those currently in the settlement process. The number of cases in other districts is shown in Figure 3.4 as follows:

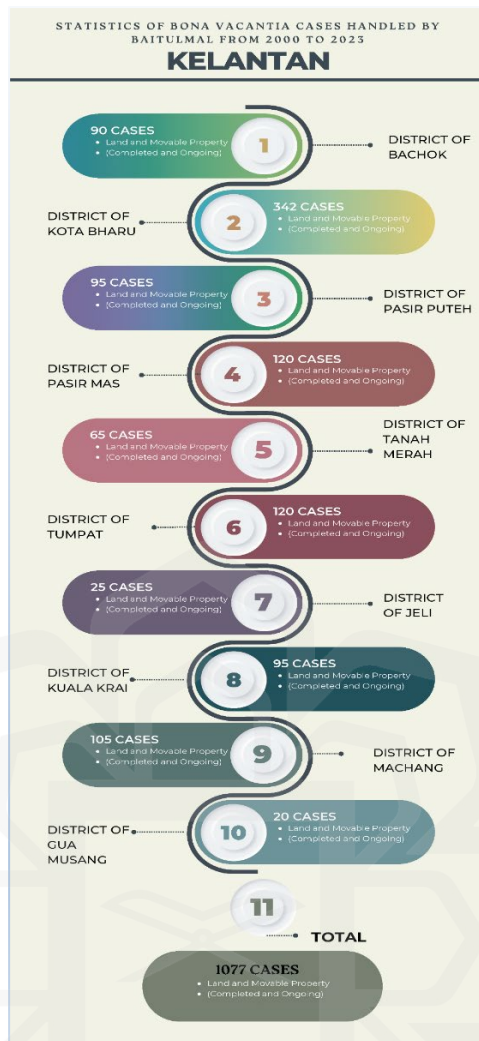


Figure 3.4: Statistics of *Bona vacantia* Cases Handled by *Baitulmal* in Kelantan from 2000 to 2023

Based on the above Figure 3.4, *Baitulmal* in Kelantan managed 1077 *bona vacantia* cases between 2000 and 2023. These cases involved property without a legal heir or owner, including both land and movable assets. The cases varied in status, with some completed and others still ongoing. The infographic breaks down the cases by district, revealing notable differences in distribution. Kota Bharu had the highest number of cases at 342, followed by Tumpat and Pasir Mas with 120 cases each. In contrast, Gua Musang had the lowest number of cases, with only 20 recorded. Other

districts with notable case numbers include Bachok (90), Pasir Puteh (95), Tanah Merah (65), Jeli (25), Kuala Krai (95), and Machang (105).

The following image displays the total receipts by *Baitulmal* of Kelantan from 2020 to 2023 for movable estates only, totalling **RM1,556,833.04**. However, no data was obtained for immovable estates. The infographic shows data for four years, with three pie charts indicating the distribution of receipts for each year from 2020 to 2022 (as of November). The pie charts show the following values and percentages: In the year 2020, the accumulated value stood at RM 247,590.73. For the subsequent year, 2021, *Baitulmal* received movable assets with a total value of RM359,307.89. The recorded value increased in 2022, reaching RM528,951.46. As of January to November 2023, the accumulated value for received movable assets is **RM420,982.96**. These figures represent the financial contributions received by *Baitulmal* over the specified years, signifying the ongoing financial transactions and acquisitions of movable assets.

Figure 3.5 below exhibits the pie charts showing cumulative values and percentage distribution as of November 2023. The bar graph labelled “GROWTH” depicts a yearly increase in receipts. A small map highlighting Kelantan's position in Malaysia is on the right side under “LOCATION”;

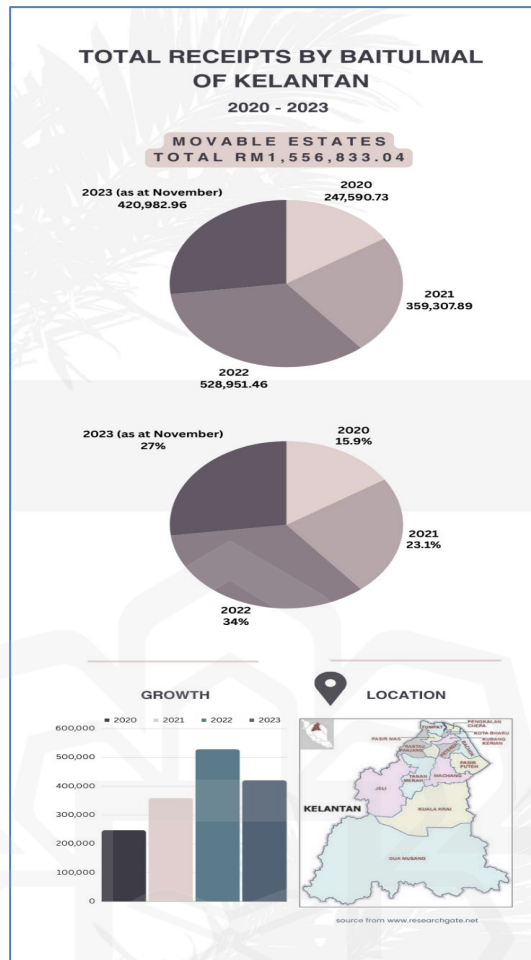


Figure 3.5: Total Receipt by Kelantan *Baitulmal*

The administration and subsequent distribution of the received assets involve a structured set of procedures and methods implemented by *Baitulmal*. The management of estates follows the guidelines stipulated in the Small Estates (Distribution) Act 1955. Under this method, unclaimed estates without heirs are reported to *Baitulmal*. To encourage individuals to report such estates, MAIK has introduced an incentive scheme that provides gratuity payments. This scheme ensures that reported estates are appropriately directed to *Baitulmal*. This initiative aims to ensure unclaimed assets are appropriately channelled to *Baitulmal* and foster a cooperative approach to managing

unclaimed estates.²⁰ The gratuity percentages offered under this scheme are shown in Figure 3.6 as follows:

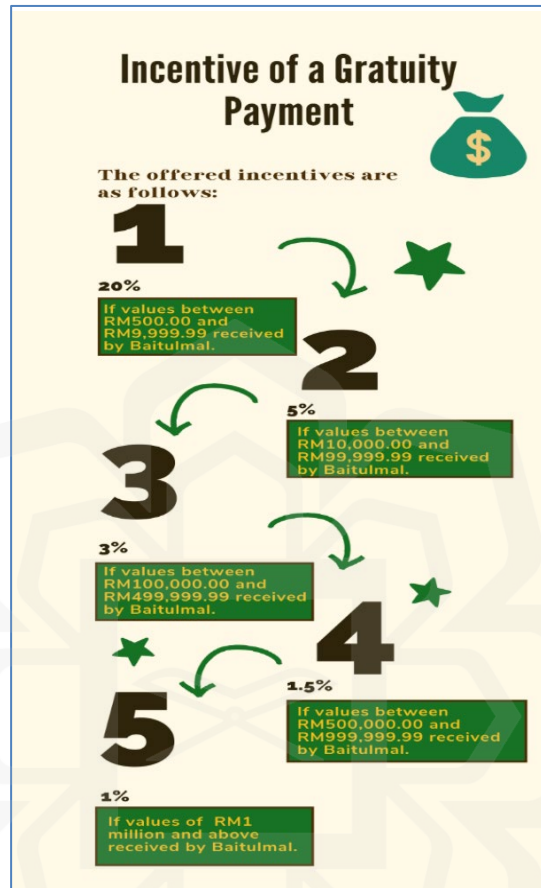


Figure 3.6: Gratuity Payment Incentive

3.2.3 Johor

Further, in Johor, an organisation called *Baitulmal* oversees and administers the property with no heirs. "*Baitulmal*", which means "house of wealth" in Arabic, refers to the treasury or financial institution responsible for managing and administering the

²⁰ Portal Rasmi Majlis Agama Islam dan Adat Istiadat Melayu Kelantan, "Perkhidmatan Pengurusan Pusaka," accessed June 4, 2025, <https://www1.e-maik.my/v2/perkhidmatan-kami/pengurusan-pusaka/>.

financial resources and assets of the Muslim community. Another name for it is the National Treasury.²¹

The jurisdiction of *Baitulmal* is established in the Islamic Religious Administration (State of Johor) Enactment 2003 Section 81, which defines the establishment of a fund known as the "*Baitulmal* Fund". This fund comprises all monies and property, movable or immovable, as per Islamic Law or under the provisions of the Enactment or rules made. The *Baitulmal* Fund is responsible for managing and administering the financial resources and assets of the Muslim community. Identifying and documenting *Baitulmal* property, managing and expanding the *Baitulmal* estates, and supplying *Baitulmal* goods to *Masarif* in compliance with Syara's regulations are the primary responsibilities of *Baitulmal*. This provision ensures that *Baitulmal* has the legal authority to oversee and administer the property with no heirs, as well as other categories of inheritance surrendered to it. The rental yield of *baitulmal* properties and investment revenues, assets without heirs, estates that cannot be received by non-Muslim heirs, estates not claimed by apostates, non-Shariah compliant property, found *Luqatah* property, donations or alms, wills, *Fidyah*, *Kaffarah*, and trust funds are some of the sources of income for *Baitulmal*.

Additionally, the provision outlines the legal framework for the utilisation of the *Baitulmal* Fund. Over the past 10 years, *Baitulmal* has received property with no heirs and has started receiving property from deceased individuals who converted to Islam in the last 3 or 4 years. The property falls under the *Baitulmal* fund and can be used for the welfare of non-Muslims. *Baitulmal* distributes its earnings to deserving parties, including patients in need of medical care, the poor and needy for funeral management

²¹ Portal Rasmi Majlis Agama Islam Negeri Johor, "Baitulmal," accessed June 4, 2025, https://www.maij.gov.my/?page_id=473.

services, Asnaf *baitulmal* sustenance support, individuals with disabilities, and the Muslim community.

Based on an interview with Ustaz Mohd Azri Bin Esa, Penolong Pengarah *Baitulmal*, Majlis Agama Islam Negeri Johor (MAIJ), dated 27 November 2023, the value of recorded movable and immovable property that has been handed over to *Baitulmal* as of 2023 is **RM1,415,684.50** for immovable property and **RM500,000.00** for movable property. This record, as illustrated below, however, includes heirless estates. Further, the value of the reception of property involving heirless estates, inclusive of all districts in Johor, is illustrated in Figure 3.7 as follows:

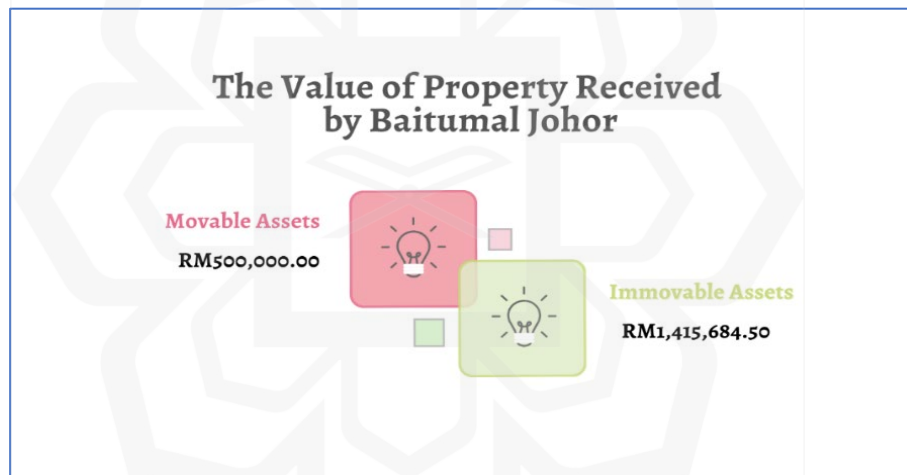


Figure 3.7: Property Value Received by Johor *Baitulmal*

A comprehensive map of Johor, Malaysia, is depicted in the following collage, which includes descriptions of the main districts and areas. The image consists of two maps showing the geographical layout of Johor Bahru and its surrounding areas, including Singapore to the south. The top map is a colourful representation of different districts or areas, while the bottom map provides a more simplified view focusing on major towns or cities. Figure 3.8 presents a detailed map of Johor, Malaysia, illustrating

its geographical boundaries and neighbouring territories through distinct colour markers that differentiate each district, city, and town. The state is administratively divided into ten districts: Johor Bahru, Batu Pahat, Kluang, Kota Tinggi, Kulai, Mersing, Muar, Pontian, Segamat, and Tangkak, each clearly identifiable on the map.

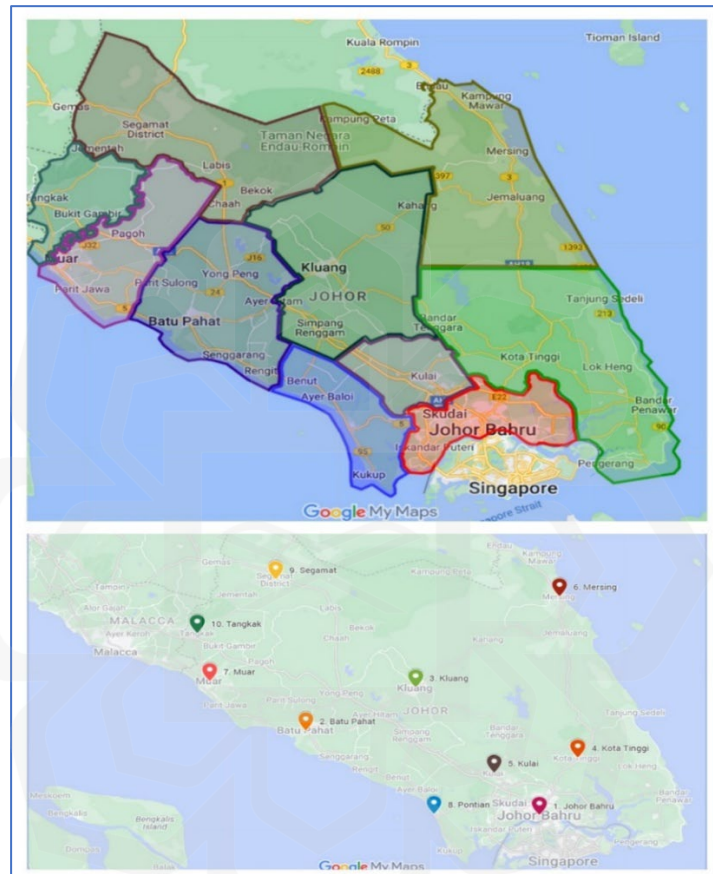


Figure 3.8: Map of Johor
(Source: www.google.com/maps)

Ustaz Mohd Azri Bin Esa explained that there have been instances where heirs successfully redeemed property inherited by *Baitulmal*. This confirms that heirs are allowed to reclaim such property by making the necessary payments, even after *Baitulmal* has initially received it as part of the estate.

The inclusion of case studies in this subchapter is highly relevant, as they provide concrete illustrations of how *Baitulmal's* legal and administrative frameworks are applied in practice. While earlier sections outlined the statutory provisions and conceptual principles guiding *Baitulmal*, these case studies highlight the realities of implementation, constraints, and adaptations on the ground.

Firstly, cases such as *Mawi bin Ahmad's* estate (Case Study No. 1) demonstrate that heirs may reclaim property initially absorbed into *Baitulmal*, showing that redemption is a functional mechanism balancing institutional rights with heirs' claims. This supports the chapter's theme of reconciling legal provisions with practical family and community interests. The case is illustrated in Figure 3.9 below;

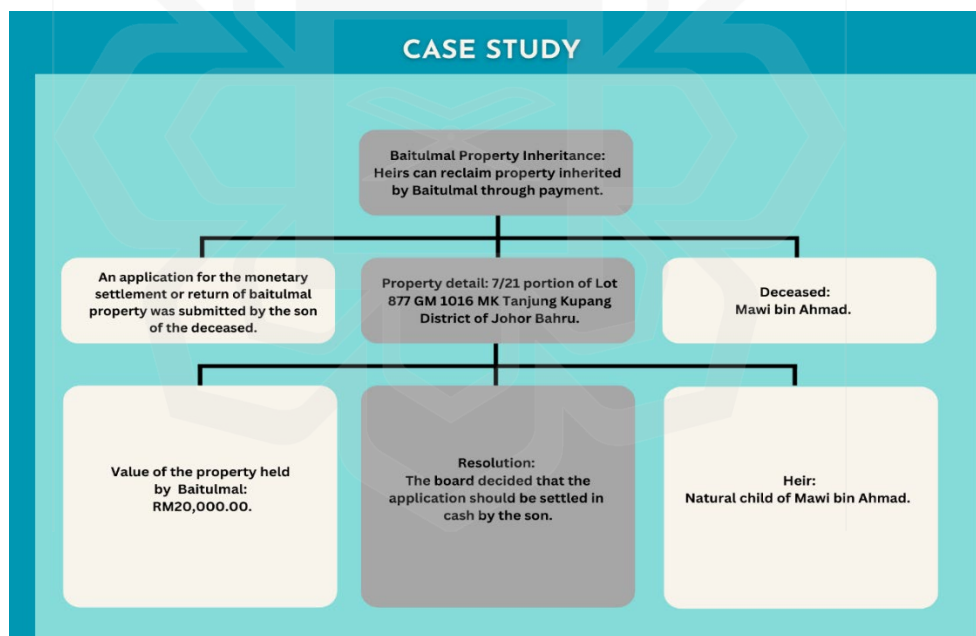


Figure 3.9: Overview of Case Study No. 1

Next, the case studies involving Felda land and shared inheritance (Case Studies No. 2 & 3) reveal structural challenges, such as statutory restrictions on land ownership (Group Settlement Areas Act 1960) and diminishing fractional shares. These examples

expose the legal and administrative constraints faced by *Baitulmal* in managing immovable land, directly linking the discussion to broader issues of estate distribution in Malaysia.

Felda land is a type of immovable land in Malaysia that is part of a government scheme to develop rural areas and provide land for settlers. GSA stands for Group Settlement Areas (Land (Group Settlement Areas) Act 1960, which are areas designated for Felda land development. The law permits only two names that can be officially registered as the owners of Felda's land based on Section 14 of the GSA.²² Moreover, if *Baitulmal* shares with other heirs and the fraction gradually decreases to a very insignificant amount, but the heirs do not wish to redeem, then *Baitulmal* is not in a position to settle the matter. The subsequent Table 3.2 outlines the principal issues, courses of action, and constraints associated with the aforementioned cases.

Table 3.2: Associated Issues with Case Studies No. 2 and 3

CASE NUMBER	CASE OF CONSTRAINTS	PRINCIPAL ISSUES AND ACTIONS
1	Administering Felda Land (Case Study No. 2)	<p>Land Description: Lot 11346 PM 2878 in FELDA Pengeli Timur, MK Hulu, Sg Johor, Kota Tinggi District, worth RM96,000.00</p> <p>Deceased Person: Juriah Binti Sarbini.</p> <p>Constraints: The law allows only two names on the grant, posing challenges for inheritance or transfer of ownership when there are more than two heirs or beneficiaries (one of them is <i>Baitulmal</i>).</p> <p>Resolution: The heir redeems <i>Baitulmal</i> rights, applies, and completes payment according to JPPH valuation. The committee agrees, and the process is underway to notify the estate office (JKPTG).</p>
2	Administering Shared Land with Decreasing Fraction (Case study no. 3)	<p>Land Description: 1/1 portion of Lot 4165, GM 1737, MK Simpang Kiri, Batu Pahat District, specifically in Parit Asam Kumbang. (four acres of land)</p>

²² See Section 14 – (2) A rural holding may be alienated and jointly held by not more than two holders; Nohafizah Arifin and Khadijah Hussin, “Review on Issues and Problems of Transferring Felda Land Ownership,” *Journal of Management Research* 7, no. 2 (2015): 229-240, <https://www.macrothink.org/journal/index.php/jmr/article/view/7407>.

CASE NUMBER	CASE OF CONSTRAINTS	PRINCIPAL ISSUES AND ACTIONS
		<p>Deceased Person: Fatimah Binti Salim.</p> <p>Constraints: Shared land with other heirs, fraction gradually decreasing. Heirs are unwilling to redeem. The adopted child was unable to redeem <i>Baitulmal's</i> rights.</p> <p>Resolution: The adopted child applies to the rental property, paying RM65.00 per month. <i>Baitulmal</i> is unable to resolve the matter, as the heirs decline redemption.</p>

In certain cases, *Baitulmal* has released its share of inherited land to allow heirs to settle the deceased's debts. For example, in Case Study 4, *Baitulmal* owned a 3/72 share of the land valued at RM11,041.66. The deceased left RM19,000 in credit card debt. After the heirs settled this debt, *Baitulmal* relinquished its share of the inheritance. A synopsis of this case is illustrated in Figure 3.10 as shown below:

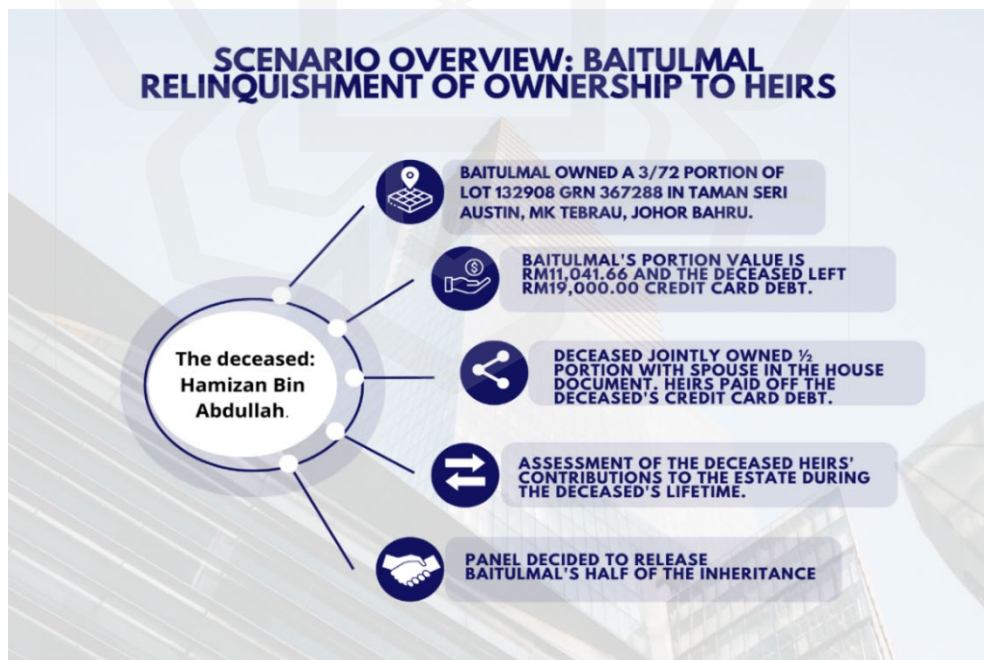


Figure 3.10: Overview of Case Study No. 4

Baitulmal has also been involved in property cases brought before the Civil and Shariah Courts in Johor. For instance, in Case Study 5, concerning Lot PTD 152984, the deceased, Honegger Max Ernst, owned half of the property. In the Shariah High Court Johor Bahru, the widow's will was declared invalid, and the court awarded the inheritance to *Baitulmal*. This is the case summary as illustrated in Table 3.3.

Table 3.3: Overview of Case Study No. 5

Property Case Details	PTD 152984, HSD 449842, Mukim Pulai, Johor Bahru district
Deceased's Name	Honegger Max Ernst
Ownership	The deceased owned half of the property
Court	Shariah High Court in Johor Bahru
Nature of the Case	Verification of a will related to the property
Outcome	Validity of the will rejected; <i>Baitulmal</i> awarded 3/4 of the inheritance

Further, in cases involving Muslim converts who died without Muslim heirs, *Baitulmal* may administer their estates for the welfare of the Muslim community. Such cases have been rare in the past three to four years and were managed through Amanah Raya, the Small Estate Office, or the High Court. For example, Case Study 6 involved a house in Taman Kim Teng Part belonging to Johan bin Abdullah, a convert with no heirs, which was transferred to *Baitulmal*. Also, in Case Study 7, a female convert who died childless left RM300,000 in unit trust funds (ASB, ASW, and ASM). Although her non-Muslim siblings were not legal heirs, Amanah Raya Berhad awarded them RM40,000 each in recognition of the care they had provided during her lifetime, with *Baitulmal*'s approval. These cases, as shown in Table 3.4 below, indicate that *Bona vacantia*, which belongs to a Muslim convert, can be utilised for non-Muslim welfare as well.

Table 3.4: Overview of Case Studies No. 6 & 7

Case Overview	Concerning the estate of Muslims who converted from other religions with no Muslim heirs
Management Authority	<i>Baitulmal</i>
Handling Offices	AR (Amanah Raya), a small estate office, and the High Court
Case 6	Property: House in Taman Kim Teng Part
	Individual: Johan bin Abdullah (Convert with no heirs)
	Outcome: <i>Baitulmal</i> received the house
Case 7	Assets: RM300k from ASB, ASW, and ASM (unit trust funds)
	Individual: A Woman convert (Died without children)
	Siblings (non-Muslims) applied to ARB for benevolent money.
	Verification: ARB confirmed siblings' care for the deceased during her life
	Outcome: Each sibling received RM40,000 as benevolent money from <i>Baitulmal</i>

Furthermore, the issue about the cooperation and improvement of property management under *Baitulmal*/MAIJ, which is a Malaysian agency that handles Islamic affairs, requires *Baitulmal*/MAIJ to work with various state/federal authorities, such as JKPTG (task force), the Estate office, and JAWHAR (coordinating agency), to identify, notify, and resolve any issues related to the properties that belong to *Baitulmal*/MAIJ. The suggestion is that there should be a strategic partner to develop a system that can link the data between the Estate Office and *Baitulmal*/MAIJ more quickly and accurately, and that the jurisdiction should be consistent across all states.

3.2.4 Wilayah Persekutuan Kuala Lumpur (WPKL)

Lastly in WPKL, during the interview with Puan Noor Jamimah Binti Ahmad (Administrative Officer) and Ustaz Faiz Ikmal bin Ahmad Rafie (Assistant Officer for Islamic Affairs) of Zakat Distribution Section, Majlis Agama Islam Wilayah Persekutuan (MAIWP), via online meeting on 26th of September 2023, it was revealed

that the term "*harta pusaka terhak*" within the context of *Baitulmal* MAIWP refers to the inheritance property of deceased Muslims left behind with no heirs or heirs who are not entitled to inherit such property after it has been distributed to rightful heirs.²³ The legal foundation for this lies in the Akta Pentadbiran Undang-Undang Islam (Wilayah-Wilayah Persekutuan) 1993 Akta 505, with Section 60(1) establishing the formation of *Baitulmal*. Legal opinions vary, especially concerning the inheritance rights of *Dhawi al-Arham*, necessitating resolution by Shariah Courts or relevant authorities.

The interviewees also explained that MAIWP employs Standard Operating Procedures (SOPs) for the Management of Inheritance Assets, streamlining the process of redeeming inherited property. This ensures adherence to legal and Shariah guidelines, providing a structured framework for the administration of unclaimed estates. Over the last ten years, records indicate that there were twenty-nine (29) instances of estates lacking heirs, while forty (40) cases involved *Muallaf* estates, totalling **RM 2,592,320.68**. These numbers underscore the significant responsibility assumed by MAIWP in the administration of unclaimed estates, including those that have been redeemed.

The pie chart in Figure 3.11 represents the distribution of redeemed estates, types of property (movable and immovable), and total RM value. The chart effectively highlights the proportions related to estate redemption, property type, and value as shown in Figure 3.11 as follows.

²³ Portal Rasmi Majlis Agama Islam Wilayah Persekutuan, "Faraid & Pusaka," accessed June 4, 2025, <https://www.maiwp.gov.my/portal-main/article2?id=faraid-pusaka&bg=false>.

of both heirs and *Baitulmal*. Interviews with MAIWP officers reaffirmed that compliance with SOPs remains a priority for MAIWP in administering estates. Furthermore, the utilisation of funds derived from these estates for non-Muslim welfare initiatives underscores the broader societal impact, emphasising the principle of *maslahah* (public interest).

The interviews also revealed that MAIWP encounters various challenges, including disputes over rights, academic criticisms, and instances of estate owners attempting to evade legal obligations. Operating under the legal framework of the *Akta Pentadbiran Undang-Undang Islam (Wilayah-Wilayah Persekutuan) 1993, Akta 505* provides both guidance and authority for addressing these challenges. Importantly, MAIWP’s collaborative efforts with agencies such as JKPTG WPKL, JPPH, JKR, and the Shariah Courts, as emphasised by interviewees, ensure a holistic and coordinated approach to estate administration. In conclusion, the following Table 3.5 summarises the key points from the interview.

Table 3.5: MAIWP KL Interview Summary

ASPECT	DETAILS
Interview Date	September 26, 2023
Interviewees	Puan Noor Jamimah Binti Ahmad (Administrative Officer) and Ustaz Faiz Ikmal bin Ahmad Rafie (Assistant Officer for Islamic Affairs)
Term Defined	<i>Harta Pusaka Terhak</i>
Context	<i>Baitulmal</i> (MAIWP)
Definition	Inheritance property left to <i>Baitulmal</i> MAIWP by deceased Muslims with no heirs or heirs not entitled to inherit
Legal Basis	Akta Pentadbiran Undang-Undang Islam (Wilayah-Wilayah Persekutuan) 1993 Akta 505
Eligible Heirs Criteria	Marriage, Lineage (Nasab), Manumission (Wala’) and Adherence to Islam
SOPs	Standard Operating Procedures for Management of Inheritance Assets
Estate Records (Last 10 Years)	29 estates lacking heirs, 40 Muallaf estates, totalling RM 2,592,320.68
Legal Framework for Redemption	Section 13(1) of the Small Estate (Distribution) Act 1955
Collaboration	JKPTG WPKL, JPPH, JKR, Shariah Courts
Emphasis	Public interest (Maslahah)

For Muslims, the current practice of *Bona vacantia* administration by *Baitulmal* throughout West Malaysia is illustrated as follows in Figure 3.12.

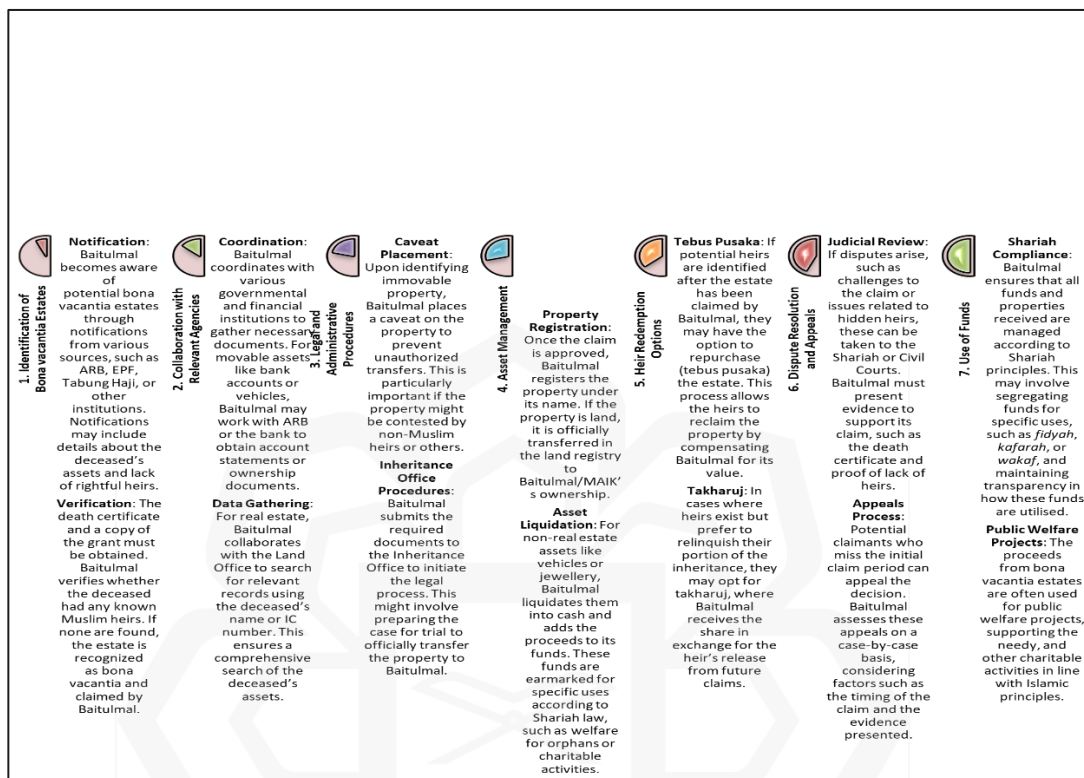


Figure 3.12: *Bona vacantia* administration by *Baitulmal* in West Malaysia

3.3 PRACTICE AND VALUE OF *BONA VACANTIA* HELD BY THE YDPA FUND AND STATE AUTHORITY FOR NON-MUSLIMS

3.3.1 Movable Estates (West Malaysia, Including Kedah, Kelantan, Johor, and Wilayah Persekutuan KL)

Unclaimed money can be categorised as earmarked of ownerless property when the owner dies without leaving any legitimate heirs to inherit the estate.²⁴ However, in an interview with Puan Nur Fatin Amirah binti Samsudin, the Assistant Director of the Claims Unit,

²⁴ Siti Mashitoh Mahamood, "Isu-Isu Berbangkit dalam Pengurusan Baitulmal di Malaysia: Pemakaian Akta Wang Tak Dituntut 1965 (Akta 370) & Bidang Kuasa Baitulmal dalam Harta Orang Islam., *Jurnal Pengurusan JAWHAR* 2, no. 1 (2008): 99–113, <https://e-penerbitan.jawhar.gov.my/jurnal-pengurusan-jawhar-vol-2-no-1-2008/>

Unclaimed Money Management Division, National Accountant Department of Malaysia, Putrajaya, on December 29, 2023, it was clarified that unclaimed money (Wang Tak Dituntut or WTD) in Malaysia is distinct from *bona vacantia* property. *Bona vacantia* refers to money without heirs and is unrelated to unclaimed money. Unclaimed money concerns funds that remain uncollected by their rightful owners within a prescribed period. Such funds are managed by the Registrar of Unclaimed Moneys as regulated under the Unclaimed Moneys Act 1965. They are placed under various accounts, including the Consolidated Fund, Consolidated Revenue Account, Consolidated Loan Account, Consolidated Trust Account, and the Consolidated Fund for *Bona vacantia* Property.

According to her, over the past decade, a total of RM8.68 billion in WTD has been reported, but none of it has been classified as *bona vacantia*. Notably, there is no statutory time limit for the government to retain unclaimed money. WTD in Malaysia falls into three main categories: (1) money legally payable but unpaid for at least one year (e.g., salaries, rent, bonuses, dividends, insurance claims, expired bank drafts, and matured fixed deposits); (2) credit balances left inactive for at least seven years, such as savings, current accounts, or automatically renewed fixed deposits; and (3) credit balances in trading accounts not operated for two years, often involving trade receivables or payables.

Moreover, Puan Nur Fatin Amirah said the process of tracing and managing unclaimed money in Malaysia remains complex. At present, there are no specific mechanisms or systems in place in West Malaysia to detect *bona vacantia* property. Instead, claimants must proactively apply to the Registrar of Unclaimed Moneys to initiate a claim, and there is no formal procedure to distinguish between unclaimed funds belonging to living individuals and those of the deceased. She further explained

that unclaimed money cannot be directly channelled into public facilities; only the interest accrued from fixed deposits may be utilised for public purposes. The data is recorded in two systems, iGFMAS and eGUMIS, with the latter improving accessibility by allowing individuals to check their unclaimed money status online.²⁵ However, as Puan Nur Fatin clarified, eGUMIS only identifies WTD and does not extend to the detection of *bona vacantia*.

She made several suggestions to improve the management of unclaimed money. One of these is the development of an eGUMIS Mobile App, which could make it easier for individuals to check on unclaimed money. Another suggestion is to make amendments to the Unclaimed Moneys Act to enhance its effectiveness and efficiency. These amendments could involve changes to the jurisdiction, procedures, and legal statutes governing unclaimed money. By implementing these changes, the process of managing unclaimed money could be significantly improved. These suggestions, however, do not specifically relate to *Bona vacantia*.

In conclusion, unclaimed money (WTD) in West Malaysia is money that is legally due to individuals but remains unclaimed after a certain period. *Bona vacantia*, on the other hand, is money that has no owner or heir. There is no connection between unclaimed money and *bona vacantia*. Despite the large amount of unclaimed money reported (RM8.68 billion), none of it falls under *bona vacantia*. Unclaimed money can be classified into several types, depending on the source and duration of non-payment. There is no time limit for claiming unclaimed money, but claimants must apply to the Registrar of Unclaimed Moneys. To improve the management of unclaimed money, it

²⁵ Jabatan Akauntan Negara Malaysia, “Hebahan,” accessed June 10, 2025, <https://egumis.anm.gov.my/>.

is recommended to create an eGUMIS Mobile Application and revise the Unclaimed Moneys Act. A summary of the explanation provided above is shown in Table 3.6.

Table 3.6: Unclaimed Money Management Division Interview Summary

Points	Details
Interviewee	Puan Nur Fatin Amirah binti Samsudin, Assistant Director of Claims Unit, Unclaimed Money Management Division, National Accountant Department of Malaysia, Putrajaya
Date of Interview	December 29, 2023
Clarification	Unclaimed money (Wang Tak Dituntut or WTD) in Malaysia is distinct from <i>bona vacantia</i> property. <i>Bona vacantia</i> pertains to money without heirs and is unrelated to unclaimed money.
Management Authority	Managed by the Registrar of Unclaimed Moneys under the Unclaimed Moneys Act 1965.
Relevant Accounts	Governed accounts include the Consolidated Fund, Consolidated Revenue Account, Consolidated Loan Account, Consolidated Trust Account, and the Consolidated Fund for <i>Bona vacantia</i> Property.
Financial Statistics	Over the past 10 years, RM8.68 billion in WTD was reported; none was classified as <i>Bona vacantia</i> .
Holding Period	No specified time limit for holding unclaimed money.
Categories of Unclaimed Money	1. Legally payable but unpaid within one year (e.g., salary, rent, bonuses). 2. Credit money not operated for at least seven years (e.g., savings accounts). 3. Trading account credit not operated for at least two years (e.g., trade receivables).
Detection and Channelling Process	Complex process; no specific methods or systems for detecting <i>bona vacantia</i> in West Malaysia. Claimants must actively apply to the Registrar for claims.
Differentiation for Living or Deceased	No established method to differentiate between unclaimed money for the living or the deceased. Data stored in iGFMAS and eGUMIS systems.
Channelling for Public Facilities	Unclaimed money cannot be directly channelled for public facilities, except for interest on fixed deposits, which is allowed for public use.
Challenges	Lack of a method to differentiate between unclaimed money for the living or the deceased.
Data Storage Systems	Data stored in iGFMAS and eGUMIS systems.
eGUMIS Implementation	eGUMIS facilitates checks on unclaimed money but does not identify <i>Bona vacantia</i> .
Suggestions for an improvement	1. Development of an eGUMIS mobile app for easier individual access. 2. Amendments to the Unclaimed Moneys Act for increased effectiveness and efficiency, involving changes to jurisdiction, procedures, and legal statutes governing unclaimed money.
Relation to <i>Bona vacantia</i>	Suggestions and improvements focus on unclaimed money management, not specifically related to <i>Bona vacantia</i> .

3.3.2 Immovable Estates (West Malaysia, including Kedah, Kelantan, Johor and Wilayah Persekutuan KL)

As for immovable estates, in a December 2023 interview, Tuan Haji Baharuddin bin Aziz, Director of the Estate Distribution Section (BPP) of the Director General of Lands and Mines Department (JKPTG), explained that the BPP handles the estate of Muslims and non-Muslims under the Small Estates (Distribution) Act 1955. This applies when the deceased leaves no will (for non-Muslim deceased); the estate consists of immovable property (land) only, or immovable property along with movable property²⁶ and the total value of the immovable and movable property does not exceed RM2 million (as it then was) at the time of application. He also noted that the BPP does not use a specific term for the estate of a non-Muslim without heirs (*bona vacantia*).

According to Tuan Haji Baharuddin bin Aziz, there are no records available related to the *Bona vacantia* estate specifically by the BPP. However, the immovable and movable property's total value (including *Bona vacantia*) from 2015 to 2024 amounted to RM119,976,527,297.00. The estimated value of the Baitul Mal Division's property during this period is RM 777,575.00. He explained that KPTG does not have a system to identify property categorised as *Bona vacantia*.

Tuan Haji Baharuddin further noted that the management and administration procedures applied are based on the Small Estates (Distribution) Act 1955. The Act definition has been amended to property, with this amendment giving the option to heirs who only have movable property to apply for Letters of Administration at the Estate Distribution Office or Amanah Raya Berhad. However, the regulations are still pending finalisation by the Attorney General's Department. He highlighted that there is no

²⁶ Portal Rasmi Jabatan Ketua Pengarah Tanah & Galian Persekutuan, "Estate Distribution Section (BPP)," accessed July 10, 2025, <https://www.jkptg.gov.my/en/korporat/profil-bahagian/bahagian-pembahagian-pusaka-bpp>.

specific duration for property categorised as *Bona vacantia* to be managed. Regarding other estate applications, each non-contested case will usually be resolved within 4 months. The heirs face challenges in providing evidence of the deceased's lineage. They are required to obtain a *faraid* certificate from the Syariah High Court to determine the rightful heirs. Until now, unfortunately, there is no department managing local data collection. Hence, a comprehensive study is needed.

To enable estate management, he also recommended that a one-stop estate management centre (OSC) integrate all agencies engaged in estate management under one roof, thereby significantly facilitating estate administration for the community. This proposal is good and should be discussed at the ministry level and brought before Parliament for approval. Because without government-level approval, it is difficult to establish this OSC. In addition, a legal study must be undertaken since it entails different Acts depending on each agency. The summary of the interview with Tuan Haji Baharuddin bin Aziz is shown in Table 3.7 below.

Table 3.7: Interview Summary with the Director of Estate Distribution Section (BPP), JKPTG

Aspect	Details
Interview Details	Tuan Haji Baharuddin bin Aziz, Director of Estate Distribution Section (BPP) of the Director General of Lands and Mines Department (JKPTG)
Act	Small Estates (Distribution) Act 1955
Estate Types	Assets left by the deceased when no will is present (non-Muslims) include immovable and movable property, with a total value ≤ RM 2 million (as it then was)
<i>Bona vacantia</i>	No specific term for the estate of a non-Muslim deceased without heirs, according to Section 24 of the Civil Law Act 1956
Records	No specific records for the <i>Bona vacantia</i> estate by BPP
Total Value (2015-2024)	RM 119,976,527,297.00 (inclusive of <i>Bona vacantia</i>)
<i>Baitulmal</i> Division Value	RM 777,575.00
System for <i>Bona vacantia</i>	No system to identify property categorised as <i>Bona vacantia</i>
Procedure	Based on the Small Estates (Distribution) Act 1955

Amendments	The act definition was amended to include property, allowing heirs with only movable property to apply for Letters of Administration at the Estate Distribution Office or Amanah Raya Berhad.
Regulations	Pending finalisation by the Attorney General's Department
Management Duration	No specific duration for <i>Bona vacantia</i> management; non-contested cases resolved within 4 months
Challenges	Heirs face difficulties proving lineage and need a <i>faraid</i> certificate from the Syariah High Court.
Data Collection	No department for local data collection; a comprehensive study is needed.
Recommendation	A one-stop estate management centre (OSC) to integrate all estate management agencies under one roof needs ministry and parliamentary approval.

Next, in February 2024, with prior permission given by Tuan Haji Baharuddin bin Aziz, the Director of the Estate Distribution Section (BPP), another interview was conducted with Tuan Mohamad Zaim Bin Johari, the Assistant Director of the East Perak Estate Distribution Unit (Kuala Kangsar branch). This interview was conducted in furtherance of the interview previously conducted with the Director in December 2023. The data were then obtained in June 2024. According to Tuan Mohamad Zaim Bin Johari, there is no specific term used by the Estate Distribution Section (BPP) for a property that has no heirs (*bona vacantia*). It is only categorised as deceased property without having any rightful heirs entitled to receive the property according to the Distribution Act 1958 (Act 300) for non-Muslims.

Over the past 10 years, he confirmed that the Estate Distribution Unit at the branch has not had records or statistics for property handed over to *baitulmal*, nor the state or federal consolidated fund. Based on his 8 years of experience serving as an estate distribution officer in Taiping and Kuala Kangsar, only two (2) cases were handled involving deceased non-Muslims who did not have heirs entitled to inherit the property, and the deceased's estate land was returned to the State Authority.

He also emphasised that, as far as the recorded value of the movable and immovable property is concerned, for cases that have been resolved, the estimated value

of such property handed over to *baitulmal*, the state government, or the federation to date cannot be identified and estimated by the Estate Distribution Unit at the branch. However, there was one case involving the property of a deceased non-Muslim where the property valued at RM92,000.00 was handed over to the state authority of Perak.

According to Tuan Mohamad Zaim, in West Malaysia, the distribution of estates for deceased non-Muslims is governed by the Distribution Act 1958 and the Civil Law Act 1956. Under Section 6(j) of the Distribution Act, if there are no rightful heirs, the government inherits the estate, excluding land. Section 24 of the Civil Law Act further provides that where a person dies intestate without heirs, the personal estate accrues to the government and forms part of the Consolidated Fund, to be used for public purposes or transferred by the Yang di-Pertuan Agong to those with proven equitable or moral claims.

Further, he added that the JKPTG Estate Distribution Section's Practice Notes (2012/2013) guide handling *Bona vacantia* in West Malaysia. Immovable property is transferred to the State Government (or, in Johor, Selangor, and Terengganu, to the Chief Minister/State Secretary Incorporated), annotated as property returned due to the absence of heirs. Movable property, meanwhile, is transferred to the Malaysian Treasury and entered into the Consolidated Fund.

Tuan Mohamad Zaim further confirms that the Estate Distribution Section, Department of the Director General of Lands & Mines Federal, manages applications for small estate property involving immovable property only, such as houses and land, or immovable property together with movable property, such as savings and vehicles, with a total value of less than RM 2 million (as it then was). If the deceased only leaves movable property such as savings and vehicles, then the application must be made at Amanah Raya Berhad (ARB), which has the jurisdiction. Moreover, JKPTG has no

specific system or method for identifying property categorised as *bona vacantia* within a certain period after the death of the deceased. It only depends on the information provided by the Penghulu or Settlement Officer (SO) or interested parties residing in or operating the deceased's property.

Based on experience from two cases, he stated that it took over 30 years for the cases to be successfully resolved, and the properties were finally handed over to the state authority. One of the biggest constraints encountered was the difficulty in identifying *bona vacantia* property, as the deceased had no heirs and no small estate application was made. Conversely, if the deceased's property is occupied or operated by certain parties, such as a friend of the deceased, the friend may try to apply in hopes of owning the property. However, if it is known that the deceased's property will be handed over to the government, then the effort will be suspended.

Despite the continuous briefing programmes and information sessions for the general public to reduce confusion about estate administration among the community by the Small Estate Distribution Unit, Tuan Mohamad Zaim proposed to create a local data centre to address the problem of identifying *bona vacantia* property that is not administered within a certain period (for example, 6 months) after the death of the deceased, which is good and should be considered. It may reduce the occurrence of neglected and unutilised estates.

In conclusion, the establishment of a special body or department for the management and administration of the *Bona vacantia* estate for non-Muslims is supported. It is believed that such a body should be established to manage the administration of the BV estate, as there is currently no existing body to manage the estate for non-Muslims, unlike for Muslims. However, for Muslims, the empowerment of the role of *baitulmal* needs to be strengthened to manage the administration of

property handed over to *baitulmal* and to identify estate property eligible to be received by *baitulmal*. Table 3.8 below provides a summary of the interview with Tuan Mohamad Zaim Bin Johari.

Table 3.8: Interview Summary with the Deputy Director of Estate Distribution Unit, JKPTG (Kuala Kangsar Branch)

Aspect	Details
Interview Details	Tuan Mohamad Zaim Bin Johari, the Deputy Director / Pen. Pengarah, Unit Pembahagian Pusaka Perak Timur. Conducted in February 2024 with prior permission from Tuan Haji Baharuddin bin Aziz, following an interview in December 2023. Data obtained in June 2024.
Terminology	There is no specific term for property without heirs (<i>bona vacantia</i>); it is categorised as deceased property without rightful heirs under the Distribution Act 1958 (Act 300) for non-Muslims.
Records and Statistics	No records/statistics for property handed over to <i>baitulmal</i> , state, or federal consolidated fund in the past 10 years.
Cases Handled	Two cases in 8 years involving deceased non-Muslims with no heirs; estate land returned to the State Authority.
Property Value	Unable to estimate the value of the property handed over. One known case: an RM92,000.00 property handed to the state authority of Perak.
Legal Framework	Governed by the Distribution Act 1958 and Civil Law Act 1956. The government is entitled to estates without heirs. YDPA can transfer estate/proceeds to individuals with moral/equitable claims.
Management Procedures	Officer practice notes from the 2012/2013 guide on property transfer to the government. Immovable property to the State Government, moveable property to the Malaysian Treasury (Federal).
Applications	Managed by the Estate Distribution Section for immovable property < RM 2 million (as it then was). Movable property applications managed by Amanah Raya Berhad (ARB).
Property Identification	No specific system for identifying <i>Bona vacantia</i> property. Relies on information from Penghulu, the Settlement Officer, or interested parties.
Case Duration	Cases can take over 30 years to resolve. Challenges include identifying <i>Bona's vacantia</i> property.
Public Awareness	Continuous public information sessions on estate administration. Proposal for a local data centre to identify neglected estates.
Establishment of Special Body	Supports the creation of a special body for managing <i>Bona vacantia</i> estates for non-Muslims, like the <i>baitulmal</i> for Muslims.

Finally, with prior permission from Tuan Haji Baharuddin bin Aziz, the Director of the Estate Distribution Section (BPP), an interview was conducted with Puan Shafinie Binti Abd Aziz, the Chief Deputy Director of the State Estate Distribution Unit

in Perlis. According to Puan Shafinie, the categories of property for Muslims and non-Muslims are the same, namely Immovable Property and Movable Property. BPP sets no specific term for these categories, so they still use the term '*bona vacantia*' or note that there are no heirs inheriting non-Muslims for movable property. It was informed that there is no data on files involving *Bona vacantia*, but a case was once found at Unit Pembahagian Pusaka (UPP) Kota Bharu, resolved by a previous officer in 2012, where the federal government was noted as the recipient of the deceased's movable property. The State UPP has no records of the estimated value of property handed over to *baitulmal*, the state government, or the federal government. The UPP only manages and resolves each application up to the transfer of ownership to the recipient and has no knowledge regarding the governance of such property.

JKPTG has no special system to identify property categorised as *Bona vacantia*, and each application is processed according to standard procedures. The administration of the *bona vacantia* property is managed according to the time set in the customer charter of the Estate Distribution Section (BPP), which is 4 months if there are no issues. It was admitted that no file involving the *Bona vacantia* category has been personally managed. There is dedicated support for the establishment of a special department for the administration of estate property, a proposal submitted by the minister in 2022 in Parliament to establish the Malaysian Estate Distribution Department, although it has not been implemented yet. Determining whether the category is *Bona vacantia* can be difficult, as it can only be determined after the hearing, during which the investigation is conducted. The UPP disseminates information about this jurisdiction issue to the public through the JKPTG Portal, website, social media, and programmes frequently held by UPP in their respective states. BPP has stipulated that each UPP must hold one program annually. The implications of such a determination are believed to be positive

for all parties, and it is suggested to include a special clause in the Small Estate Property Act or a special act regarding *Bona vacantia* in Malaysia. Table 3.9 below is a summary based on the provided information.

Table 3.9: Interview Summary with the Chief Deputy Director of Estate Distribution Unit, JKPTG (Perlis)

Aspect	Details
Interview Details	Puan Shafinie Binti Abd Aziz, Chief Deputy Director of the State Estate Distribution Unit in Perlis. Conducted in February 2024 with prior permission from Tuan Haji Baharuddin bin Aziz, following an interview in December 2023.
Categories of Property	Muslims and non-Muslims have the same categories of property: immovable property and movable property. <i>Bona vacantia</i> is used when there are no heirs for deceased estates.
Records of <i>Bona vacantia</i>	No specific data on files involving <i>Bona vacantia</i> , but a case was noted in UPP Kota Bharu where the federal government received the deceased's movable property. No records of property values were handed over to government bodies.
Dissemination of Information	UPP disseminates jurisdictional information through the JKPTG Portal, website, social media, and annual programmes. Each UPP holds at least one programme annually.
Administration Process	JKPTG lacks a special system for <i>Bona vacantia</i> identification; applications are processed under standard procedures. Administration aims for a 4-month turnaround under the customer charter of the Estate Distribution Section (BPP).
Proposal for Special Department	A proposal in Parliament for a Malaysian estate distribution has not yet been implemented. Support for including <i>Bona vacantia</i> in the relevant legislation for clarity.

3.4 ANALYSIS OF PRACTICE AND VALUE

In West Malaysia, management of non-Muslim estates shows clear gaps between movable and immovable property. Movable estates fall under the Unclaimed Moneys Act 1965, covering salaries, dividends, and accounts, yet the Act lacks a system to detect *bona vacantia*, with RM8.68 billion unclaimed in ten years, but none classified as such. Suggested reforms include mobile apps and legislative updates. While immovable estates are handled by the Estate Distribution Section (BPP) under the Small Estates (Distribution) Act 1955 for cases under RM2 million (as it then was). Despite over

RM119 billion managed (2015–2024), no data specifically identifies *bona vacantia*, with challenges like proving lineage and obtaining *faraid* certificates. A one-stop estate management centre (OSC), or a centralised estate management centre, is proposed to streamline administration.²⁷ However, this requires governmental approval and legal studies to reconcile different legislative requirements.

Next, the administration of *bona vacantia* for Muslims for movable and immovable estates in West Malaysia varies by state and faces several challenges. To begin with, in Kedah, the 2008 Administration of Islamic Law Enactment governs estate management, with *Baitulmal* acting as a fund. *Baitulmal* requires documentation like a death certificate for claims, often working with Amanah Raya Berhad (ARB). Issues include difficulties in tracing land, particularly for converts, and dealing with uncooperative heirs. There is a need for better cooperation with land offices, but data on transferred properties remains unavailable.

Similarly, in Kelantan, *Baitulmal* MAIK manages estates, especially for converts, managing 1,077 cases from 2000 to 2023. The total receipts for movable estates from 2020 to 2023 amounted to RM1,556,833.04. Challenges are similar, including tracing land and dealing with heirs, highlighting the need for better administrative collaboration.

Moreover, in Johor, *Baitulmal*, established by the 2003 Enactment, oversees properties without heirs, including those of converts. The administration faces legal restrictions on immovable land and sometimes requires court intervention for property disputes.

²⁷ Mushaddad Hasbullah et al., “Model Pusat Sehenti Pengurusan Harta Pusaka Islam (Faraid): The Model Of Faraid One-Stop Centre (FOSC),” *Malaysian Journal of Syariah and Law* 9, no. 1 (2021): 114-24, <https://doi.org/10.33102/mjisl.vol9no1.293>.

Lastly, in WPKL, MAIWP manages "*harta pusaka terhak*". Over the last decade, MAIWP managed 69 estates, totalling RM2.59 million, facing challenges like rights disputes and estate owner non-compliance, underscoring the need for better coordination across agencies.

Overall, while legal frameworks exist, *bona vacantia* administration remains fragmented, with significant sums unmanaged and practical difficulties across states, highlighting the need for stronger coordination and integrated systems, necessitating ongoing improvements and collaboration across various agencies.

3.5 CHAPTER SUMMARY

The administration of *bona vacantia* in Malaysia differs for Muslims and non-Muslims and faces multiple challenges. For Muslims, *Baitulmal* institutions in states such as Kedah, Kelantan, Johor, and WPKL manage estates, particularly those of converts, but issues such as tracing land, lack of data transparency, uncooperative heirs, legal restrictions, and poor coordination persist. Whereas, for non-Muslims, movable estates fall under the Unclaimed Moneys Act 1965, where RM8.68 billion remains unclaimed without classification as *bona vacantia*, while immovable estates under the Small Estates (Distribution) Act 1955 face procedural hurdles like proving lineage. Suggested reforms include mobile apps, legal amendments, and a centralised one-stop estate management centre.

Overall, both systems suffer from fragmented frameworks, a lack of transparency, limited public awareness, and administrative inefficiencies. State-specific issues such as Kedah's weak coordination, Johor's land restrictions, and WPKL's rights disputes underline the need for better integration of agencies and stronger public trust in *Baitulmal*.

Hence, the next chapter compares West Malaysia's framework with the UK and Singapore, where clearer laws, transparency, and systematic processes offer valuable lessons. Adopting best practices from these jurisdictions could improve efficiency, consistency, and cultural sensitivity in managing *bona vacantia* estates in West Malaysia.



CHAPTER FOUR

THE ADMINISTRATION OF *BONA VACANTIA* IN SINGAPORE AND THE UNITED KINGDOM

4.1 INTRODUCTION

Bona vacantia means “ownerless goods” or “vacant goods”. Under Singapore legislation, it refers to the estate of a deceased person with no valid will and no surviving next-of-kin who can inherit the estate as specified in the Civil Law Act 1909. Further, the Intestate Succession Act outlines the distribution of an intestate’s estate in various scenarios; these rules outline how an intestate’s estate is distributed based on surviving family members. If none of these rules apply, the government will acquire ownership of such assets. However, according to Section 27 of the Civil Law Act, those who possess a valid equitable or moral claim on an estate classified as *Bona vacantia* may still have the right to assert their rights and make a claim to the assets within the said estate. It is vital to point out that the application of *Bona vacantia* does not extend to Muslim properties, as they fall beyond the purview of the Civil Law Act. The distribution of Muslim estates in Singapore is governed primarily by the Administration of Muslim Law Act (AMLA).

Whereas in the United Kingdom, consisting of England, Wales, Scotland, and Northern Ireland (UK), the phrase "*bona vacantia*" is commonly used to denote a property that has no owner or could be defined differently as assets that remain unclaimed and are subsequently transferred to the Crown per legal provisions. *Bona vacantia* can also encompass the assets of a deceased individual's inheritance in the event of intestacy and the absence of traceable heirs. It also refers to the concept of ownerless land or goods, which might arise in situations where a firm undergoes

dissolution, and its assets have not been fully distributed. In other words, *Bona vacantia* refers to property that has no known owner, often arising in cases of intestacy or dissolved companies. The rules and procedures for dealing with *bona vacantia* estates are governed by different legal authorities in various parts of the UK.

In England and Wales, for instances of this nature, the Treasury Solicitor assumes the role of representing the Crown, and the responsibility for this role lies with the *Bona vacantia* division (BVD) of the Government Legal Department. If the company's last registered office and the assets are both situated in the Duchies of Cornwall or Lancaster, the matter will be managed by the solicitors for the Duchies' solicitors, Messrs. Farrer & Co. The Duchy of Cornwall comprises the County of Cornwall, while the Duchy of Lancaster comprises the County of Lancashire, most of Merseyside (except the Wirral peninsula), and parts of the counties of Greater Manchester, Cheshire, and Cumbria.

Whereas in Scotland, *bona vacantia* deals with dissolved company property (mainly dealing with monies), money remitted to the Crown by solicitors and other professions for untraceable former clients and personal estates of heirless individuals without leaving a will. The King's and Lord Treasurer's Remembrancer ("KLTR") is the Crown's representative in Scotland who deals with ownerless property.

Next, in Northern Ireland, if the dissolved company's last registered office was there, these matters are dealt with by the Crown Solicitor for Northern Ireland. It seems that ownerless property, or '*bona vacantia*', applies only to assets, not liabilities, upon dissolution of a company, resulting in the transfer of it to the Crown, according to Section 1012 of the Companies Act 2006. Nonetheless, the Crown is not required to take any specific action regarding *bona vacantia*. It can sell or disclaim property.

This study focuses on the comparability analysis of the United Kingdom and Singapore, as they share a common law system, like Malaysia. Thus, this chapter provides an overview of the relevant statutes and procedures in both Singapore and the UK and compares the administration of *bona vacantia* in Malaysia. In furtherance, this chapter will analyse the model of international best practices in the administration of *bona vacantia* estates in the United Kingdom and Singapore. Hence, it is appropriate to consider the procedures and approaches implemented by both countries as a benchmark and manual for addressing the *bona vacantia* issue in Malaysia. The objective is to draw lessons and references that can be applied to the appropriate institutions in Malaysia.

4.2 THE ADMINISTRATION OF *BONA VACANTIA* IN SINGAPORE

Singapore's modern framework for unclaimed estates (*bona vacantia*) is rooted in its historical context as a centre for Muslim traders since Raffles' arrival in 1819. In 1819, Raffles discovered upon his arrival in Singapore that the island was inhabited by Malays, who were widely believed to have long since embraced Islam.¹ The influx of traders from India, Arabia, and other regions influenced the growth of the Muslim community, notably marked by the British establishment of the Kampong Glam settlement. This settlement became a hub for Muslim traders from the Malay Peninsula, Java, the Arab world, and Hadramaut.²

Due to this history, the law treats estates differently based on faith. Non-Muslim estates become state property under Section 27 of the Civil Law Act (CLA), though legitimate next-of-kin (spouse, children, etc.) can still make a claim. Muslim estates,

¹ Tong, 2007; Evans, 1927; Shaharil Talib, 1995; Maria, Rodney & Hanafi, 2009, as cited in Feirul Maliq Intajalle and Luqman Abdullah, "Pembahagian Pusaka Islam dan Permasalahannya di Singapura (Distribution of Muslim's Estate and Issues in Singapore)," *Journal of Southeast Asian Studies* 19, no. 1 (2014): 81–101, <https://doi.org/10.22452/jati.vol19no1.6>.

² Perkins, 1984 & Hanizah, 1997 as cited in Feirul and Luqman, "Pembahagian Pusaka Islam," 81–101.

however, are explicitly excluded from this section. If no next-of-kin is found, their funds are managed in accordance with Islamic inheritance laws and directed to *Baitulmal*, which is overseen by the Islamic Religious Council of Singapore (MUIS).³ Figure 4.1 below depicts the map of Singapore.

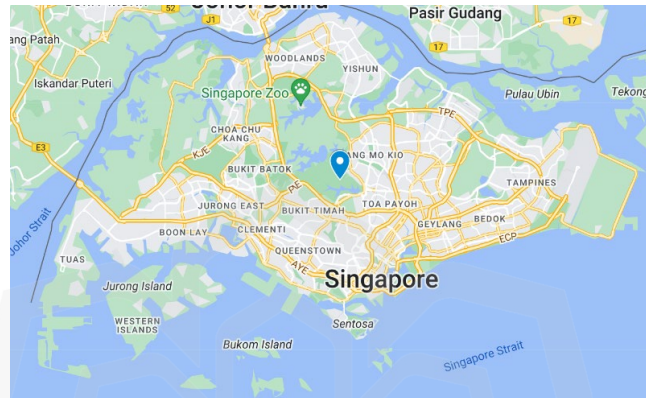


Figure 4.1: Map of Singapore
Source: www.google.com/maps

4.2.1 The Statutes

4.2.1.1 Muslim

4.2.1.1.1 Administration of Muslim Law Act 1966 (2020 Revised Edition)

This legislation is designed for the Muslim communities in Singapore, intending to establish guidelines for Muslim religious affairs. It also aims to institute a council overseeing matters related to the Muslim religion and the Syariah Court. Section 112 addresses the distribution of estates belonging to Muslims by Muslim law. If a Muslim person in Singapore passes away without a will, their estate is mandated to be distributed following Islamic law, incorporating Malay customs where relevant. This principle applies to both partial and complete intestacy scenarios. Additionally, if a

³ SingaporeLegalAdvice.com, “Bona Vacantia: Dying with No Will or Relatives in Singapore,” accessed September 15, 2024, <https://tinyurl.com/yhp97su8>.

Malay individual dies intestate, the court possesses the discretion to determine the distribution of jointly acquired property (*Harta sepencarian*). In situations where a rightful next of kin is absent, Muslim estates are directed to be transferred to *Baitulmal*, adhering to Islamic inheritance laws. The Majlis's role as executor, administrator, and trustee under Section 5(3), together with the General Endowment Fund under Section 57, further illustrates how ownerless Muslim estates are systematically managed within a religiously compliant institutional framework, providing a clear contrast to other jurisdictions like West Malaysia.

4.2.1.1.2. Civil Law Act 1909 (2020 Revised Edition)

Section 27(1) of the Civil Law Act 1909 explicitly exempts Muslim estates, ensuring their distribution remains governed by Islamic inheritance law under AMLA 1966. This legal demarcation is central to the thesis argument, as it ensures that Muslim *bona vacantia* in Singapore is insulated from the application of general civil law, thereby upholding religious autonomy. In comparative perspective, this separation highlights Singapore's dual-legal structure, aligning more closely with West Malaysia's system for Muslims, while differing from the UK's more uniform civil law treatment of *bona vacantia*.

4.2.1.1.3 Central Provident Fund Act 1953 (2020 Revised Edition) Formerly Known as Central Provident Fund Act (Chapter 36)

For Central Provident Fund (CPF) funds, the law directs unclaimed amounts to the Public Trustee. Distribution is then made under the Intestate Succession Act (for non-Muslims) or Section 112 AMLA (for Muslims). Detailed provisions are discussed under the Non-Muslim statutes. This arrangement exemplifies the careful balance between

administrative efficiency and religious compliance. It demonstrates how Singapore channels modern financial assets (like CPF savings) into the religious inheritance framework, ensuring that *bona vacantia* is not absorbed solely into state funds but remains consistent with Syariah principles.

4.2.1.1.4 Child Development Co-Savings Act 2001 (2020 Revised Edition) Formerly known as Child Development Co-Savings Act (Chapter 38a)

Unclaimed funds held in a deceased child's Child Development Account (CDA) are also channelled to the Public Trustee. Similar to CPF funds, the eventual distribution follows the specific rules outlined in Section 112 of the AMLA concerning Muslim estates. Procedural details are set out in the Non-Muslim section. From this perspective, it reflects Singapore's consistency in safeguarding the religious treatment of *bona vacantia* across different statutory savings schemes. It also highlights how the state avoids fragmentation by centralising the management of unclaimed funds under the Public Trustee, while still deferring to religious law in final distribution.

4.2.1.1.5 Education Endowment and Savings Schemes Act 1992 (2020 Revised Edition) Formerly Known as Education Endowment and Savings Schemes Act (Chapter 87a)

Next, amounts remaining unclaimed in a deceased individual's Edusave or Post-Secondary Education (PSE) accounts are similarly consolidated by the Public Trustee. Once collected, the subsequent distribution of these educational funds adheres to the existing legal distinction based on faith, where Muslim estates follow the specific directives of Section 112 of the AMLA. Further statutory explanation is provided under the Non-Muslim statutes.

In conclusion, the comparison chart below highlights how various statutes in Singapore address the distribution of ownerless property and funds for Muslims. The Civil Law Act of 1909 ensures that *Bona vacantia* (ownerless property) adheres to Muslim law. The Central Provident Fund (CPF) Act 1953 and the Child Development Co-Savings Act 2001 specify that unclaimed funds are managed by the Public Trustee and distributed according to either the Intestate Succession Act for non-Muslims or AMLA Section 112 for Muslims. Similarly, the Education Endowment and Savings Schemes Act 1992 outlines procedures for distributing unclaimed Edusave and PSEA funds, with AMLA Section 112 governing the distribution for Muslims. This ensures that the disposal of unclaimed property and funds respects Islamic inheritance laws.

The relevance to the thesis lies in demonstrating how Singapore adopts a uniform mechanism for handling unclaimed statutory funds across various schemes, while maintaining a dual-legal structure for Muslims and non-Muslims. This dual approach illustrates the state's effort to ensure administrative uniformity without undermining religious law. The following Figure 4.2 is the illustration of the governing laws for *Bona vacantia* administration for Muslim estates in Singapore.

Comparison Chart

Statute	Scope	Bona Vacantia Provisions for Muslims
Administration of Muslim Law Act 1966 (AMLA)	Distribution of estates belonging to Muslims	<ul style="list-style-type: none"> Section 112 governs distribution of estates without a will or surviving next-of-kin. Unclaimed Muslim estates are transferred to Baitulmal, following Islamic inheritance laws.
Civil Law Act 1909 (2020 Revised Edition)	Bona Vacantia	<ul style="list-style-type: none"> Section 27(1) of the section stipulates on Bona vacantia. It specifies that it does not affect the disposal of any property according to Muslim law
Central Provident Fund (CPF) Act 1953	Distribution of CPF savings	<ul style="list-style-type: none"> Subsection 2 of section 25 directs unclaimed funds to the Public Trustee. Distribution follows either the Intestate Succession Act (non-Muslims) or AMLA Section 112 (Muslims).
Child Development Co-Savings Act 2001	Distribution of Child Development Co-Savings (CDCS) funds	<ul style="list-style-type: none"> Section 6 outlines procedures for handling funds upon a member's death. Unclaimed CDCS funds are transferred to the Public Trustee for distribution according to AMLA Section 112 for Muslims.
Education Endowment and Savings Schemes Act 1992	Distribution of Edusave and PSE funds	<ul style="list-style-type: none"> Section 18 (Edusave) and Section 27 (PSE) outline procedures for distributing funds upon a member's death. Unclaimed Edusave/PSE funds are transferred to the Public Trustee for distribution based on applicable laws. For Muslims, AMLA Section 112 governs distribution.

Figure 4.2: Overview of Statutes and Provisions for Administration of Muslim Estates in Singapore

4.2.1.2 Non-Muslim

4.2.1.2.1 Civil Law Act 1909 (2020 Revised Edition)

Under Section 27 of the Civil Law Act of 1909, the provision dictates that the government acquires *bona vacantia* (unclaimed property) of non-Muslims. This applies when a person dies intestate without a next of kin or when property is disposed of under specified laws. The acquired estate or property, excluding land, or the proceeds from the sale of land, becomes part of the Consolidated Fund.

The minister has the authority to release this right to individuals with valid equitable or moral claims. The release can involve granting, conveying, transferring, or paying out the estate or property, as deemed appropriate by the minister. Once released, the specified amounts of money are charged to the Consolidated Fund, and movable property vests in the claimant(s) without further conveyance. If the release includes land owned by the state, the warrant permits a grant or lease to be made following the State Lands Act of 1920. Importantly, the disclaimer and release can occur without the

government physically taking possession of the property. Civil Law (*Bona vacantia* Laws) Order 2013.

In exercise of the powers conferred by section 27(1)(b) of the Civil Law Act, the Minister for Law may enact the following Order, which took effect on the 15th of February 2013. The Order governs the prescribed laws under which property may accrue *bona vacantia*, namely Sections 24(3A) and 25 of the Central Provident Fund Act (Cap. 36); Section 6 of the Child Development Co-Savings Act (Cap. 38A); and Sections 16 and 16H of the Education Endowment and Savings Schemes Act (Cap. 87A) (currently governed by Sections 18 and 27 of the Education Endowment and Savings Schemes Act 1992). This underscores the central role of state authority in handling unclaimed estates, while also illustrating a built-in mechanism for discretionary justice. It parallels the West Malaysian framework, where the government similarly claims such estates, but reveals a more structured discretionary release power in Singapore, which raises questions of fairness, efficiency, and accountability.

4.2.1.2.2 Civil Law (*Bona vacantia* Laws) Order 2013

The prescribed laws under which property may accrue as *bona vacantia* for section 27(1)(b) of the Act include sections 24(3A) and 25 of the Central Provident Fund Act (Cap. 36), section 6 of the Child Development Co-Savings Act (Cap. 38A), and sections 16 and 16H of the Education Endowment and Savings Schemes Act (Cap. 87A). Its significance lies in how it consolidates the administration of various funds into a uniform framework, thereby enhancing clarity and predictability. In contrast to West Malaysia, where statutory fragmentation sometimes complicates administration, Singapore's use of subsidiary legislation to harmonise the system demonstrates a more comprehensive and streamlined legal framework.

4.2.1.2.3 Central Provident Fund Act 1953 (2020 Revised Edition) Formerly Known as Central Provident Fund Act (Chapter 36)

Unclaimed CPF balances of a deceased member, whether Muslim or non-Muslim, are transferred to the Public Trustee. Section 24 specifically addresses the safeguarding of benefits. Subsection (3A) provides that, unless otherwise stated in subsection (3B) or in other relevant sections and regulations, all funds disbursed from the Fund upon a member's death are to be held in trust. This trust benefits either the nominee designated by the deceased under Section 25(1) or, where there is no nominee, the person entitled under Section 25A(1) for payment to the Public Trustee. Crucially, these funds are excluded from the deceased member's estate and are not subject to their debts, while the application of the Estate Duty Act 1929 remains unaffected.

Further, subsection (2) of Section 25, which governs payments upon a member's death, makes clear that the same rule applies to both Muslim and non-Muslim members. Where no nominee has been designated under subsection (1), the full sum payable from the Fund must be transferred to the Public Trustee. Distribution then differs only by statute: for non-Muslims, it is made under the Intestate Succession Act 1967, while for Muslims, it follows Section 112 of the Administration of Muslim Law Act 1966.

This dual-track system focuses on religious distinctions in inheritance law, especially when compared with West Malaysia, where Muslim estates are managed under Syariah law and non-Muslim estates under civil succession laws. It highlights Singapore's pragmatic model of uniform fund transfer but differentiated distribution, which provides a useful point of comparative analysis.

4.2.1.2.4 Child Development Co-Savings Act 2001 (2020 Revised Edition) Formerly Known as Child Development Co-Savings Act (Chapter 38a)

This legislation represents another provision under the Civil Law (*Bona vacantia* Laws) Order 2013, where property may be regarded as *bona vacantia*. Section 6, which governs the disbursement of funds upon a member's death, provides that all balances in the member's bank account are to be transferred to the Public Trustee. The Public Trustee is then responsible for distribution according to the deceased's religious status: under the Intestate Succession Act 1967 for non-Muslims, or under Section 112 of the Administration of Muslim Law Act 1966 for Muslims. Thus, the Act applies uniformly to all members, with the mode of distribution differing only by statute.

The Public Trustee's receipt constitutes a valid discharge for the Minister and managing agent, releasing them from liability for the transferred funds. Moreover, the funds are deemed to be held in trust for the beneficiaries identified by the Public Trustee, are not considered part of the deceased's estate, and are exempt from debts, subject only to the Estate Duty Act 1929. By routing unclaimed balances to the Public Trustee, this Act ensures consistency in the handling of members' assets while maintaining the dual distribution mechanism. Its relevance indicates how Singapore embeds *bona vacantia* principles into welfare-related savings schemes, safeguarding beneficiaries and insulating funds from debts. Compared to West Malaysia, where such welfare-linked funds are less prominent in succession frameworks, this reflects a more integrated statutory approach.

4.2.1.2.5 Education Endowment and Savings Schemes Act 1992 (2020 Revised Edition)
Formerly Known as Education Endowment and Savings Schemes Act (Chapter
87a)

Alongside the Central Provident Fund Act and the Child Development Co-Savings Act, the Education Endowment and Savings Schemes Act 1992 is the final statute governing the accrual of *bona vacantia* property under Section 27(1)(b) of the Civil Law Act 1909. It regulates the distribution of balances from Edusave and PSE accounts upon a member's death and, like the other statutes, applies equally to both Muslim and non-Muslim members, with distribution differing only by statute.

In the case of Edusave accounts, the entire balance is transferred to the Public Trustee, who distributes it under the Intestate Succession Act for non-Muslims or the Administration of Muslim Law Act for Muslims. The Public Trustee's receipt serves as valid confirmation of transfer, releasing the Edusave Scheme Administrator from liability. The funds are deemed to be held in trust, excluded from the deceased's estate, and exempt from debts save those specified in the Estate Duty Act.

Similarly, for PSE accounts, the full balance is transferred to the Public Trustee, who distributes it according to the same statutory framework: the Intestate Succession Act for non-Muslims and Section 112 of the Administration of Muslim Law Act for Muslims. Upon transfer, the PSE account is closed, and the member's participation in the scheme is terminated. Equally with Edusave, the Public Trustee's receipt constitutes a valid discharge of liability, and the funds are treated as trust property, excluded from the estate, and exempt from debts except under the Estate Duty Act.

In conclusion, the Central Provident Fund Act, the Child Development Co-Savings Act,⁴ and the Education Endowment and Savings Schemes Act⁵ collectively establish a uniform mechanism: upon a member's death, unclaimed balances are transferred to the Public Trustee, who then distributes them based on the deceased's religion. The distinction lies solely in the governing statute of distribution, while the safeguards of trust, exemption from estate debts, and recognition under the Estate Duty Act apply consistently across all members. It reinforces the argument that Singapore's framework is comprehensive and uniform across multiple statutory savings schemes. By contrast, West Malaysia's lack of similar statutory consolidation suggests gaps in the scope of *bona vacantia* administration, particularly in the treatment of modern financial schemes. Figure 4.3 below shows the comparison chart of Edusave Pupil Funds and PSE Funds for non-Muslims in Singapore.

⁴ See Section 6 — (1) Where a member dies, the moneys standing to his or her credit in his or her bank account must be paid to the Public Trustee for disposal in accordance with —
(a) the Intestate Succession Act 1967, if the member was not a Muslim at the time of death; or
(b) section 112 of the Administration of Muslim Law Act 1966, if the member was a Muslim at the time of death.

⁵ See Sections 18— (1) Where a member of the Edusave Pupils Fund dies, the total amount standing to the member's credit in his or her Edusave account must be paid to the Public Trustee for disposal in accordance with —

(a) the Intestate Succession Act 1967, if the member was not a Muslim at the time of death; or
(b) section 112 of the Administration of Muslim Law Act 1966, if the member was a Muslim at the time of death.

and see also Section 27 — (1) Where a member of the PSE Fund dies, the total amount standing to the member's credit in his or her PSE account must be paid to the Public Trustee for disposal in accordance with —

(a) the Intestate Succession Act 1967, if the member was not a Muslim at the time of death; or
(b) section 112 of the Administration of Muslim Law Act 1966, if the member was a Muslim at the time of death.

Feature	Edusave Pupil Funds	PSE Funds
Target Age	7-16 years old	16-30 years old
Group Funding Sources	Government contributions, parent contributions, and other sources	Unused Edusave funds upon reaching age 16, individual contributions, and government grants
Account Closure	Upon reaching age 17 or leaving an MOE-funded school	In the middle of the year when the individual turns 31 years old
Value for money	High, covers co-curricular activities, learning materials	High, covers tuition fees, living expenses, and other post-secondary education needs
Bona Vacantia	Distributed according to the Intestate Succession Act	Distributed according to the Intestate Succession Act

Figure 4.3: Comparison between Edusave Pupil Funds and PSE Funds for non-Muslims

4.2.1.2.6 Intestate Succession Act 1967 (Formerly Known as Intestate Succession Act (Chapter 146))

Section 7 governs the distribution of intestate estates for non-Muslims, prioritising spouses, children, parents, and extended family. If no relatives qualify under Rules 1–8, Rule 9 provides that the estate passes to the government as *bona vacantia*. This ensures an orderly and equitable system of succession with the state as the ultimate heir. In relation to this, the Act reflects Singapore’s structured and comprehensive approach, offering a clear contrast to the procedural gaps and fragmentation in West Malaysia’s intestacy framework. Its clear rules create certainty and fairness in distribution, aligning with the thesis’s focus on ensuring order in *bona vacantia* administration. In comparison, West Malaysia’s intestacy laws for non-Muslims (Distribution Act 1958) also funnel unclaimed estates to the government, but differences in procedural clarity and comprehensiveness emerge. This Act demonstrates Singapore’s structured approach, which could inform reforms in West Malaysia.

4.2.1.2.7 Public Trustee Act 1915 (Formerly Known as Public Trustee Act (Chapter 260))

Section 4 vests the Public Trustee with the authority to administer *bona vacantia* estates under the Ministry of Law. The Trustee acts as a general estate administrator, court-appointed trustee, or in roles delegated by the Minister, including under statutes such as the Mental Capacity Act 2008 and the Deposit Insurance and Policy Owners' Protection Schemes Act 2011. This centralises management of unclaimed estates and related functions. In the thesis context, the Act highlights Singapore's efficiency in consolidating *bona vacantia* administration, contrasting with the more fragmented West Malaysian system that involves multiple bodies such as Amanah Raya Berhad and State Islamic Religious Councils. The Singaporean model presents a more coherent and accessible system, offering lessons for improving Malaysia's fragmented framework. The following Table 4.1 summarises all the statutes governing *bona vacantia* in Singapore for non-Muslims.

Table 4.1: Overview of Statutes and Provisions for Administration of Non-Muslim Estates in Singapore

STATUTE	KEY ASPECTS
CIVIL LAW ACT 1909 (2020 REVISED EDITION)	<ul style="list-style-type: none"> ✓ The government acquires <i>bona vacantia</i> of non-Muslims when a person dies intestate without next of kin or when property is disposed of under specified laws. ✓ Acquired estate becomes part of the Consolidated Fund. ✓ The minister has the authority to release this right to individuals with valid equitable or moral claims. ✓ Does not affect the disposal of property according to Muslim law.
CIVIL LAW (BONA VACANTIA LAWS) ORDER 2013	<ul style="list-style-type: none"> ✓ Order under section 27(1)(b) of the Civil Law Act. ✓ Governs prescribed laws under which property may accrue <i>bona vacantia</i>. ✓ Prescribed laws include Sections 24(3A) and 25 of the Central Provident Fund Act, Section 6 of the Child Development Co-Savings Act, and Sections 16 and 16H of the Education Endowment and Savings Schemes Act. ✓ Sections 18 and 27 of the Education Endowment and Savings Schemes Act 1992 are currently governed.
CENTRAL PROVIDENT FUND ACT 1953 (2020 REVISED EDITION)	<ul style="list-style-type: none"> ✓ Property may accrue <i>bona vacantia</i> according to the Civil Law (<i>Bona vacantia</i> Laws) Order 2013. ✓ Section 24 safeguards benefits and funds held in trust for nominated or entitled persons.

	<ul style="list-style-type: none"> ✓ Funds are not part of the deceased member's estate or subject to debts. ✓ Funds are transferred to the Public Trustee in cases of no designated individual, managed according to relevant laws.
CHILD DEVELOPMENT CO-SAVINGS ACT 2001 (2020 REVISED EDITION)	<ul style="list-style-type: none"> ✓ Property may be considered <i>bona vacantia</i> under the Civil Law (<i>Bona vacantia</i> Laws) Order 2013. ✓ Section 6 addresses fund disbursement upon a member's death. ✓ Funds are transferred to the Public Trustee for proper distribution. The Public Trustee's receipt serves as a valid discharge for the minister and managing agent. ✓ Disbursed funds held in trust for designated persons, exempt from the deceased member's estate debts.
EDUCATION ENDOWMENT AND SAVINGS SCHEMES ACT 1992 (2020 REVISED EDITION)	<ul style="list-style-type: none"> ✓ Governs the accrual of <i>bona vacantia</i> property for section 27(1)(b) of the Civil Law Act 1909. - Addresses fund disbursement upon a member's death. ✓ Funds are transferred to the Public Trustee for proper distribution. ✓ The Public Trustee's receipt serves as a valid discharge for the minister and managing agent. ✓ Disbursed funds held in trust for designated persons, exempt from the deceased member's estate debts.
INTESTATE SUCCESSION ACT 1967	<ul style="list-style-type: none"> ✓ Section 7 provides for <i>bona vacantia</i> estates of non-Muslims who die intestate without heirs. ✓ Rules 1 to 8 prioritise the entitlements of surviving spouses, issues, parents, and extended family members based on various scenarios. ✓ Rule 9 designates the government as the ultimate heir in the absence of eligible beneficiaries. ✓ Rules establish a structured framework for the fair and orderly distribution of an intestate's estate.
PUBLIC TRUSTEE ACT 1915	<ul style="list-style-type: none"> ✓ Section 4 affirms that public trustees manage <i>bona vacantia</i> estates and conduct their functions at the Public Trustee's Office under the Ministry of Law. ✓ A public trustee has general powers and duties to administer estates, function as an ordinary trustee, and be appointed as a trustee by a court. ✓ The Public Trustee can undertake specific functions and duties assigned by the Minister, such as those related to victims of motor accidents, acting as a deputy under the Mental Capacity Act 2008, and handling roles defined in the Deposit Insurance and Policy Owners' Protection Schemes Act 2011. ✓ The Public Trustee is empowered to manage functions and duties related to <i>bona vacantia</i> resulting from the death of natural persons, as delegated by the Minister.

4.2.2 The Procedural Aspect

Bona vacantia, a Latin term meaning "vacant goods", is a legal concept that applies when a person dies without leaving a will (intestate) and without any surviving entitled next-of-kin. According to Islamic law, known as Shariah, the assets of a deceased Muslim should be distributed among their heirs following specific rules and guidelines. In such cases, the assets of the deceased person's estate become *bona vacantia* and, in the case of Singapore, go to the Public Trustee. The Public Trustee's Office (PTO) in

Singapore is responsible for administering the estates of deceased persons who die intestate and without any entitled next-of-kin. The PTO also manages claims against *bona vacantia* estates. However, for Muslims, the Islamic Religious Council of Singapore (MUIS) plays a crucial role in managing *Bona vacantia* assets related to the Muslim community. The Islamic Religious Council of Singapore (MUIS) is authorised under the Administration of Muslim Law Act 1966 (2020 Revised Edition). This dual approach reflects Singapore's structured division of roles between civil and religious authorities, a contrast with the more fragmented West Malaysian system

4.2.2.1 Muslims

In the context of the Muslim community, *Bona vacantia* holds particular significance as it relates to the distribution of unclaimed assets of deceased Muslims who do not have any immediate heirs or beneficiaries. Moreover, Section 27(6) of the Civil Law Act 1909 specifically excludes Muslim estates. The distribution of an estate may result in a share being allocated to *Baitulmal*, a fund managed by MUIS. In cases where the deceased left no rightful beneficiaries, the entire assets shall belong to *Baitulmal* except for those specifically bequeathed through a valid will.⁶

In Singapore, the Islamic Religious Council of Singapore (MUIS) plays a crucial role in managing *Bona vacantia* assets related to the Muslim community. The Islamic Religious Council of Singapore (MUIS), as authorised in the Administration of Muslim Law Act 1966 (2020 Revised Edition), is responsible for safeguarding and managing the unclaimed assets of deceased Muslims, ensuring that they are distributed following Shariah principles. When a Muslim individual passes away, the process of distributing

⁶ Singapore Legal Advice, "Muslim Inheritance Law in Singapore," accessed July 8, 2020, <https://tinyurl.com/3u3twrrs>.

their estate is governed by Islamic inheritance laws, known as *Faraid*. The next-of-kin or a legal representative must apply for an Inheritance Certificate through the Syariah Court's website. This application includes providing the names of all potential heirs and declaring the deceased's school of thought (*madhab*). The court then grants the next-of-kin the inheritance certificate, which indicates the full names of all the deceased's beneficiaries and their respective shares.

By referring to MUIS's official website, in situations where there are no eligible Muslim heirs, *Baitulmal* becomes the sole beneficiary. This can occur in cases such as Muslim converts without Muslim family members or when children are born out of wedlock or from civil marriages. *Baitulmal* needs to obtain the Grant of Letters of Administration from the Singapore Family Justice Court to administer the deceased's estate. Once authorised, *Baitulmal* can administer and liquidate the estate, including assets such as properties, bank savings, insurance, investments, vehicles, and Central Provident Fund (CPF) savings.

The following infographic, as contained in Figure 4.4, is taken from the website and provides a comprehensive guide on managing the Muslim estates after their demise. It outlines each step that needs to be taken, starting from obtaining important documents, figuring out the deceased's property, and giving those things to the right people, as the will or inheritance document says. Additionally, it highlights the various institutions and legal entities that one may need to engage with during this process, such as the National Environment Agency (NEA), Syariah Court, and the Ministry of Home Affairs. In certain instances, seeking assistance from the Public Trustee's Office might also be necessary to ensure the smooth running of the process. Figure 4.4 is illustrated as follows.

ADMINISTERING AN ESTATE		
STEPS	WHAT TO DO?	WHO TO CONTACT?
STEP 01 Upon Death	1. Settle Burial 2. Settle Debts 3. Settle Zakat, Kafarah or penalty of oath	
STEP 02	Obtain Death Certificate	1. NEA 2. Hospital 3. MHA**
STEP 03	Obtain Inheritance Certificate (IHC)	1. Syariah Court
STEP 04	Determine Assets	HDB/ CPF / IPTO* Insurance / Jewellery Cash/Bank / Vehicles
STEP 05	Obtain Grant Letter of Administration (GLA) / Probate	1. Appoint a lawyer 2. Renunciation Deed of Undertaking 3. Retrieve Will
STEP 06	Liquidate/ Retrieve Assets	1. Property agents 2. Insurance 3. Banks
STEP 07	Disburse Funds	1. Give beneficiaries share as per IHC 2. Distribute Will 1/3 3. Nuzriah 4. Baitulmal
STEP 08	Appeal	1. *Baitulmal's share

* IPTO - PUBLIC TRUSTEE'S OFFICE, MINISTRY OF LAW
** MHA - MINISTRY OF HOME AFFAIRS

Figure 4.4: Steps for Muslim Estate Administration
(source: <https://www.muis.gov.sg/-/media/Files/OOM/Resources/Faraidh.pdf>)

Before *Baitulmal* could become the sole beneficiary for the ownerless or heirless share, two (2) types of Faraid heirs were entitled to inherit the deceased's estate. The primary heirs are the Quranic heirs (*Ashabul Furud*), such as the person's wife or husband, mother, and daughter. The next in line are the residual beneficiaries (*Asabah*), who receive the residue of the estate after the Quranic heirs have taken their shares. They include the son, son's son, full brother, and consanguine brother. In *Faraid's* rules, males will inherit twice the female shares. If no rightful heirs are left to acquire from the estate, the remaining shares will be transferred to *Baitulmal*.

The following chart, labelled as Figure 4.5, is also taken from MUIS's official website⁷ and acts as an easy guide to illustrate the *faraid* heirs. The illustration is as follows.



Figure 4.5: *Faraidh* Heirs

Next, *Baitulmal* must obtain the Inheritance Certificate to be entitled to share in the ownerless estate of the deceased person. This certificate is crucial for the distribution of the deceased's estate among the *faraid* beneficiaries and may be required by the Public Trustee or for applications for Grants of Letters of Administration or Probate at the Family Justice Courts. *Baitulmal*'s application process is facilitated by their understanding of *faraid*, the Islamic law on inheritance. The step-by-step guide is based on the explanation given on the Syariah Court Singapore website at syariahcourt.gov.sg, and it is illustrated as follows under Table 4.2.

⁷ Majlis Ugama Islam Singapura, "Faraidh: The Islamic Law of Inheritance," accessed May 9, 2022, <https://www.muis.gov.sg/-/media/Files/OOM/Resources/Faraidh.pdf>.

Table 4.2: Procedure for Obtaining an Inheritance Certificate for *Baitulmal*

STEP	DESCRIPTION	DETAILS	TIMELINE
1. Eligibility	Verify <i>Baitulmal</i> 's eligibility to apply.	<i>Baitulmal</i> , acting on behalf of a deceased Muslim person's estate, is eligible to apply for an Inheritance Certificate.	Immediate
2. Required Documents	Gather necessary documents.	Documents include the deceased's death certificate and proof of <i>Baitulmal</i> 's relationship to the deceased or role as estate administrator.	1-3 days
3. Application Submission	Apply online.	Use CorpPass to access the Syariah Court Portal (SYC Portal) and submit the application.	Online, instant
4. Statutory Declaration (SD)	Complete and affirm the Statutory Declaration.	Download the SD template from the SYC Portal, complete it, affirm it before a Commissioner for Oaths, and upload the affirmed SD back to the portal.	1 day
5. Verification and Payment	Application processing and payment.	Application processed within 3 working days. Payment of SGD 34.00 is to be made within 7 days of approval via PayNow or eNETS/credit card.	3 days for processing, 7 days for payment
6. Inheritance Certificate Issuance	Issuance of the Inheritance Certificate.	The certificate is issued through the SYC Portal in a downloadable PDF format, available within 14 days of successful payment.	Available for download within 14 days
7. Extracting the Certificate	Apply to extract the certificate if missed.	If the certificate is not downloaded within the 14-day availability period, <i>Baitulmal</i> must apply to extract the certificate.	Apply if missed within the 14-day availability period

Based on the data obtained through email from Puan NurSyakirah Bte Ismadi, an Executive of the *Baitulmal* Community Funds Strategic Unit at the Islamic Religious Council of Singapore (MUIS), she expressed regret for being unable to answer some questions and provide specific figures or statistics. However, she provided a summary of the role of *Baitulmal* in Singapore and suggested referring to MUIS's annual reports⁸ for more detailed information. By referring to the Muis Annual Reports 2021, 2022 and 2023 about the *Baitulmal* Fund (General Endowment Fund), the report details the financial activities, related party transactions, the overall capital structure of the fund

⁸ Majlis Ugama Islam Singapura, "Annual Reports," accessed January 30, 2024, <https://www.muis.gov.sg/Media/Annual-Reports>.

and the status of the *Baitulmal* Fund. It includes the statement of financial position, income, and changes in equity for the *Baitulmal* Fund, where Majlis Ugama Islam Singapura (MUIS) manage the fund. In general, the operating income from the “Inheritance from Muslim estates” has shown notable fluctuations over the past few years. In 2023, the income was \$4,314,000, slightly lower than the \$4,915,000 recorded in 2022. This followed a significant increase from \$2,420,000 in 2021, which itself was a modest rise from \$2,331,000 in 2020. These figures, however, have no explicit reference solely to *Bona vacantia* within the provided context. There is no specific information regarding *Bona vacantia* or ownerless assets within the *Baitulmal* Fund concerning the financial statements contained in the Reports. Such details, if present, would be disclosed. The reports provided do not contain such details.

In conclusion, Singapore adheres to general procedures for *bona vacantia* administration under the *Baitulmal Fund*. When a Muslim passes away without a will and has no surviving next-of-kin, their assets are then transferred to *Baitulmal* under the *Baitulmal* Fund (General Endowment Fund). The organisation is tasked with managing the Muslim community's assets. Unlike the provisions under the Civil Law Act, no individual can make equitable or moral claims on these Muslim estates. The Islamic Religious Council of Singapore (MUIS) administers the administration of *Baitulmal*, ensuring that the assets are managed and distributed following Islamic principles. The assets are utilised for charitable purposes within the Muslim community, such as aiding the needy, supporting educational endeavours, and fostering community development initiatives. In conclusion, Singapore’s *Baitulmal* procedures ensure that Muslim *bona vacantia* assets are managed according to Shariah, without scope for equitable or moral claims as under the Civil Law Act for non-Muslims. This highlights a stricter, religion-

based approach that serves as a strong contrast to West Malaysia's mixed system, where overlapping authorities sometimes create uncertainty.

4.2.2.2 Non-Muslims

In Singapore, "*bona vacantia*" refers to "ownerless goods" and applies to deceased individuals who pass away without a valid will and no surviving next-of-kin with the legal right to inherit. According to the Public Trustee's Office (PTO) website, when an individual dies without a will and has no surviving next-of-kin eligible to inherit their estate, their assets are classified as *bona vacantia*, meaning they are ownerless and can be claimed by those who demonstrate a legitimate interest.⁹

The website outlines the process for recovering unclaimed monies held by the Public Trustee's Office (PTO) in Singapore. It provides a step-by-step guide for individuals who believe they have funds due to them, including searching for relevant listings, noting important details like the payee's name and year paid, and contacting the PTO with proof of ownership. The article details the types of unclaimed monies available for recovery, such as those from deceased estates (*bona vacantia*), motor accident compensations, and funds held in trust for minors. Additionally, it includes contact information for the PTO and directs readers to their website for further resources and details on required documentation for claims. Notably, the website has also made available a PDF file that includes the updated list of *Bona vacantia* estates under Unclaimed Monies held by the Public Trustee.

⁹ Ministry of Law, Singapore. "Claims against Bona Vacantia Estates," Ministry of Law, Singapore, accessed September 15, 2023, <https://pto.mlaw.gov.sg/deceased-cpf-estate-monies/claims-against-bona-vacantia-estates/>.

Anyone, including charities and other bodies, can claim the *bona vacantia* estate of the deceased. The claimant must be able to produce the necessary documents and evidence required to support their claim. The PTO will assess the claim based on several factors, including the length and nature of the relationship between the deceased and the claimant, the deceased's obligations towards the claimant, the claimant's behaviour towards the deceased, and the deceased's last wishes. If the deceased has an entitled next-of-kin but they do not wish to deal with or claim the estate, no claim can be made. This is because the deceased is survived by a next-of-kin entitled to a share in the estate, and the estate will not be considered *bona vacantia*.

However, before the Public Trustee considers a claim, the claimant must establish that the deceased has no surviving next-of-kin entitled to inherit the estate under the Intestate Succession Act (Cap. 146). Following this, an application can be submitted to the Public Trustee, which involves a \$50 application fee and potential additional administration fees if the Public Trustee also manages the estate. To avoid delays, claimants should also provide information about the deceased's assets, including their estimated values. While filing a claim has no time limit, it can only be submitted after a waiting period has elapsed. The waiting period before the Public Trustee can act on an estate ensures that rightful heirs have enough time to stake their claim. The Public Trustee can manage estates worth up to \$50,000 if certain conditions are met, such as no pending legal applications related to the estate, no debts, and no complex assets like commercial vehicles, trust accounts with minors, certain insurance policies, shares in private companies, or HDB flats with minor interests. Additionally, there should be no ongoing disputes or lawsuits involving the deceased.

If the Minister of Law approves a claim on an estate without a will or known heirs (*bona vacantia*), the Public Trustee prepares a warrant for the Minister to sign,

which then allows the transfer of the estate to the claimant. However, if the estate is valued over \$50,000, includes real estate, or does not meet the criteria, the claimant must hire a lawyer to obtain Letters of Administration to manage the estate themselves. In such cases, the government will renounce its right to administer the estate, allowing the claimant to proceed. Table 4.3 below illustrates the procedure on how to claim a *Bona vacantia* estate in Singapore.¹⁰

Table 4.3: Procedure for Making a Claim of a Non-Muslim's Estate

Estate Value	Steps to Make a Claim
≤ \$50,000	1. Claim through the Public Trustee.
	2. The Public Trustee puts up a warrant for the Minister of Law to sign after estate administration is completed.
	3. If the claim is successful, the assets are transferred to the claimant.
> \$50,000	1. Apply for a Grant of Letters of Administration to administer the estate.
	2. Advertise the deceased's death in a major English-language and a major vernacular newspaper, inviting creditors and next-of-kin to claim.
	3. Include proof of a reasonable search for potential next-of-kin and results of a probate search in the application.
	4. Submit newspaper advertisements and probate search results to the Public Trustee.
	5. After estate administration, inform the Public Trustee to put up a warrant for the Minister of Law to sign for asset transfer.

The following Table 4.4 below highlights the differences in legal frameworks, administration authorities, claim processes, estate management, and legal oversight between Muslims and non-Muslims regarding *Bona vacantia* in Singapore.

Table 4.4: Comparison of Estate Administration for Muslims and Non-Muslims in Singapore

Aspect	Muslims	Non-Muslims
Legal Framework	Governed by Shariah principles and the Administration of Muslim	Governed by the Intestate Succession Act (Cap. 146) and the processes

¹⁰ SingaporeLegalAdvice.com, "Bona Vacantia: Dying with No Will or Relatives in Singapore."

	Law Act 1966 (2020 Revised Edition).	outlined by the Public Trustee's Office (PTO).
Administration Authority	The Islamic Religious Council of Singapore (MUIS) administers and manages the unclaimed assets of deceased Muslims.	The Public Trustee's Office (PTO) is responsible for administering the estates of deceased non-Muslims who die intestate and without any entitled next-of-kin.
Claimants	Next-of-kin or legal representatives apply for an inheritance certificate through the Syariah Court's website.	Anyone, including charities and other bodies, can claim the <i>bona vacantia</i> estate of the deceased.
Claim Process	Next-of-kin apply for an inheritance certificate indicating the beneficiaries and their respective shares. <i>Baitulmal</i> may become the sole beneficiary in the absence of eligible heirs.	Claimants establish the absence of surviving next-of-kin entitled to inherit. The PTO assesses the claim based on numerous factors and prepares a warrant for the minister's signature if approved.
Estate Management	<i>Baitulmal</i> administers and liquidates the estate, including properties, bank savings, insurance, investments, vehicles, and Central Provident Fund (CPF) savings.	PTO manages estates worth up to \$50,000 if certain conditions are met. If the estate is valued over \$50,000 or includes real estate, the claimant must obtain Letters of Administration to manage the estate themselves.
Legal Oversight	They are governed by Islamic inheritance laws (<i>Faraidh</i>) and legal frameworks to ensure adherence to Shariah principles.	It is governed by the Intestate Succession Act and legal frameworks to ensure transparency and adherence to legal procedures.

4.2.3 The Issues

4.2.3.1 Distinct Legal Frameworks for Muslim and Non-Muslim Estates

The administration of non-Muslim estates in Singapore is governed by the Civil Law Act (Cap. 43), which includes provisions on intestate succession, probate, and claims against *bona vacantia* estates. This act outlines the legal procedures for managing such estates.

As compared with Muslims, the Administration of Muslim Law Act (AMLA) regulates the administration of estates, which are overseen by the Syariah Court. The Syariah Court issues an Inheritance Certificate, detailing the beneficiaries and their respective shares of the inheritance according to Muslim law. This distinction highlights the separate legal frameworks for managing Muslim and non-Muslim estates.

4.2.3.2 Eligibility for Bona vacantia: Differences for Muslims and Non-Muslims

“*Bona vacantia*” occurs when a person dies intestate (without a will) and has no living relatives eligible to inherit the estate. For non-Muslims, the Intestate Succession Act specifies the entitled relatives, including the spouse, children, parents, siblings, grandparents, uncles, aunts, and the spouse’s parents and siblings.

Whereas, for Muslims, the determination of eligible relatives is based on the Syariah law of *faraid*. This law applies to all Muslims domiciled in Singapore who have passed away after July 1, 1968, except those who have renounced Islam. This distinction underscores the different legal frameworks for inheritance based on religious affiliation.

4.2.3.3 Conflicting Distribution Paths for Bona Vacantia Estates

For non-Muslim estates, assets deemed as *bona vacantia* are transferred to the government unless someone can make an equitable or moral claim. This claim is based on a reasonable expectation that the deceased would have left the assets to them, considering factors like the significance of their relationship and the care provided to the deceased.

In contrast, Muslim estates are distributed according to the proportions specified in the Inheritance Certificate, based on the Syariah law of *faraid*. This law considers numerous factors, including the number of beneficiaries, their gender, the degree of kinship, and the presence of other heirs, highlighting the distinct legal frameworks for estate distribution.

4.2.3.4 Varying Processes for Claims Against Bona vacantia Estates

There are distinct procedures for filing claims against *bona vacantia* estates for Muslim and non-Muslim estates. For non-Muslim estates, the Public Trustee’s Office, a

statutory entity within the Ministry of Law, manages the claims. Claimants must provide the necessary proof to establish their claim and demonstrate that the deceased has no surviving relatives entitled to the estate. A fee of \$25 is required for each claim, which is then individually assessed by the Public Trustee's Office to determine whether to grant, partially grant, or reject the claim.

However, for Muslim estates, the Syariah Court, responsible for issuing the Inheritance Certificate, manages the claims. Claimants must apply for a review of the Inheritance Certificate and submit all relevant documents and evidence to support their claim. The Syariah Court will review the claim and make any necessary adjustments to the Inheritance Certificate if required.

4.2.3.5 Religious Affiliation May Result in Conflicting Outcomes

The differing laws governing the administration of Muslim and non-Muslim estates in Singapore can lead to different outcomes for similar cases. For example, if a person dies intestate (without a will) and has no eligible relatives, the assets of a non-Muslim will revert to the government. In contrast, for a Muslim, the assets will be distributed to *Baitulmal*, administered by MUIS, which acts as a trustee for Muslims and uses the assets for charitable purposes.

Another example is when a person dies intestate and is survived by a spouse and a child. For non-Muslims, the estate is divided equally between the spouse and the child. However, for Muslims, the distribution follows the Syariah law of *faraid*, where the husband receives one-fourth of the estate, and the child receives three-fourths if a son or one-half if a daughter, with the remaining estate going to *Baitulmal* in the absence of other heirs. This highlights the distinct legal frameworks and outcomes based on the deceased's religion.

4.2.3.6 Handling of CPF Monies: Separate Procedures for Muslims and Non-Muslims

For non-Muslim estates, if the deceased had a CPF nomination, the funds would be distributed according to that nomination. If there is no nomination, the CPF funds are transferred to the Public Trustee's office for distribution under the Intestate Succession Act. If there are no eligible relatives, the funds become *bona vacantia* and are given to the government.

In contrast, for Muslim estates, CPF funds are distributed according to the CPF nomination, if one exists. If there is no nomination, the funds are transferred to MUIS for distribution according to the Syariah law of *faraid*. If there are no recipients, the funds are transferred to *Baitulmal*. This highlights the distinct legal frameworks for the distribution of CPF funds based on the deceased's religion.

4.2.3.7 Distribution of Baby Bonus, Edusave, Post-Secondary Education Account (PSEA), and Child Development Account (CDA) Money

For non-Muslim estates, the Intestate Succession Act determines the distribution of funds. If there are no eligible relatives, the funds are considered *bona vacantia* and are awarded to the government. Whereas, for Muslim estates, the distribution follows the principles of the Syariah law of *faraid*. If there are no entitled beneficiaries, the funds are transferred to *Baitulmal*. This highlights the distinct legal frameworks for the distribution of funds based on the deceased's religion.

4.2.3.8 Jointly Owned Properties: Rules Dependent on Ownership Type and Religion

For non-Muslim estates, jointly owned property is allocated based on the form of joint ownership. If held under joint tenancy, the surviving joint owner inherits the deceased's portion through the right of survivorship. If held under tenancy-in-common, the

deceased's portion is distributed according to the Intestate Succession Act. If there are no eligible heirs, the share becomes *bona vacantia* and is given to the government.

For Muslim estates, the distribution also follows the form of joint ownership and the Syariah law of *faraid*. Under joint tenancy, the surviving joint owner inherits the deceased's portion through the right of survivorship. If held under tenancy-in-common, the deceased's portion is distributed according to the Syariah law of *faraid*. If there are no beneficiaries, the share is transferred to *Baitulmal*. This highlights the distinct legal frameworks for the distribution of jointly owned property based on the deceased's religion. Table 4.5 below highlights the comparison of estate administration for Muslims and non-Muslims.

Table 4.5: Comparative Analysis of Estate Administration for Muslims and Non-Muslims

Issue	Description
4.2.3.1 Distinct Legal Frameworks for Muslim and Non-Muslim Estates	The Civil Law Act governs non-Muslim estates, providing the legal basis for administration, intestate succession, probate, and claims against <i>bona vacantia</i> estates. Muslim estates are regulated by the Administration of Muslim Law Act (AMLA), supervised by the Syariah Court, issuing Inheritance Certificates detailing beneficiaries and their shares per Muslim law.
4.2.3.2 Eligibility for <i>Bona vacantia</i>: Differences for Muslims and Non-Muslims	" <i>Bona vacantia</i> " occurs when a person dies without a will and has no eligible relatives. For non-Muslims, entitled families include spouses, children, parents, siblings, grandparents, uncles, and aunts. Muslim eligibility follows the Syariah law of <i>faraid</i> , applicable to domiciled Muslims in Singapore since July 1, 1968, excluding apostates.
4.2.3.3 Conflicting Distribution Paths for <i>Bona vacantia</i> Estates	Non-Muslim assets become <i>bona vacantia</i> , transferring to the government unless a claimant with equitable or moral rights steps forward. Muslim estates follow the Syariah law of <i>faraid</i> , distributing assets based on beneficiaries' gender, kinship, and additional heirs.
4.2.3.4 Varying Processes for Claims Against <i>Bona vacantia</i> Estates	The Public Trustee's Office manages non-Muslim claims, evaluates proof, and charges \$25 per claim. The Syariah Court manages Muslim claims, reviewing inheritance certificates and adjusting if necessary.

Issue	Description
4.2.3.5 Religious Affiliation May Result in Conflicting Outcomes	Laws regulating Muslim and non-Muslim estates lead to different outcomes. Non-Muslims' assets go to the government if there are no heirs. Muslims' assets follow <i>faraid</i> , with <i>Baitulmal</i> receiving in the absence of heirs.
4.2.3.6 Handling of CPF Monies: Separate Procedures for Muslims and Non-Muslims	CPF funds are distributed per nomination for non-Muslims to the Public Trustee. Muslim estates follow nomination or transfer to MUIS and <i>Baitulmal</i> .
4.2.3.7 Distribution of Baby Bonus, Edusave, PSEA, and CDA Money	The Intestate Succession Act determines non-Muslim fund division; <i>bona vacantia</i> to the government if no eligible relatives. Muslim funds follow the Syariah law of <i>faraid</i> and are transferred to <i>Baitulmal</i> without beneficiaries.
4.2.3.8 Jointly Owned Properties: Rules Dependent on Ownership Type and Religion	Non-Muslim joint properties follow the right of survivorship or the Intestate Succession Act. Muslim joint properties are distributed through the right of survivorship or <i>faraid</i> law, with <i>Baitulmal</i> receiving in the absence of heirs.

4.2.4 Cases

4.2.4.1 Muslims

The case of *Shafeeg bin Salim Talib and Another (Administrators of the estate of Obeidillah bin Salim bin Talib, deceased) v Fatimah bte Abud bin Talib and Others*¹¹ is relevant to the discussion of *bona vacantia* in Singapore because it illustrates how the courts first determine ownership of property under civil law principles before applying Muslim law to distribute the estate. Although the dispute did not directly concern property falling to the State as *bona vacantia*, the ruling clarifies the boundary between civil law ownership rights (such as the right of survivorship in joint tenancy) and Muslim inheritance rules. This distinction is critical in the context of *bona vacantia* because only property that truly belongs to the deceased's estate can potentially fall into the category of ownerless property subject to State claim. In other words, if property passes to a surviving joint tenant under common law, it never forms part of the

¹¹ [2009] SGHC 100 and [2010] SGCA 11 (Court of Appeal).

deceased's estate and therefore cannot be treated as *bona vacantia*. Table 4.6 below provides a summary of the above cases.

Table 4.6: Summary of Muslim Case Law

Case Title	Parties Involved	Deceased Name and Estate	Main Issues	Court Decision
1. Shafeeg bin Salim Talib and Another (Administrators of the estate of Obeidillah bin Salim bin Talib, deceased) v Fatimah bte Abud bin Talib and Others [2009] SGHC 100	Plaintiffs: Shafeeg bin Salim Talib and Abdul Jalil bin Ahmad bin Talib (administrators of the estate). Defendants: Fatimah bte Abud bin Talib (widow), Ben Gibran, and Ruth S Telyb (children)	Obeidillah bin Salim bin Talib; the estate includes a property at 1 Farrer Road, #10-06, Tulip Garden, Singapore.	<ul style="list-style-type: none"> • Whether the estate was entitled to a half share of the property. • Whether the property should be distributed according to Muslim law. • The widow claimed her interest in the property was a gift from the deceased, and she should inherit it under the right of survivorship. 	The High Court dismissed the administrators' application, ruling that the right of survivorship under common law applies to the property held in joint tenancy. This means the property automatically passes to the surviving joint tenant, the widow.
2. Shafeeg bin Salim Talib and Another v Fatimah bte Abud bin Talib and Others [2010] SGCA 11	Appellants: Shafeeg bin Salim Talib and Abdul Jalil bin Ahmad bin Talib (Administrators of the estate) Respondents: Fatimah bte Abud bin Talib (widow), Ben Gibran, and Ruth S Telyb (children)	Obeidillah bin Salim bin Talib; the estate includes the same property at 1 Farrer Road, #10-06, Tulip Garden, Singapore.	<ul style="list-style-type: none"> • Appeal against the High Court's decision. • Whether the right of survivorship under common law applies to the property held in joint tenancy. • The applicability of Muslim law to the distribution of the estate. 	The Court of Appeal upheld the High Court's decision, affirming that the right of survivorship under common law applies to the property held in joint tenancy. The court emphasised that Muslim law applies to the distribution of the estate but not to the determination of property ownership, which is governed by general civil law principles.

4.2.4.2 Non-Muslims

Whereas for non-Muslims, in the case of the *Re Will of Samuel Emily*,¹² it came to the will of Emily Samuel, who had gone away on May 7, 1999. This case was about the will of Emily Samuel. Whether or not donations that were reportedly intended for charitable organisations should be rejected due to a lack of confidence was the primary concern. The names and addresses of charitable organisations were not properly determined. It would be considered *bona vacantia* if the residuary estate were in this situation. For this purpose, the court was required to ascertain the intention of the testatrix and decide whether to include extrinsic evidence. Because the court decided that the gifts did not fail due to a lack of certainty, the residuary estate was not regarded to be *bona vacantia* according to the ruling.

Next, in *Lee Chen Seong Jeremy v Official Assignee*,¹³ this is the Court of Appeal decision that affirmed the High Court's decision in 2015. The defendant in this case was a corporation called NorthStar Systems Pte Ltd., which had submitted proof of debt against a person named Lee Chen Seong Jeremy, who filed for bankruptcy. Subsequently, the company applied to remove itself from the register, stating that it did not possess any assets that were still outstanding. After determining whether the firm had relinquished its right in connection with the proof of debt, the court had to determine whether or not the company had abandoned its right. Because the court determined that the firm had relinquished its claim in connection with the proof of debt, the proof of debt was deemed to be *bona vacantia*.

Taken together, these two cases highlight the scope of *bona vacantia* in Singapore. In testamentary matters, the courts take a purposive approach to uphold gifts

¹² [2001] SGHC 299.

¹³ [2018] SGCA 51.

wherever possible. Conversely, in corporate insolvency and dissolution, the courts recognise the abandonment of rights as sufficient grounds for property to fall into *bona vacantia*. Both cases, therefore, justify the continuing relevance of *bona vacantia* as a mechanism for dealing with property where ownership is uncertain or extinguished, while at the same time illustrating judicial caution in applying the doctrine only when strictly necessary. The following Table 4.7 provides the information on summarised case law in a table form.

Table 4.7: Summary of non-Muslim Case Law

Case Title	Parties Involved	Deceased Name and Estate	Main Issues	Court Decision
Re Will of Samuel Emily [2001] SGHC 299	The executrix/trustee, Mrs Ganesan, beneficiaries represented by various counsels, and the next of kin of the testatrix.	Emily Samuel passed away on May 7, 1999, with an estate valued at approximately \$1.759 million and a flat at 53B Lorong Stangee, Chapel Lodge.	The construction of the will, the validity of charitable gifts, the identification of beneficiaries, and the intestacy of the residuary estate.	The court identified the valid beneficiaries, declared the flat to be conveyed to the Methodist Church with restrictions, and determined that the residuary estate should be paid to the state.
Lee Chen Seong Jeremy v Official Assignee [2018] SGCA 51	The appellant is Mr Lee Chen Seong Jeremy, and the respondent is NorthStar Systems Pte Ltd.	Not applicable in this case, as it involves a company and a bankrupt individual, not a deceased estate.	Whether NorthStar Systems Pte Ltd abandoned or waived its right to debt after being struck off the register. The applicability of Section 346 of the Companies Act regarding outstanding assets of a defunct company.	The court found that NorthStar had abandoned its right to participate in any payout from the appellant's estate, meaning the asset was no longer considered part of NorthStar's assets. The court concluded that there were no outstanding assets to be dealt with under Section 346, as NorthStar had overtly abandoned its right of proof. This aligns with the principle of <i>bona vacantia</i> , where unclaimed or abandoned assets typically revert to the state or a designated authority.

4.3 THE ADMINISTRATION OF *BONA VACANTIA* IN THE UNITED KINGDOM

Similar to Singapore, "*bona vacantia*" in the United Kingdom is a legal term referring to the Crown's or the Duchy of Cornwall or Lancaster's claim to the assets of deceased individuals who die without a will and without any known heirs. Besides, following the dissolution of a company, all assets of the company are transferred to the Crown according to the "*bona vacantia*" rules as outlined under the Companies Act 2006 (CA 2006) in Part V, Chapter 2.¹⁴

Particularly, the handling of *bona vacantia* assets and relevant regulations differ across various parts of the UK, with unique rules for England & Wales, Scotland, and Northern Ireland. Ongoing discussions and debates address the appropriateness and transparency of this practice in the modern context.

Across the UK, the legal landscape surrounding *bona vacantia*, or unclaimed assets, varies, but numerous sources offer valuable insights. In England & Wales, *Bona vacantia* refers to ownerless property that, by law, reverts to the Crown. The Treasury Solicitor represents the Crown in managing the estates of individuals who die intestate (without a will) and without identifiable relatives, as well as in collecting assets from dissolved companies and other unclaimed properties, such as failed trusts. The *Bona vacantia* Division (BVD) operates within the Government Legal Department. The UK Government Legal Department provides practical guidance for individuals seeking to claim *bona vacantia* assets through the official website.¹⁵ The primary legislation

¹⁴ Burges Salmon, "Bona Vacantia, Escheat and Company Restoration – Two Conflicting Decisions Explored," accessed July 4, 2024, <https://tinyurl.com/5d7v3csd>.

¹⁵ GOV.UK. "Bona Vacantia," GOV.UK, accessed September 15, 2023, <https://www.gov.uk/government/organisations/government-legal-department>.

governing *Bona vacantia* includes the Administration of Estates Act 1925 and the Companies Act 2006.

Turning to Northern Ireland, *bona vacantia* denotes property without an owner that reverts to the Crown, which is equivalent to England & Wales. In Northern Ireland, the Crown Solicitor acts as the agent for the Treasury Solicitor, managing *bona vacantia* on their behalf. The primary legal basis for *bona vacantia* administration in Northern Ireland is established by the Administration of Estates Act (Northern Ireland) 1955 and the Companies Act 2006.

Scotland has a unique approach to *bona vacantia*, through its historical context, key principles, and administrative procedures. This analysis also covers specific aspects unique to Scotland, such as broader intestacy rules and the role of the Office of the King's and Lord Treasurer's Remembrancer. In Scotland, all ownerless property, historically known as *bona vacantia*, belonged to the Crown. In Scotland, the ownerless property is categorised into three types: *bona vacantia*, *Ultimus haeres*, and *treasure trove*. *Bona vacantia* includes assets from dissolved companies, missing owners, or property with no traceable title. 'Ultimus haeres' refers to the estates of individuals who died without a will and have no known relatives. A *treasure trove* encompasses historical items found in the ground. *Bona vacantia* assets can be land, buildings, or cash from dissolved companies or missing people. The King's and Lord Treasurer's Remembrancer (KLTR) take ownership of these assets, subject to any existing mortgages. If someone dies without a will and no relatives are found, the National Ultimus Haeres Unit (NUHU) investigates and reports to the KLTR, who then manages the estate, paying off any debts.

The Scottish Government's website¹⁶ serves as a valuable resource, offering information and details on the claiming process, along with a published list of unclaimed estates. The legal framework for Scottish *bona vacantia* is primarily established by the Succession (Scotland) Act 1964 and the Companies Act 2006.

In summary, the Treasury Solicitor oversees the collection and disposal of ownerless assets and is handled by the *Bona vacantia* Division in England and Wales (excluding the Duchies), while agents handle these responsibilities in Northern Ireland (by the Crown Solicitor). In Scotland, the Treasury Solicitor has no responsibility for *bona vacantia*; it is managed by the King's and Lord Treasurer's Remembrancer.

A map of the United Kingdom is shown in Figure 4.6 below, with various locations indicated by different coloured dots. England, Scotland, Wales, and Northern Ireland are represented by the dots, which are positioned at different points across the United Kingdom.

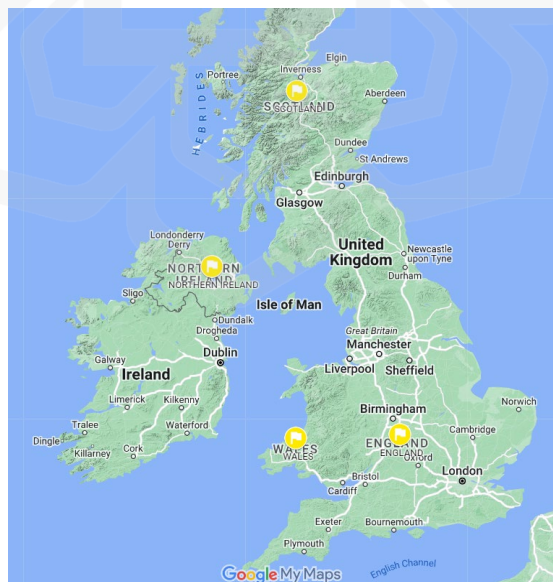


Figure 4.6: Map of the UK

¹⁶ Mygov.scot, "Access to Public Services in Scotland," accessed April 8, 2023, <https://www.mygov.scot>.

Concerning *bona vacantia*, the dukedom of England is a significant aspect of the UK's system of nobility and governance. "*Bona vacantia*" refers to the concept of "ownerless goods" in the UK, which means that if someone dies without leaving a will or without any known heirs, their property becomes the property of the Crown. The Crown, in this case, refers to the British monarchy, which is represented by the monarch.

The following graphic is a labelled map of England, including numerous regions and cities. An assortment of colours is utilised to denote distinct places on the map. The map's objective is to furnish a graphical depiction of the *bona vacantia* inside the United Kingdom. This estate in the United Kingdom is under the management of the Crown Estate, which holds the responsibility of overseeing the property on the monarch's behalf. It is probable that the map functions as a resource for comprehending the general distribution of *bona vacantia* properties. Figure 4.7 below describes the dukedom of England as follows.



Figure 4.7: The Dukedoms of England
 (Source: www.pinterest.com/pin/308989224432318571/)

4.3.1 The Statutes

In England & Wales, the Treasury Solicitor manages *bona vacantia*, primarily guided by the Administration of Estates Act 1925 and the Inheritance (Provision for Family and Dependents) Act 1975. Additionally, the Companies Act 2006 defines dissolved company assets as *bona vacantia* and outlines claiming procedures. Northern Ireland relies on the Crown Solicitor's Office and mainly utilises the Companies Act 2006 for dealing with *bona vacantia*, particularly for dissolved companies. Whereas Scotland entrusts the Office of King's and Lord Treasurer's Remembrancer with managing *bona vacantia*, with sections 1020-1022 of the Companies Act 2006 dictating procedures for claiming dissolved company assets deemed *bona vacantia*. Across the United Kingdom, different entities oversee the management of *bona vacantia*, unclaimed property, with distinct procedures. Here is the breakdown as shown in Figure 4.8.

Jurisdiction	Management	Primary Legislation
England & Wales	Treasury Solicitor	Administration of Estates Act 1925, Inheritance (Provision for Family and Dependents) Act 1975, Companies Act 2006
Northern Ireland	Crown Solicitor's Office	Administration of Estates Act (Northern Ireland) 1955 and Companies Act 2006
Scotland	Office of King's and Lord Treasurer's Remembrancer	Succession (Scotland) Act 1964 and Companies Act 2006

Figure 4.8: Comparison of *Bona vacantia* Management and Legislation in the UK

4.3.1.1 Administration of Estates Act 1925

Concerning the inheritance of real and personal estate in cases of intestacy, Section 46 (1) (vi) specifies that in the absence of any individual obtaining an absolute interest according to the preceding clauses, the remaining estate of the intestate shall become *bona vacantia*. This property shall then rightfully belong to the Crown, the Duchy of Lancaster, or the incumbent Duke of Cornwall, contingent upon the circumstances. Furthermore, it shall take precedence over any right to escheat. The Crown, the Duchy, or the Duke, as applicable, may allocate from the entirety or a portion of the property devolving upon them support for dependants, whether related or not, of the intestate, and other individuals for whom the intestate could reasonably have been expected to provide, following the existing practice. This statute, however, administers estates in England and Wales only.

4.3.1.2 Companies Act 2006

In the United Kingdom, the assets of a dissolved company are considered *bona vacantia*, as outlined in Section 1012. This provision states that upon the dissolution of a company, all its property and rights, previously held by the company immediately before dissolution (excluding property held in trust for another person), are deemed *bona vacantia*. Consequently, such assets are considered Crown property or, as applicable, property of the Duchy of Lancaster or the Duke of Cornwall. These assets vest and can be managed in the same manner as other *bona vacantia* belonging to the Crown, Duchy of Lancaster, or Duke of Cornwall. The application of subsection (1) is contingent upon the potential restoration of the company to the register under Chapter 3, as per section 1034.

Section 1013 delineates the process for the Crown to disclaim property that has vested as *bona vacantia* under Section 1012. A notice signed by the Crown representative, specifically the Treasury Solicitor, or, in the case of Scottish property, the Queen and Lord Treasurer's Remembrancer, constitutes the disclaimer. A notice signed by the Crown representative, specifically the Treasury Solicitor, or, in the case of Scottish property, the Queen and Lord Treasurer's Remembrancer, constitutes the disclaimer. The right to execute a disclaimer notice can be waived by the Crown expressly or by taking possession. The notice must be executed within three years from the date the Crown representative becomes aware that the property may have been vested or, if ownership is not established on that date, within the period reasonably necessary for ownership verification. If an interested party requests a decision on the disclaimer, the notice must be executed within twelve months of the application or an extended period granted by the court. A disclaimer notice is ineffective if executed after the specified period. The notice is delivered to the registrar, registered, published in the Gazette, and sent to individuals claiming an interest in the property. This section applies similarly to property vested in the Duchy of Lancaster or the Duke of Cornwall under Section 1012, with appropriate substitutions for references to the Crown and the Crown representative.

Section 1014 delineates the consequences of a Crown disclaimer under Section 1013. Upon the execution of a disclaimer notice for a specific property, that property is considered to have never been vested in the Crown as outlined in Section 1012. The subsequent sections detailing the effects of the Crown disclaimer are specified.

The matter of the property of dissolved companies becoming *bona vacantia* is addressed in the sections. Whilst referring to the dissolution of a company, *bona vacantia* denotes that the Crown acquires the property of the dissolved company in the

absence of a legal owner. The UK Government's *Bona vacantia* division (usually part of the Treasury Solicitor's Department or the Government Legal Department) is responsible for dealing with the assets of dissolved companies that are deemed *bona vacantia*. Funds from the liquidation of the assets are often allocated to a variety of public uses.

In summary, Sections 1015-1019 deal with property in England and Wales or Northern Ireland that vests as *bona vacantia* when a company is dissolved, while Sections 1020-1022 apply to property in Scotland that vests as *bona vacantia* when a company is dissolved.

4.3.1.3 Succession (Scotland) Act 1964

The Succession (Scotland) Act 1964 governs intestacy and *bona vacantia*, property with no rightful owner, in Scotland. *Bona vacantia* arises when someone dies intestate without heirs or when relatives cannot be found or renounce their inheritance. The Act vests ownership of such estates in the Crown, managed through the Office of the King's and Lord Treasurer's Remembrancer. This office is responsible for identifying, collecting, and advertising estates, distributing them to valid claimants, and ultimately transferring the remaining funds to the Scottish Consolidated Fund. Individuals can claim *bona vacantia* with evidence supporting their relationship to the deceased within a ten-year timeframe after the estate is advertised. More detailed information and resources can be found at the Office of King's and Lord Treasurer's Remembrancer website or the Scottish Government website.

4.3.1.4 Administration of Estates Act (Northern Ireland) 1955

Sections 16 and 18 of the Administration of Estates Act (Northern Ireland) 1955 jointly govern the legal framework for dealing with *bona vacantia*, property without a rightful owner, in Northern Ireland. In the absence of any person entitled to inherit an intestate's estate, the estate shall pass to the Crown as *bona vacantia*. This applies not only to situations where the deceased died without a valid will but also to circumstances where a will only partially disposes of the deceased's assets, leaving a portion unallocated. However, if the will explicitly states otherwise regarding the unallocated assets, they will not be treated as *bona vacantia*.

It is important to remember that the Crown's ownership of *bona vacantia* is not absolute. Individuals who believe they have a legitimate claim to a particular *bona vacantia* estate can contact the Crown Solicitor's Office and provide evidence to support their claim. If their claim is valid, they will be entitled to receive a portion or all of the unclaimed assets. The responsibility for managing *bona vacantia* estates rests with the Crown Solicitor's Office, acting on behalf of the Crown. Their duties include identifying and collecting assets, advertising estates publicly and in the Gazette, investigating potential claims, distributing the estate to valid claimants, and transferring any remaining funds to the Northern Ireland Consolidated Fund.

4.3.1.5 Additional Laws and Regulations

While the statutes listed previously provide the main legal framework for *bona vacantia* in the UK, some other relevant laws and regulations may apply in specific situations.

4.3.1.5.1 England & Wales: List of laws and regulations

- Inheritance (Provision for Family and Dependants) Act 1975: While the Act itself does not directly address *bona vacantia* (ownerless property), it does interact with the concept in a specific way. It clarifies that, subject to the provisions of this Act, section 46(1)(vi) of the Administration of Estates Act 1925 shall govern the delegation of property to the Crown, the Duchy of Lancaster, or the Duke of Cornwall as *bona vacantia*. This statute, however, extends to England and Wales only.
- Treasury Solicitor's Act 1876: This act grants the Treasury Solicitor the legal powers to manage and dispose of *bona vacantia* assets on behalf of the Crown.
- Land Registration Act 1925: Section 144 of the Act 1925 primarily grants the Lord Chancellor the authority to make general rules for regulating land registration. While it does not specifically address escheat, it provides the framework for the overall management and registration of land, which can indirectly relate to escheat situations. For escheat, the relevant provision is more directly found in Section 181 of the same Act, which allows the court to recreate a legal estate in land that has escheated due to the dissolution of a corporation (escheat) that indirectly applies in such situations, providing a framework for dealing with ownership and registration. The Crown, as the ultimate owner of all land in the UK, relies on these provisions and general legal principles to claim and manage unregistered land that becomes *bona vacantia*. Consulting legal professionals is crucial for navigating this complex area.

- Law of Property Act 1925: This Act outlines the legal principles governing the ownership and transfer of land, which can be relevant to *bona vacantia* involving property.

4.3.1.5.2 Scotland: List of laws and regulations

- Unclaimed Estates Act 1975: This Act supplements the Succession (Scotland) Act 1964 and provides further detail on the process for claiming *bona vacantia* estates in Scotland.
- Crown Estate Act 1961: This act defines the Crown Estate in Scotland, which can include some *bona vacantia* assets.
- Land Registration etc. (Scotland) Act 2012: This Act governs land registration in Scotland, which can be relevant to *bona vacantia* involving land ownership.

4.3.1.5.3 Northern Ireland: List of laws and regulations

- The Administration of Estates (Northern Ireland) Order 1979 does not directly address *bona vacantia*. However, it does outline the procedures for the administration of estates, including those that may eventually fall under *bona vacantia* if no heirs are found.
- Land Registration Act (Northern Ireland) 1970: This Act governs land registration in Northern Ireland. It establishes the framework for registering land ownership, which can indeed be relevant in cases of *bona vacantia* (ownerless property) involving land ownership
- Trustee Act (Northern Ireland) 1958: This Act empowers the Public Trustee to manage and dispose of certain types of *bona vacantia* assets on

behalf of the Crown. This Act amended the Administration of Estates Act (Northern Ireland) 1955 to include provisions for dealing with intangible property that becomes *bona vacantia*.

Furthermore, case law can also play a significant role in shaping the interpretation and application of *bona vacantia* laws. Significant court decisions can establish legal precedents that influence how these laws are applied in future cases. It is important to note that this list is not exhaustive, and the specific laws and regulations applicable to a particular case will depend on several factors, such as the jurisdiction, the type of asset involved, and the circumstances surrounding the *bona vacantia* situation.

4.3.2 The Procedure

When an individual dies in the UK without a valid will or identifiable heirs, their estate may be deemed *bona vacantia*. In such cases, the assets are claimed by the Crown or, in the case of certain regions like Cornwall or Lancaster, by the respective Duchy. The Crown's or Duchy's claim to *bona vacantia* assets is rooted in historical and mediaeval legal principles. This practice has been maintained over the centuries as a way for the monarchs and duchies to secure additional revenue. The funds collected from *Bona vacantia* can be used for various purposes, including charitable activities, maintaining historic buildings, or other initiatives.

In the UK, the application of *bona vacantia* does not differentiate between religious affiliations, such as Muslim and non-Muslim. Instead, it operates based on the legal principles governing intestacy. When someone dies without a will and without known heirs, their estate may be deemed *bona vacantia*, and the assets could be claimed by the Crown or the relevant Duchy. It should be noted that the information provided

lacks specific procedures and rules about the administration of *Bona vacantia* within the jurisdiction of the United Kingdom. The primary emphasis is on the obligations of the Treasury Solicitor and the Crown Estate, with the definition and extent of *Bona vacantia*.

For Muslims, Sharia Councils in the UK primarily deal with matters related to Islamic family law, such as marriage, divorce, and inheritance according to Islamic principles. If an individual wants their estate to be distributed according to Islamic law (Sharia) in the UK, it is advisable to include specific provisions in their will. This allows individuals to express their religious preferences and ensure that their assets are distributed following their beliefs. However, it is advisable to seek the counsel of an attorney for ultimate legal counsel. To prepare a valid and enforceable Islamic will in the United Kingdom, Muslims must possess a will that adheres to the tenets of Islamic law and must satisfy the requirements of UK inheritance law.

The fundamental distinction between an Islamic will and a conventional will is that under domestic law, the estate and assets of the deceased are divided by their private wishes as specified in their will. In cases where an Islamic will is deemed unlawful or in the absence of a will, the distribution of a Muslim's inheritance will be governed only by the intestacy laws of England and Wales or domestic law, which varies from jurisdiction to jurisdiction. Nothing regarding Sharia compliance is addressed in these provisions. Muslims may have distinct intestacy rules compared to the United Kingdom. Thus, in the absence of a Sharia-compliant will or any will, your demise may incur additional expenses and complexity in estate administration.

In England and Wales, the Government Legal Department (GLD) advertises unclaimed estates in national newspapers and online, with minimal information about the deceased's name, place of birth, place of death, marital status, and other personal

details to reduce fraud risk and to maintain public interest. The website appears to be the official government page for *Bona vacantia*. It provides information on how the government administers assets that have no apparent legal owner, including the processes and procedures for dealing with such property.¹⁷

To access the most current and precise information, it is advisable to visit the website for specific information directly. The list is updated every working day, and newly advertised estates appear at the top of the list. After one day of publication, new estates drop into the rest of the list in alphabetical order. A claim to an estate that has been admitted shall undergo daily removal. In addition, assets are withdrawn from the list after the expiration of the 30-year statute of limitations from the date of death. *Bona vacantia* Division (BVD) provides as much genealogical information as it holds in its files, subject to its obligations under the Data Protection Act 2018 and any other legal requirements. Figure 4.9 below provides the process guide for *Bona vacantia* estate distribution.

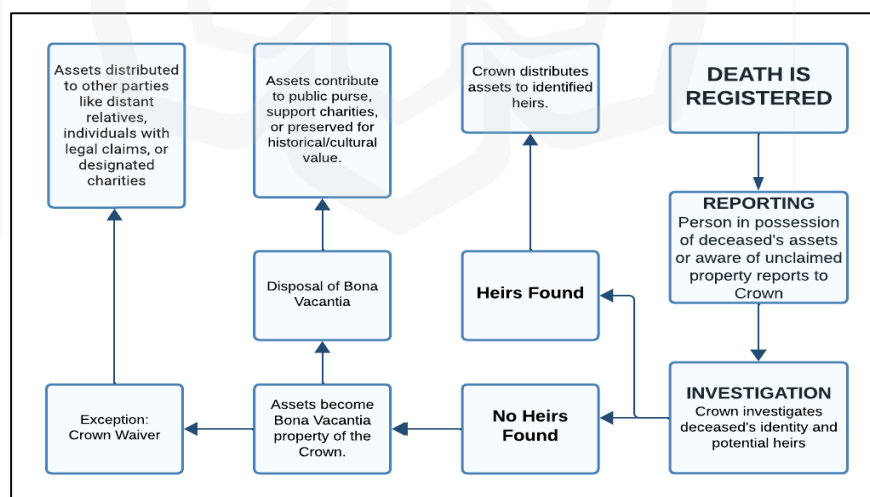


Figure 4.9: Process Flowchart for *Bona vacantia* Estate Distribution

¹⁷ GOV.UK, “Bona Vacantia.”

Whereas in Scotland, the estate is advertised in the Gazette for two years. If the estate remains unclaimed after ten years, the assets are removed from the *Bona vacantia* list and then valued by the Office of the King’s and Lord Treasurer’s Remembrancer (KLTR). That amount is then paid into the Scottish Consolidated Fund for the Scottish Executive to use on behalf of the people of Scotland. All of the information on estates that have been administered by KLTR and may be eligible to claim is listed on their website in its entirety. When a Scottish resident dies without a will (intestate) and has no known and traceable blood relatives, a claim could be made under section 29 of the Family Law (Scotland) Act 2006, where the Crown becomes *Ultimus haeres* of their estate (literally meaning 'last heir').¹⁸

This simple Table 4.8 below is designed to provide a quick explanation of the Scotland authorities tasked with managing *bona vacantia* estates.

Table 4.8: Process for Handling *Bona vacantia* Estates in Scotland

STEP	DESCRIPTION
1. Advertisement	The estate is advertised in the Gazette for two years.
2. Unclaimed Period	If the estate remains unclaimed after ten years, it is removed from the <i>Bona vacantia</i> list.
3. Valuation	The Office of King’s and Lord Treasurer’s Remembrancer (KLTR) values the assets.
4. Payment	The valued amount is paid into the Scottish Consolidated Fund.
5. Usage	The Scottish Executive uses the funds on behalf of the people of Scotland.
6. Information	Details of estates administered by KLTR and eligible for claims are listed on their website.
7. Ultimus Haeres	If a Scottish resident dies intestate with no known relatives, the Crown becomes the last heir under section 29 of the Family Law (Scotland) Act 2006.

¹⁸ King’s and Lord Treasurer’s Remembrancer, “National Ultimus Haeres Unit,” accessed March 4, 2024, <https://www.kltr.gov.uk/ultimus-haeres/national-ultimus-haeres-unit/#::~:~:text=Where%20a%20person%20who%20is>.

Finally, in Northern Ireland, the inquiry into whether a notice is published in a newspaper or online when the Crown Solicitor receives a death report on the necessity of locating the next of kin is resolved via the publication of newspaper advertisements. There are no online adverts published regarding estates in Northern Ireland. Notices about estates are published in the Belfast Telegraph and a widely circulated regional newspaper in the deceased’s place of birth. This information is available through a Freedom of Information Act 2000 request, Ref: BVFOI/326/13 (*Bona vacantia*, 2013).¹⁹ The following Table 4.9 provides the steps required to manage *Bona vacantia* in Northern Ireland. It is described as follows.

Table 4.9: Process for Handling *Bona vacantia* Estates in Northern Ireland

STEP	DESCRIPTION
1. Inquiry Received	The Crown Solicitor's Office receives a death report and initiates an inquiry into the necessity of locating the next of kin.
2. Decision on Notice Publication	It is determined that a notice must be published to locate the next of kin.
3. Newspaper Advertisement	Notices are published in the Belfast Telegraph and a widely circulated regional newspaper in the deceased’s place of birth.
4. No Online Advertisement	No online advertisements are published regarding estates in Northern Ireland.

Collectively, the legal system not only adheres to established principles but also showcases flexibility to address unique circumstances, ensuring that the disposition of such estates aligns with both legal requirements and the intentions of the deceased, particularly in charitable contexts. These distinctions are important because the rules and procedures for dealing with *bona vacantia* can vary based on the geographical location within the UK. The distinctions are illustrated in Table 4.10 below.

¹⁹ GOV.UK, “Bona Vacantia and the Crown Solicitors Office of Northern Ireland,” accessed April 4, 2023, <https://shorturl.at/yB7lu>.

Table 4.10: Comparison Matrix of *Bona vacantia* Procedures Across the UK with Hyperlinks

FEATURE	ENGLAND & WALES	SCOTLAND	NORTHERN IRELAND
Advertising Method	Public notices in national newspapers https://www.gov.uk/government/organisations/bona-vacantia and online platforms.	Public notices in the Edinburgh Gazette https://www.kltr.gov.uk/ and local newspapers.	Public notices in the Belfast Gazette https://www.finance-ni.gov.uk/ and local newspapers.
Managing Authority	Treasury Solicitor https://www.gov.uk/government/organisations/bona-vacantia .	Queen's and Lord Treasurer's Remembrancer (QLTTR) https://www.kltr.gov.uk/ .	Department of Finance (DoF) https://www.finance-ni.gov.uk/ .
Unclaimed Assets After 30 Years	50% https://www.gov.uk/government/organisations/bona-vacantia .	25% https://www.kltr.gov.uk/ .	40% https://www.finance-ni.gov.uk/ .
Cy-près Doctrine Application	Yes, with court approval https://www.gov.uk/government/organisations/charity-commission .	Limited application, primarily for Scottish charities https://www.oscr.org.uk/ .	Yes, with court approval https://www.charitycommissionni.org.uk/ .
Timeframe for Claims	12 years from the date of death https://www.gov.uk/government/organisations/bona-vacantia .	No limit, but earlier claims are more likely to be successful https://www.legislation.gov.uk/id/ukpga/1973/52 .	12 years from the date of death https://www.legislation.gov.uk/nisi/1989/1339/contents/made .
Initial Claim Filing Fee	£5 https://www.gov.uk/government/organisations/bona-vacantia .	£25 https://www.kltr.gov.uk/ .	£10 https://www.finance-ni.gov.uk/ .
Proof of Relationship Requirements	Extensive documentation is required to prove kinship, including birth certificates, marriage certificates, and death certificates https://www.gov.uk/government/organisations/bona-vacantia .	Varies depending on the relationship, but generally stricter than England & Wales https://www.kltr.gov.uk/ .	Similar to England & Wales, but with stricter requirements for more distant relatives https://www.finance-ni.gov.uk/ .

Legal Representation	Recommended due to the complexity of the process https://www.lawsociety.org.uk/en .	Optional, but recommended for complex cases https://www.lawscot.org.uk/ .	Recommended due to the strictness of the process https://www.lawsoc-ni.org/ .
Success Rate	High, but can vary depending on the complexity of the case and the strength of the evidence https://www.gov.uk/government/organisations/bona-vacantia .	Moderate, due to the lack of a time limit and limited historical records https://www.kltr.gov.uk/ .	Low, due to stricter eligibility criteria and lower awareness of <i>Bona vacantia</i> https://www.finance-ni.gov.uk/ .
Overall Ease of Claiming	Moderate	Challenging	Low
Favourable Outcome	Green	Yellow	Red
Additional Notes	The process can be complex and time-consuming. Legal advice is strongly recommended.	Limited historical records can make proving kinship difficult. Research may be necessary.	Stricter eligibility criteria and a lower success rate compared to other jurisdictions.

Comparatively, while the core principle of *Bona vacantia* remains consistent across England & Wales, Scotland, and Northern Ireland, the journey for potential claimants can be vastly different due to significant variations in procedures and requirements. This diverse landscape necessitates careful analysis and consideration to navigate the complexities and maximise the chances of success.

Factors like advertising methods, managing authorities, unclaimed asset retention, timeframes for claims, initial claim filing fees, proof of relationship requirements, and access to legal representation all differ across jurisdictions. These variations impact the ease of claiming, potential success rates, and access to justice for different claimants. England & Wales offer the most streamlined process and the highest success rate, while Scotland presents the most challenging approach and the lowest

success rate. Northern Ireland sits somewhere in between, with a balanced complexity and moderate success rate. Exploring the harmonisation of procedures across jurisdictions could enhance fairness, accessibility, and consistency in the application of *Bona vacantia* principles.

Information about successful claimants, administrators, estates, claimability, and the solvency of estates is strictly prohibited following regulations established by the *Bona vacantia* Division. As a precaution against fraud, they typically refrain from divulging estate prices or specifics regarding estate assets. Personal information protected under data protection rules includes the identities of successful claimants. Official register offices provide access to birth, death, and marriage certificates. Hereditary information is disclosed on the unclaimed estate's list, but the particulars of administrators are maintained in strict confidence. The unclaimed estates list contains confirmation of the claimability or solvency of estates, which is not subject to disclosure requirements.

4.3.3 The Issues

The challenge in the management of *bona vacantia* in the UK, particularly within the realm of King Charles's estate, revolves around critical issues such as a conspicuous absence of transparency, accountability, and ethical considerations in the utilisation of funds sourced from the assets of deceased individuals. The revelations brought to light by The Guardian lay bare a deeply entrenched practice rooted in mediaeval customs that affords royal hereditary estates the privilege of benefiting from *bona vacantia*.

4.3.3.1 Lack of Transparency

The administration of funds derived from *bona vacantia* by the Duchy of Lancaster lacks transparency, as evidenced by the limited disclosure regarding the various uses of these funds. The absence of a public debate in Parliament further exacerbates the lack of scrutiny and accountability, contributing to an opaque handling of these financial resources.

4.3.3.2 Ethical Concerns

Ethical issues have emerged concerning the utilisation of unclaimed property funds for various investments to develop and improve a commercial property sector owned by the family estate. The renovation of properties solely for making a profit contradicts the supposed policy of directing these funds towards renovating eligible buildings, raising ethical concerns.

4.3.3.3 Charitable Contributions

Despite the Duchy of Lancaster's defence, asserting that the use of funds aligns with a policy of restoring qualifying buildings, the revelation that a mere 15% of the collected £61 million over a decade has been directed towards charities underscores a substantial gap between stated intentions and the actual charitable contributions made.

4.3.3.4 Historical Privileges

The issue draws attention to the historical privileges enjoyed by the royal family in collecting money from the assets of deceased individuals. The lack of parliamentary debate and the absence of surviving records related to this practice raise pertinent

questions about the continued relevance and appropriateness of such privileges in contemporary times.

4.3.3.5 Public Outcry and Political Response

The evident public outcry, expressed prominently by individuals like Mayor Andy Burnham, highlights the urgent necessity for a public consultation regarding the practices of the king's estate. Characterising the practice as a "bizarre remnant of feudal Britain" accentuates the outdated character of the royal family, deriving benefits from the assets of individuals lacking a will or next of kin.

4.3.3.6 Ethical Investment Policy

In response to The Guardian's investigation, King Charles's estate is taking the step of transferring over £100 million, including *bona vacantia* funds, into ethical investment funds.²⁰ However, lingering questions persist regarding the estate's commitment to ethical practices and the management of these funds for genuinely charitable purposes.

4.3.3.7 Intellectual Property

Another issue which may arise is the issue of intellectual property (IP) rights left behind by dissolved companies. When a company is dissolved, its assets, including valuable IP rights like patents and trademarks, pass to the Crown as *bona vacantia* (ownerless goods). Recovering these assets is challenging and costly, involving either petitioning the Crown or reversing the company's dissolution. Both routes are complex, time-

²⁰ Rob Evans, Maeve McClenaghan, and Henry Dyer, "King's Estate to Transfer £100m into Ethical Funds after Bona Vacantia Revelations," *The Guardian*, November 25, 2023, <https://www.theguardian.com/uk-news/2023/nov/25/king-state-transfer-cash-ethical-funds-bona-vacantia-revelations>.

consuming, and expensive, highlighting the importance of assigning IP rights before a company is struck off the register.²¹

4.3.4 Cases

There are many cases of *bona vacantia* in the UK, involving diverse types of property and rights, such as land, money, shares, intellectual property, etc. In these cases, the Crown or the royal duchies of Lancaster and Cornwall may assert ownership of the property or rights in such situations, depending on the location and circumstances of the deceased or dissolved entity.

4.3.4.1 How the Crown Claims or Disclaims Bona Vacantia in the UK

In the case of *Addlesee v Dentons Europe LLP*²², the claimants were former investors in a fraudulent scheme. They wanted to gain access to papers that were kept by the attorneys of the scheme's operators, who had been dissolved. Following the dissolution of the firm and the transfer of its assets to the Crown as *bona vacantia*, the court decided that the documents were protected by legal professional privilege. This privilege continued to exist even after the company was dissolved. In addition, the court decided that the Crown had legally disclaimed any interest in the materials and that the claimants did not have the right to see or copy the documents.

Next, in the year 2019, in the case known as *Leon v Attorney General & Ors*,²³ the implications of a disclaimer of a lease by the Crown as *bona vacantia* were discussed. In this particular case, a landlord was seeking a vesting order of a disclaimed

²¹ Clarke Willmott, "Zombie Rights: What Happens to Intellectual Property Owned by a Dissolved Company?," accessed February 1, 2024, <https://www.clarkewillmott.com/insights/zombie-rights-intellectual-property-owned-by-a-dissolved-company/>.

²² [2019] EWCA Civ 1600.

²³ [2019] EWCA Civ 2047.

lease following section 1017 of the Companies Act of 2006. After reviewing the case, the Court of Appeal determined that the landlord did not own a proprietary interest in the property and that the disclaimer did not result in the subtenants losing their interest in the property. Further clarification was provided by the court regarding the meaning of "interest in land" as it is defined in section 1017, as well as the extent of the Crown's authority to disclaim property as *bona vacantia*.

The claimant in the case, *Malcolm Huntley Potier v Bona vacantia Division*,²⁴ attempted to contest the decision of the *Bona vacantia* Division (BVD) to disclaim the inheritance of his deceased father, who passed away without leaving any known relatives behind. It was determined by the court that the BVD had disclaimed the estate lawfully and reasonably and that the claimant did not have the legal right to bring the claim because he was neither a beneficiary nor a creditor of the estate. As a result, the court dismissed the application.

Further, there was a dispute between *Hindcastle Ltd. and Barbara Attenborough Associates Ltd.*²⁵. The defendant was the tenant of a leasehold property that had been forfeited by the landlord due to the tenant's failure to pay the rent. After that, the landlord went bankrupt and was dissolved, which resulted in the leasehold interest being transferred to the Crown as a *bona vacantia* situation. The defendant was the owner of the property, and the plaintiff was the freeholder of the land who was seeking to regain custody of it. In its decision, the court determined that the leasehold interest had not been terminated by the dissolution of the landlord and that the defendant continued to be responsible for the rent as well as any other obligations that were included in the lease.

²⁴ [2019] EWHC 4015 (Ch).

²⁵ [1997] AC 70.

These cases justify the inclusion of case law in the discussion of *bona vacantia* because they show that the doctrine extends beyond land to leases, contractual rights, privileged documents, and even leasehold interests. The Crown's ability to claim or disclaim property ensures that assets are not left in legal limbo. At the same time, the courts emphasise that the Crown's rights are not absolute, as disclaimers can preserve private rights. This reinforces the role of *bona vacantia* as a safeguard for legal certainty while protecting the balance between state interests and private entitlements.

4.3.4.2 Property Held by a Company

The case of *Re C W Dixon Ltd.*²⁶ addresses the issue of *bona vacantia*, where property of a dissolved company vests in the Crown. The court ruled that if a company is restored to the register, the property that had passed to the Crown under *bona vacantia* is restored to the company. This ruling essentially indicates that the company's restoration overrides any escheat that took place following its dissolution.

Next, in the case of *Hamilton v Her Majesty's Attorney-General*²⁷, the case centred on whether the legal title to freehold property held by a dissolved company had been extinguished or transferred as *bona vacantia* to the Crown. The principle of *bona vacantia* applies to ownerless property that defaults to the state. In this case, the court ruled that the property, being held on trust, did pass to the Crown as *bona vacantia* when the company dissolved. However, the trust in the property continued, and the property could be claimed back if the company were restored. This decision underscored the application of *bona vacantia* principles while acknowledging the continuing rights under a trust.

²⁶ [1947] Ch. 251.

²⁷ [2022] EWHC 2132 (Ch).

Later, the case of *UBS Global Asset Management (UK) Ltd v Crown Estate Commissioners*²⁸ involved a property in Shropshire, with the claimant seeking a vesting order due to the dissolution of the overseas company that owned the freehold. The property in Shropshire is owned by Aramis Properties Incorporated. In 2003, Aramis granted a non-leasehold to two companies associated with the claimant, and in 2009, the claimant sought to exercise the option. The *bona vacantia* issue arises when a company is dissolved while it still owns the property. In such cases, the property reverts to the Crown. This is significant because if an English company had held the freehold, then its real property interests would vest in the Crown as *bona vacantia*.

Moreover, in the case of *Quadracolor Ltd. v Crown Estate Commissioners*²⁹, Quadracolor Limited has applied for summary judgment to obtain a legal and beneficial freehold interest in land that was previously owned by Columbia (International) Limited and has since escheated to the Crown. In 1997, Columbia transferred part of the land to Quadracolor, while retaining a contaminated parcel used as a car park. The transfer included an option for Quadracolor to acquire the car park land once the contamination issues were resolved. Quadracolor has consistently used the car park since the transfer, which supports their claim to the land.

Later, the case of *Fivestar Properties Limited*³⁰ involved the restoration of Fivestar Properties Limited to the register of companies and the re-vesting of a freehold commercial property in the company. The property had vested in the Crown as *bona vacantia* upon the company's dissolution. The company in question was Fivestar Properties Limited. The English High Court concluded that the property was ownerless goods, often known as *bona vacantia*, and so belonged to the crown. A further statement

²⁸ [2011] EWHC 3368 (Ch).

²⁹ [2013] EWHC 4842 Ch.

³⁰ [2015] EWHC 2782 (Ch).

made by the court was that even if the corporation were reinstated to the register, it would not automatically be granted back its property until the Crown gave its consent to the matter. This particular case demonstrates that the dissolution of a corporation does not necessarily signify the end of the firm's legal existence. Furthermore, it demonstrates that the crown possesses the authority to claim the property of dissolved companies as *bona vacantia*.

The next case was *ELB Securities Limited v Alan Love and Preswick Homes Limited*³¹, which involved the dissolution of Prestwick Hotels Limited, which resulted in its leasehold interest in the property becoming *bona vacantia* and passing to the Crown. The Crown subsequently disclaimed the lease, leading to a legal dispute over the possession of the property. According to the decision made by the Scottish Court of Session (Inner House), the property in question did not belong to the crown in the sense of *bona vacantia*, but rather to the creditor who possessed a legitimate title to it. After considering the circumstances, the court concluded that the creditor's title was not affected by the dissolution of the corporation and that the Crown had no authority to interfere with it. This case demonstrates that the dissolution of a business does not necessarily impact the rights of third persons who have a legitimate interest in the property of the firm and that the Crown is not permitted to claim the property of dissolved corporations as *bona vacantia* in situations like these.

The corporate dissolution cases justify the discussion because they demonstrate how *bona vacantia* ensures that company property does not remain ownerless upon dissolution. At the same time, the law allows restoration of companies or recognition of third-party rights, which shows that the Crown's claim is a default mechanism rather

³¹ [2015] CSIH 67 2.

than an absolute ownership right. This flexibility promotes commercial stability while upholding the Crown's prerogative to prevent property from falling into a legal vacuum.

4.3.4.3 The Choice of Law Rules

In the case of *Re Maldonado*,³² the English Court of Appeal made the ruling in 1953. The issue involved the inheritance of English property from a Spanish national who died intestate. Under Spanish law, the property should go to the State of Spain as the ultimate successor, not the Crown as *bona vacantia* under English law, according to the Court of Appeal. The dispute was whether Spain was a legitimate heir to the deceased or merely taking its citizens' ownerless property. The Court of Appeal applied *mobilia sequuntur personam*, which states that a deceased person's movable property is controlled by their domicile law. Since the deceased was Spanish, the Court of Appeal accepted Spanish succession law. The Court of Appeal rejected the claim that the Spanish regulation violated English law and public policy, departing from recent rulings such as *Re Barnett's Trusts*³³ and *In the Estate of Musurus*³⁴ that ruled foreign rules inapplicable. *Re Maldonado*³⁵ illustrates how different legal systems treat *bona vacantia* or ownerless property, and how conflicting laws can arise when property is located in multiple jurisdictions.

In *Re Barnett's Trusts*,³⁶ a court dispute in England pertained to the inheritance of property from a deceased British national who had no heirs or next of kin. The court was tasked with determining whether the Crown should receive the property as ownerless property (*bona vacantia*) or whether the province of Alberta, where the

³² [1954] P 223.

³³ [1902] 1 Ch. 847.

³⁴ [1936] 2 All E.R. 1666.

³⁵ [1954] P 223.

³⁶ [1902] 1 Ch. 847.

property was located, should receive it. The court's decision favoured the province of Alberta because the law governing real property is that of the location in which the property is situated (*lex situs*).

A judicial case known as *In the Estate of Musurus*³⁷ was tried in England about the inheritance of property belonging to an intestate Turkish national. The court was tasked with determining whether the ownerless property should pass to the Ottoman Empire or the Crown of England (*bona vacantia*). The court rendered a verdict in favour of the Ottoman Empire, on the premise that an individual's nationality governs personal property (*lex patriae*).

These cases justify the importance of comparative analysis by illustrating how *bona vacantia* is complicated by cross-border estates. The courts applied principles such as *mobilia sequuntur personam* (movable property follows domicile law) and *lex situs* (immovable property follows the law of the location) to determine whether property should vest in the Crown or a foreign state. This demonstrates that *bona vacantia* cannot be viewed purely as a domestic doctrine, as its application is shaped by conflict of laws and recognition of foreign succession rights.

4.3.4.4 Conclusion

The analysis of how the Crown claims or disclaims *bona vacantia* in the UK reveals several key principles. *Bona vacantia* refers to ownerless property that reverts to the Crown when no heirs or claimants exist, such as when a company is dissolved or an individual dies intestate without known heirs. The Crown's ability to disclaim property is governed by specific legal frameworks, as highlighted by various case laws.

³⁷ [1936] 2 All ER 1666.

In cases like *Addlesee v Dentons Europe LLP*³⁸ and *Malcolm Huntley Potier v Bona vacantia Division*³⁹, the courts upheld the Crown's right to disclaim interest in property or assets, which prevents claimants from asserting rights over such property. The courts also consistently emphasise that legal protections like professional privilege or trust arrangements may persist despite the Crown's disclaimer. For instance, in *Hamilton v Her Majesty's Attorney-General*,⁴⁰ the court recognised the continuation of trust rights even after the property passed to the Crown as *bona vacantia*.

Moreover, the Crown's role in *bona vacantia* is also influenced by the legal status of properties owned by dissolved companies. In *Re C W Dixon Ltd.*⁴¹ and *Fivestar Properties Limited*⁴², the courts underscored that the restoration of a company to the register could lead to the re-vesting of its property, although Crown consent may still be required.

Additionally, the concept of *bona vacantia* interacts with international and jurisdictional issues, as seen in *Re Maldonado*⁴³ and *Re Barnett's Trusts*,⁴⁴ where the courts considered the application of foreign laws and the *lex situs* principle (the law of the location where the property is situated).

In conclusion, the Crown's claim or disclaimer of *bona vacantia* in the UK is a distinct process shaped by domestic statutory frameworks, company law, and conflict of laws. The courts strive to balance the Crown's prerogative with the protection of private rights and the recognition of foreign succession rules, ensuring the property does not remain without a rightful owner. These cases demonstrate how legal systems affect

³⁸ [2019] EWCA Civ 1600.

³⁹ [2019] EWHC 4015 (Ch).

⁴⁰ [2022] EWHC 2132 (Ch).

⁴¹ [1947] Ch. 251.

⁴² [2015] EWHC 2782 (Ch).

⁴³ [1954] P 223.

⁴⁴ [1902] 1 Ch. 847.

property distribution and *bona vacantia*. The following Table 4.11 analyses the case law as follows:

Table 4.11: Overview of Case Law for non-Muslim Estates in Singapore

CASE	NATURE OF DISPUTE	KEY FINDINGS
Addlesee v Dentons Europe LLP [2019] EWCA Civ 1600	Access to documents held by attorneys of a dissolved firm.	The court upheld legal professional privilege even after dissolution. The Crown disclaimed interest in the documents, and claimants were denied access.
Leon v Attorney General & Ors [2019] EWCA Civ 2047	Vesting order of a disclaimed lease following the Companies Act 2006.	The court ruled that the landlord had no proprietary interest, and subtenants retained their interest. The Crown's disclaimer did not affect subtenants' rights.
Malcolm Huntley Potier v Bona vacantia Division [2019] EWHC 4015 (Ch)	Contesting the BVD's decision to disclaim an inheritance.	The court ruled that the BVD lawfully disclaimed the estate, and the claimant had no legal standing, as he was neither a beneficiary nor a creditor.
Hindcastle Ltd. v Barbara Attenborough Associates Ltd. [1997] AC 70	Dispute over leasehold property transferred to the Crown as <i>bona vacantia</i> .	The court determined the leasehold interest continued despite the dissolution, and the tenant remained liable for rent and obligations.
Re C W Dixon Ltd. [1947] Ch. 251	Property of a dissolved company vested in the Crown.	The court ruled that restoration of the company to the register restores the property to the company, overriding escheat.
Hamilton v Her Majesty's Attorney-General [2022] EWHC 2132 (Ch)	Ownership of freehold property held by a dissolved company.	The property passed to the Crown as <i>bona vacantia</i> but could be claimed back if the company were restored, maintaining the trust in the property.
UBS Global Asset Management (UK) Ltd v Crown Estate Commissioners [2011] EWHC 3368 (Ch)	Vesting order for property owned by a dissolved overseas company.	The court affirmed that the property reverted to the Crown as <i>bona vacantia</i> , and real property interests of a dissolved company would vest in the Crown.
Quadracolor Ltd. v Crown Estate Commissioners [2013] EWHC 4842 Ch	Claim for legal and beneficial freehold interest in land escheated to the Crown.	The court acknowledged the company's consistent use of the land, supporting its claim, but it remained under Crown ownership.
Fivestar Properties Limited [2015] EWHC 2782 (Ch)	Restoration of a dissolved company and re-vesting of property.	The court ruled the property belonged to the Crown as <i>bona vacantia</i> , and restoration of the company required Crown consent to reclaim the property.
ELB Securities Limited v Alan Love and Preswick	Dispute over possession of the property after the	The court ruled the creditor's title was unaffected by the dissolution, and the Crown had no claim over the property.

CASE	NATURE OF DISPUTE	KEY FINDINGS
Homes Limited [2015] CSIH 67 2	Crown disclaimed a lease.	
Re Maldonado [1954] P 223	Inheritance of English property by a Spanish national.	The court applied Spanish succession law, rejecting the claim under English law and ruling in favour of Spain as the heir.
Re Barnett's Trusts [1902] 1 Ch. 847	Inheritance of property with no heirs in Alberta, Canada.	The court ruled in favour of Alberta, applying the <i>lex situs</i> principle governing real property location.
In the Estate of Musurus [1936] 2 All ER 1666	Inheritance of property by a Turkish national.	The court applied <i>lex patriae</i> (which refers to the law of the country of one's nationality or citizenship), ruling the property should pass to the Ottoman Empire, not the Crown of England.

4.4 COMPARATIVE LEGAL ANALYSIS

The administration of *bona vacantia*, or ownerless property, varies significantly across West Malaysia, Singapore, and the United Kingdom. Each jurisdiction has its legal framework and procedures, reflecting its unique legal traditions and administrative practices. The attached map of Figure 4.10 below highlights these regions, emphasising the geographical context of this comparison.

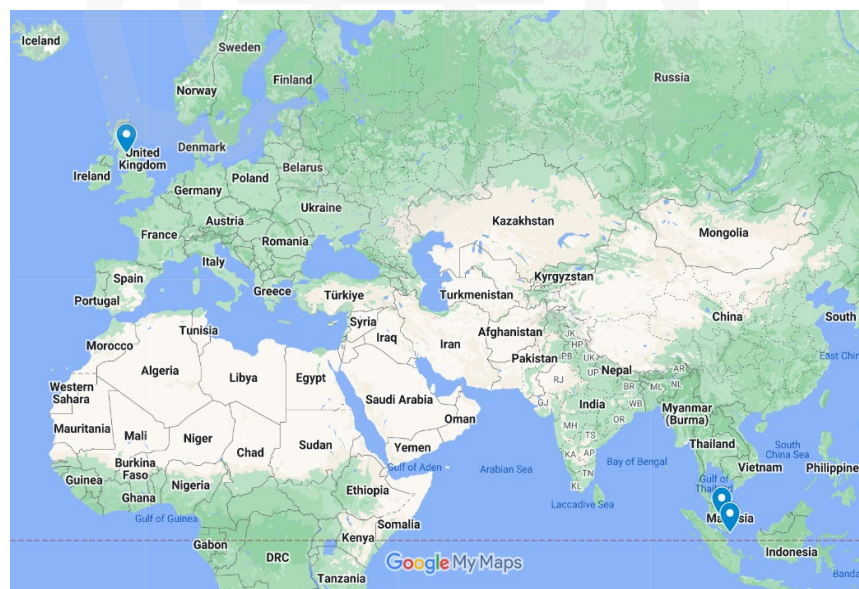


Figure 4.10: Geographical Context and Regional Highlights in *Bona vacantia* Administration: West Malaysia, Singapore, and the UK
Source: www.google.com/maps

4.4.1 Singapore

Singapore has distinguished itself in the administration of *bona vacantia*, showcasing significant strengths compared to Malaysia. The excellence of Singapore's practices is evident in several key areas:

4.4.1.1 Legal Framework of Bona Vacantia

Every aspect of the legal structure that governs the administration of *bona vacantia* in Singapore has been meticulously detailed. The presence of well-established government authorities, such as the Public Trustee's Office and the Islamic Religious Council of Singapore (MUIS), which represents Muslims, makes it abundantly evident that a method that is both devoted and effective is being utilised. As a result of this clarity, the efficient management of assets that do not have legal owners is made feasible, which in turn reduces the amount of procedural confusion that exists. Singapore has clear and comprehensive legislation on *bona vacantia*, namely the Civil Law Act, which covers both non-Muslim and Muslim estates. This statute protects both types of estates. However, Malaysia does not have a specific statute on *bona vacantia*. Instead, the country depends on a variety of sources of law, including the Federal Constitution, the National Land Code, and the laws of the respective states that relate to Islamic inheritance and administration. This may create confusion and inconsistency in the administration of *bona vacantia* in Malaysia.

4.4.1.2 The Inheritance of Property

The fact that Singapore has specifically legislated legislation regarding Islamic inheritance is evidence of the country's commitment to satisfying the diverse needs of its Muslim community. Islamic inheritance laws, also known as *Faraid*, and the

Administration of Muslim Law Act (AMLA) are two pieces of legislation that systematically manage the transfer of assets by Islamic principles. *Faraid* is what is often referred to as Islamic inheritance laws. Both of these laws are known as *Faraid*. The implementation of this all-encompassing plan not only reflects Singapore's sensitivity to issues about religion and culture but also guarantees that assets will be distributed fairly among heirs who are qualified to receive them. Singapore has a system that is both well-established and efficient for the administration of estates that are considered to be *bona vacantia*. This system involves the appointment of the Public Trustee, who is appointed by the Minister for Law, and the Majlis Ugama Islam Singapura (MUIS), who is appointed by the President, for non-Muslim estates and Muslim estates, respectively. On the other hand, Malaysia has a system of administering *bona vacantia* estates that is less effective and transparent. This system involves the Registrar of Unclaimed Moneys, who is appointed by the Minister of Finance, and the respective state authorities on Islamic inheritance and administration, specifically for non-Muslim estates and Muslim estates, respectively. This may potentially result in complications and setbacks during the *bona vacantia* administration process in Malaysia.

4.4.1.3 Equitable or Moral Claims on Bona vacantia Estates

When it comes to granting equitable or moral claims on *bona vacantia* estates, Singapore has a more lenient and accommodating attitude in comparison to other nations on the allocation of equitable or moral claims on *bona vacantia* property. These claims are subject to the permission of the Public Trustee or MUIS, depending on the personal law of the deceased. Malaysia enforces a policy that is considerably more stringent and exclusive. These claims, however, are subject to the approval of the

Registrar of Unclaimed Moneys or the state authority or the respective state *Baitulmal* laws on Islamic inheritance and administration, depending on the personal law of the deceased. This may impede the entitlement of certain eligible claimants to their adequate portion of *bona vacantia* in Malaysia.

4.4.1.4 Transfer to the Government

A significant benchmark has been established in the degree of transparency that is incorporated into Singapore's legislation and processes regarding the transfer of assets deemed *bona vacantia* to the government. The essential authorities consistently maintain their dedication to transparency, leading to the establishment of a dependable and trustworthy system in the end. This maintenance of accountability in the management of unclaimed assets not only serves to preserve the interests of potential beneficiaries but also guarantees the preservation of such assets. As a result, it also guarantees accountability in the management of assets that have not been claimed.

4.4.1.5 Knowledge and Experience

An abundance of information and experience that has been accumulated over an extended period is evident in Singapore's *bona vacantia* government. Because of the progress of time, this improvement is now feasible. The enhancement of its regulatory framework and the integration of information among pertinent authorities are the two factors that contribute to effective asset management. By demonstrating effective management of unclaimed assets, Singapore has positioned itself as a paradigm; this vast amount of knowledge reduces the likelihood of future issues.

4.4.2 The UK

The United Kingdom has also demonstrated notable strengths in the management of *bona vacantia*. The practice is apparent in several crucial domains:

4.4.2.1 *Bona Vacantia Legislation*

The UK has clearer and more comprehensive legislation on *bona vacantia*. However, for Muslims, it is subject to Syariah law. Malaysia does not have a specific statute on *bona vacantia* and relies on various sources of law, such as the Federal Constitution, the National Land Code, and the respective state laws on Islamic inheritance and administration. This may create confusion and inconsistency in the administration of *bona vacantia* in Malaysia. For example, in the UK, the Civil Law Act provides a clear definition of *bona vacantia* and the circumstances under which it applies, such as when a person dies intestate and without any next-of-kin, or when a company is dissolved and its assets are distributed.⁴⁵ Moreover, the Companies Act 2006 in the UK governs *bona vacantia* regarding the property and rights of dissolved companies. Section 1012 specifies that upon dissolution, all property and rights vested in or held on trust for the company (excluding those held on trust for another person) become *bona vacantia* and can be managed accordingly. This is, however, subject to the potential restoration of the company to the register under Chapter 3.

In Malaysia, however, there is no single legislation that defines *bona vacantia* and its scope, and different laws may apply depending on whether the deceased or the company was a Muslim or a non-Muslim and whether the assets were located in the

⁴⁵ Philip Lardner, "How Does Bona Vacantia Apply to Foreign Companies and Assets?," *Russell Cooke*, accessed February 1, 2023, <https://tinyurl.com/yc3y7cfr>.

federal or state territory. This may lead to ambiguity and uncertainty in the identification and distribution of *bona vacantia* assets in Malaysia.

4.4.2.2 Administrative Bodies and Procedures of Bona Vacantia

In addition, the fundamental concepts of *bona vacantia* in the United Kingdom are more consistent and standardised across its areas, whereas Malaysia has distinct procedures and legislation about Muslim and non-Muslim estates, which depend upon the personal law of the deceased. Delays and disagreements in the administration of *bona vacantia* in Malaysia may ensue as a consequence. For example, in the United Kingdom, the Treasury Solicitor administers the estates of deceased individuals who pass away intestate and without known kin and collects the assets of dissolved companies and other various ownerless goods; in Northern Ireland, a comparable role is fulfilled by the Crown Solicitor; and in Scotland, the Office of the King's and Lord Treasurer's Remembrancer perform similar duties. In Malaysia, however, the Registrar of Unclaimed Moneys, appointed by the Minister of Finance, is responsible for the *bona vacantia* administration belonging to non-Muslims for moveable estates and the state authority for immovable. However, the administration of such estates is entrusted to the respective state authorities regarding Islamic inheritance and administration for Muslim estates. This may create inconsistency and inefficiency in the administration of *bona vacantia*, as different authorities may have different criteria and processes for dealing with *bona vacantia* assets.

4.4.2.3 Public Disclosure Regarding Bona Vacantia Estates

Malaysia has a system of administering *bona vacantia* estates that is less effective and transparent than the system in the United Kingdom, which involves the Registrar of

Unclaimed Moneys, who is appointed by the Minister of Finance, and the respective state authorities on Islamic inheritance and administration for non-Muslim and Muslim estates, respectively. The United Kingdom has a system that is more transparent and accessible in terms of providing public information on unclaimed estates, particularly in England, Wales and Scotland. There is a possibility that this will prevent certain claimants who are deserving of their rightful share of *bona vacantia* in Malaysia.

4.4.2.4 Claiming Process and Policy

The UK has a more fair and flexible claiming process for *bona vacantia* estates, which allows individuals to submit claims with supporting evidence, subject to the approval of the relevant authorities, while Malaysia has a more restrictive and rigid policy of allowing equitable or moral claims on *bona vacantia* estates, which are subject to the approval of the Registrar of Unclaimed Moneys or the respective state laws on Islamic inheritance and administration, depending on the personal law of the deceased. Additionally, this may result in the deprivation of a portion of *bona vacantia* in Malaysia that is rightfully theirs.

4.4.2.5 Use of Bona Vacantia Estates

In Malaysia, the assets are distributed to either the Federal Consolidated Fund (YDPA Fund) or the State Authority or *Baitulmal*, depending on the nature and location of the assets. Although the United Kingdom has a more responsible and social use of *Bona vacantia* assets, which prioritises using these assets for public services or charitable causes, Malaysia has a less clear and accountable use of the assets. This can cause some to question whether or not *bona vacantia* in Malaysia is beneficial to the general public. Moreover, there is neither a predetermined policy nor a mechanism for the utilisation

of unclaimed assets from *bona vacantia* estates. In addition to the fact that this may not reflect the preferences of the deceased or the public interest, it may also result in a lack of transparency and accountability in the use of assets that have not been claimed. The Treasury Solicitor's Department in the United Kingdom, for instance, which is responsible for the administration of *bona vacantia* estates on behalf of the Crown, has stated that its policy is to use assets that have not been claimed for the benefit of the nation. Additionally, the department has stated that it supports a variety of charitable causes, including the Big Lottery Fund, the Armed Forces Covenant Fund Trust, and the Community Foundation Network.

4.4.2.6 Stakeholder Engagement and Participation in the Use of the Assets

Malaysia's approach to the use of unclaimed assets is more centralised and exclusive, dominated by the government and bureaucracy, with little or no input from other sectors or groups, whereas the United Kingdom's approach is more inclusive and participatory, involving consultation and collaboration with various stakeholders, including the financial industry, the public, and the voluntary sector. In Malaysia, this may restrict the effectiveness and potential of *bona vacantia*. One example of a voluntary initiative that permits banks and building societies to transfer dormant accounts to Reclaim Fund Ltd, a not-for-profit organisation that distributes the funds to charitable causes throughout the UK, is the Dormant Assets Commission. Established by the government of the United Kingdom, this independent body advises the government on expanding and improving the Dormant Assets Scheme. Aside from the voluntary and community sectors and the devolved administrations of Scotland, Wales, and Northern Ireland, the Dormant Assets Commission is comprised of representatives from the banking, insurance, investment, and pensions industries. Assuring that the Dormant Assets

Scheme reflects the perspectives and requirements of society as a whole, the Commission conducts surveys and consultations with the public and other interested parties.

In contrast, the jurisdiction of Malaysia lacks a governing body or scheme that supervises or controls the utilisation of unclaimed funds originating from *bona vacantia* estates. Consequently, the utilisation of said funds is left to the government's exclusive discretion and authority, devoid of any collaborative efforts or consultations with other sectors or organisations. This approach potentially weakens the nation's social and economic concerns by impeding creativity and diversity in the utilisation of unclaimed assets.

Notwithstanding its complexity and variation across England and Wales, Scotland, and Northern Ireland, the legal framework about *bona vacantia* may present challenges, yet it also presents prospects. Individuals can potentially handle and safeguard their rights if they possess a comprehensive understanding of the foundational concepts that regulate them, such as the *cy-près* doctrine (applied to charitable trusts, permitting courts to select a new beneficiary or purpose closely aligned with the donor's original intent), the responsibility of the Crown, inheritance in the absence of heirs, and the flexibility of the courts in certain circumstances.

4.4.3 An Analysis

The treatment of *bona vacantia*, which pertains to property or assets without a known owner, varies in the United Kingdom (UK), Singapore, and West Malaysia. Although the fundamental concept of *bona vacantia* remains the same in these jurisdictions, there are differences in the specific procedures, authorities involved, and regulations governing the process. Here are the key distinctions:

4.4.3.1 Legal Framework for *Bona Vacantia*

In the United Kingdom, *bona vacantia* is overseen by either the Crown Solicitor or the Treasury Solicitor, serving as the representative of the Crown. This regulatory framework ensures that assets left without a clear owner, often due to factors such as the absence of a will or identifiable heirs, are managed according to established legal procedures.

Singapore, on the other hand, regulates *bona vacantia* through relevant government authorities, ensuring a systematic approach to managing unclaimed assets. Entities like the Public Trustee's Office administer the process, emphasising meticulous adherence to legal protocols. Additionally, for Muslim estates, the Islamic Religious Council of Singapore (MUIS) plays a crucial role in overseeing the process, aligning with Islamic principles.

In West Malaysia, the legal landscape for *bona vacantia* is complex and varies between Muslims and non-Muslims. The governance of unclaimed assets is defined by several statutes, ensuring a comprehensive and context-specific approach for different religious communities. These statutes provide a legal foundation that guides the handling of assets without identifiable owners, with distinctions made to accommodate the diverse legal considerations for Muslims and non-Muslims.

It is noteworthy to analyse that the differences in the legal frameworks reflect the unique historical, cultural, and legal contexts of each jurisdiction. The UK's system, centred around the Crown Solicitor and Treasury Solicitor, aligns with its constitutional monarchy. Singapore's meticulous regulatory approach, involving the Public Trustee's Office and MUIS for Muslims, showcases a commitment to thorough and inclusive asset management. West Malaysia's multifaceted legal landscape reflects its diverse population, with distinct regulations for Muslims and non-Muslims, respecting the

religious and legal distinctions within the country. Furthermore, the emphasis on adherence to legal protocols and the involvement of Islamic principles in Singapore's approach demonstrates a commitment to both legal precision and cultural sensitivity. West Malaysia's tailored regulations for different religious communities underscore the importance of accommodating diverse legal considerations. Overall, while these jurisdictions share the common goal of managing unclaimed assets, their unique approaches highlight the significance of considering historical, cultural, and religious factors in developing legal frameworks.

4.4.3.2 Intestate Succession for non-Muslims

In the United Kingdom, when an individual passes away without a valid will, the assets are distributed according to the rules of intestacy, prioritising the surviving spouse, children, parents, and other relatives in a specified order. Similarly, in Singapore, the Intestate Succession Act governs the distribution of assets for non-Muslims without a valid will, following a comparable order of priority among family members. In West Malaysia, the Distribution Act of 1958 outlines the order of priority for the distribution of assets among family members when there is no valid will for non-Muslims.

Expanding upon this comparative analysis, it becomes evident that these jurisdictions share a common objective of ensuring a systematic and orderly distribution of assets in cases where a valid will is absent. The rules of intestacy, or their equivalents in each location, aim to bring clarity and fairness to the allocation of the deceased individual's estate.

Furthermore, the uniformity in the order of priority among family members underscores a shared recognition of familial ties and responsibilities. The emphasis on prioritising the surviving spouse, children, parents, and other relatives reflects a

collective commitment to upholding familial interests in the process of asset distribution. Despite this overarching similarity, differences in legal provisions across jurisdictions highlight unique considerations and cultural contexts that shape these laws. Appreciating these distinctions is essential for individuals, legal professionals, and policymakers to navigate the legal intricacies associated with intestate succession within each respective country.

4.4.3.3 Islamic Inheritance

In comparing and contrasting the treatment of Islamic inheritance rules across the United Kingdom, Singapore, and Malaysia, notable distinctions emerge. The UK stands out as a jurisdiction without specific laws governing the distribution of assets following Islamic inheritance rules. This absence indicates a legal framework that does not cater specifically to the principles outlined in Islamic inheritance laws.

Whereas Singapore takes a different approach by incorporating separate provisions for Muslims within its legal system. The Administration of Muslim Law Act (AMLA) and Islamic inheritance laws (*Faraid*) are in place to ensure that the distribution of assets among eligible Muslim heirs aligns with Islamic principles. This demonstrates a recognition of the diversity in religious practices within the country and a commitment to providing a legal framework that respects and adheres to Islamic traditions.

West Malaysia, similar to Singapore, has specific laws addressing Islamic inheritance rules. However, West Malaysia's legal landscape is more nuanced, with distinctions based on geographical considerations. For non-Muslims in the Federal Territories, the Islamic Family Law (Federal Territories) Act 1984 applies, while non-Muslims in states are subject to respective state enactments. This dual framework

reflects the federal nature of Malaysia's legal system, where certain matters are regulated at the federal level, and others are delegated to individual states.

This comparative analysis underscores the importance of legal systems accommodating diverse religious practices within multicultural societies. While the UK adopts a more generalised approach without specific Islamic inheritance laws, Singapore and West Malaysia recognise the need for targeted regulations for their Muslim populations. The presence of specific provisions in Singapore and West Malaysia showcases a commitment to preserving religious autonomy and ensuring that legal frameworks are sensitive to the cultural and religious contexts of their diverse populations. Moreover, West Malaysia's dual framework highlights the complexity introduced by the federal-state structure in addressing matters related to Islamic inheritance. This complexity necessitates a careful examination of legal provisions at both levels to understand the comprehensive landscape governing inheritance practices.

4.4.3.4 Transfer to the Government

In the UK, the approach to *bona vacantia* involves the transfer of unclaimed assets to the Crown when no rightful owner can be identified. This centralised process, managed by the *Bona vacantia* Division of the UK Government Legal Department, underscores the authority and representation of the Crown in dealing with assets without clear ownership. The Treasury Solicitor oversees the administration, making efforts to identify and locate rightful owners or heirs.

Similarly, Singapore adopts a centralised approach where unclaimed assets are transferred to the government when there are no eligible heirs or beneficiaries. This process is subject to specific regulations and processes outlined by relevant government authorities, with entities like the Public Trustee's Office playing a crucial role in

administration. The existence of a *Bona vacantia* Register adds transparency to the process, allowing interested parties to search and claim potential assets.

Contrasting with the centralised approaches of the UK and Singapore, West Malaysia introduces a decentralised model. In the case of Muslims, unclaimed assets may be transferred to the state *Baitulmal*, aligning with Islamic principles. For non-Muslims, the assets may be transferred to the state authority or the federal fund. This bifurcation reflects Malaysia's federal-state structure and accommodates the diverse legal considerations of different religious communities.

4.4.3.5 Equitable or Moral Claims on Bona Vacantia Estates

When it comes to the *bona vacantia* estate of the deceased, anyone in Singapore can lodge an equitable or moral claim on the estate, but this is contingent upon receiving approval from the Public Trustee, who is responsible for administering the estate on behalf of the government. Several factors will be taken into consideration by the Public Trustee, including the length and nature of the relationship that existed between the deceased and the claimant, any legal or moral obligations that the deceased had towards the claimant, how the claimant behaved towards the deceased, and the wishes of the deceased on their deathbed. It is up to the Public Trustee to decide whether the claim should be granted or rejected, as well as the amount of money that should be paid to the claimant if something is to be paid.

Individuals may also assert an equitable or moral claim on the deceased's *bona vacantia* estate in the United Kingdom, subject to the region in which the estate is situated and subject to the consent of the appropriate government. When administering the estate on behalf of the Crown, the Treasury Solicitor, the Crown Solicitor, or the Office of King's and Lord Treasurer's Remembrancer will consider the same

considerations as the Public Trustee in Singapore. These include the deceased's last wishes, the extent of their contribution to their welfare, and their relationship with the deceased. The authority is vested with the authority to determine the claim's status (grant or deny), as well as the potential compensation to be awarded to the claimant.

However, in West Malaysia, the circumstances of Muslim and non-Muslim estates are distinct. Nevertheless, the criteria and procedure for presenting such claims are not transparent and clear, and neither the granted ability of the claim nor the claimant's equitable distribution of the estate can be guaranteed. The management of *bona vacantia* estates for Muslims is regulated by the corresponding state legislation for Islamic succession and administration. No provisions are made for equitable or moral claims to the estate.

4.4.3.6 Claiming Process and Policy Relating to Bona Vacantia

When it comes to *bona vacantia* estates, the procedure of claiming them in the United Kingdom is pretty clear and easy to understand. Depending on the region in which the estate is situated, those who think that they are entitled to inherit the estate of a person who passed away without leaving a will and without any living next of kin can submit their claims to the regulatory body that is responsible for the estate. They will require the claimants to provide proof of their identity and relationship to the deceased, as well as any other supporting documents, such as death certificates, marriage certificates, or birth certificates. The Treasury Solicitor, the Crown Solicitor, or the Office of King's and Lord Treasurer's Remembrancer are the individuals who act on behalf of the Crown to administer the estate. Subsequently, the authority will determine whether or not the claims are genuine and eligible, as well as the amount of money that will be paid to the claimants if any of them are eligible for compensation. Unclaimed estates or *bona*

vacantia estate listings are also published on the authority's websites. These lists include information on the names, dates of death, and locations of death of deceased individuals whose estates are considered to be *bona vacantia* property.

Additionally, the process of claiming *bona vacantia* lands in Singapore is also quick and uncomplicated all the way through. Individuals can submit their claims to the Public Trustee, who is the individual who administers the estate on behalf of the government, if they believe that they are entitled to inherit the estate of a person who passed away without leaving a will and without any surviving next-of-kin. The Public Trustee will require the claimants to provide proof of their identity and relationship to the deceased, as well as any other supporting documents, such as death certificates, marriage certificates, or birth certificates. Next, the Public Trustee will then verify the validity and eligibility of the claims and decide whether to grant or reject them and the amount to be paid to the claimants, if any. There are also lists of unclaimed monies that are published on the website of the Public Trustee. These lists include information on the names, amounts, and sources of the unclaimed monies that are kept by the Public Trustee and are not claimed. This makes it simpler for potential claimants to recognise and pursue their rights.

In West Malaysia, on the other hand, the procedure of claiming *bona vacantia* lands is more complicated and uncertain. Depending on the personal law of the deceased, the management of *bona vacantia* properties is divided into non-Muslim estates and Muslim estates, depending on the characteristics of the deceased. The Registrar of Unclaimed Moneys, or the state authority that is responsible for administering the estate on behalf of the government, has the authority to permit equitable or moral claims on the *bona vacantia* estate of the deceased in the case of non-Muslim estates. However, there is no assurance that the claim will be granted or that the

claimant will receive a fair share of the estate. Moreover, there is no guarantee that the claim will be granted. There are no provisions for equitable or moral rights on the estate, and the administration of *bona vacantia* estates is governed by the laws of the particular state that pertain to Islamic inheritance and administration. This is the case for Muslim estates. Instead, the estate will be given to *Baitulmal*, which is a fund that was established to assist the Muslim community.

4.4.3.7 Use of Bona Vacantia Estates

In the United Kingdom, the use of *bona vacantia* estates is governed by clear and accountable policies that ensure the assets benefit public services and charitable causes. The administration of these unclaimed assets is transparent, with the Crown Solicitor or Treasury Solicitor overseeing the process on behalf of the Crown. This approach emphasises the importance of using these assets in a manner that serves the broader public interest, whether through supporting public infrastructure, funding community projects, or contributing to charitable organisations.

Singapore similarly adopts a transparent and responsible approach to the use of *bona vacantia* estates, with strict policies in place to ensure that these assets are used in a way that benefits the public. The Public Trustee's Office administers these assets with a strong emphasis on accountability, ensuring that the management and distribution of unclaimed properties align with legal and ethical standards. This commitment to transparency not only bolsters public trust but also ensures that the assets contribute meaningfully to societal welfare, often through government initiatives or community programmes.

In contrast, West Malaysia's approach to the use of *bona vacantia* estates is less transparent and lacks a centralised policy that clearly defines how unclaimed assets

should be utilised. The management of these assets varies depending on whether they belong to Muslims or non-Muslims, with Muslim estates often being transferred to the state of *Baitulmal*. However, the use of these assets is not always clear or accountable, and there is a notable absence of a unified policy that ensures these assets are directed toward public benefit. This lack of transparency and accountability can limit the effectiveness of how *bona vacantia* estates are managed and used, potentially diminishing their impact on society.

4.4.3.8 Public Disclosure

The approach to public disclosure of unclaimed estates varies significantly between the United Kingdom (UK), Singapore, and West Malaysia, reflecting various levels of transparency and accessibility to information. In the UK, the process is characterised by high transparency, with unclaimed estates publicly listed online by the *Bona vacantia* Division. This transparency ensures that potential beneficiaries can easily access information about estates and make rightful claims, thereby reducing the likelihood of assets remaining unclaimed. The clear and publicly accessible process provides a fair opportunity for claimants to assert their rights.

Singapore similarly emphasises transparency in its public disclosure policies. The Public Trustee's Office, along with the Islamic Religious Council of Singapore (MUIS) for Muslim estates, ensures that information about unclaimed estates is readily available to the public. This transparency not only facilitates access to rightful claims but also minimises procedural confusion by providing clear guidelines and processes for potential claimants. Initiative-taking public disclosure helps maintain a systematic and fair process, enhancing trust in the system.

In contrast, West Malaysia's approach to public disclosure of unclaimed estates is less transparent and less effective. Information regarding *bona vacantia* is not as readily accessible to the public, which can hinder potential claimants from becoming aware of their rights to an estate. The lack of transparency may prevent some rightful heirs from receiving their shares, especially in the context of complex legal frameworks that vary between Muslim and non-Muslim estates. The opaque system in West Malaysia highlights a need for improvement in making public information more accessible to ensure that all claimants have a fair opportunity to claim what is rightfully theirs.

4.4.3.9 Stakeholder Engagement

The approach to stakeholder engagement in managing dormant or unclaimed assets differs significantly between the United Kingdom (UK), Singapore, and West Malaysia, reflecting each country's unique governance structures and cultural contexts. In the UK, stakeholder engagement is characterised by an inclusive and participatory approach that involves a wide range of stakeholders, including the financial industry, public sector, and voluntary sector. This collaborative framework ensures that decisions related to dormant assets are well-rounded and consider diverse perspectives. A notable example is the Dormant Assets Commission, which actively involves these sectors in the decision-making process. This inclusivity promotes transparency and helps in the effective utilisation of assets, ensuring that various societal interests are represented and addressed.

Singapore also demonstrates a prominent level of stakeholder involvement, particularly within the Muslim community. The Islamic Religious Council of Singapore (MUIS) plays a crucial role in the management of Muslim estates, ensuring that the

process aligns with Islamic principles. The decision-making process in Singapore is transparent, with regular consultations and collaboration with relevant authorities and the public. This approach not only respects religious practices but also fosters trust and accountability within the community, ensuring that all stakeholders have a voice in the management of unclaimed assets.

In contrast, West Malaysia adopts a more centralised and exclusive approach, where the government controls the process with limited input from other sectors. This centralisation may streamline decision-making but can also lead to a lack of stakeholder engagement from the broader public, financial industry, and voluntary sectors. Consequently, the effectiveness of asset utilisation might be constrained by the absence of diverse perspectives and collaborative efforts, potentially limiting the reach and impact of these assets in serving public interests.

4.4.3.10 Knowledge and Experience

In Singapore, the UK, and West Malaysia, the management of *bona vacantia* assets reflects varying degrees of experience, transparency, and integration of knowledge among authorities.

In Singapore and the UK, experience with well-established practices and clear processes significantly reduces the likelihood of issues arising in the management of *bona vacantia* assets. The transparent use of assets, supported by a knowledge-based approach, ensures that potential problems are minimised. Both countries have accumulated a wealth of knowledge and experience over time, which is reflected in their well-managed systems and effective asset management practices. These countries have a strong integration of information among pertinent entities, which helps to manage ownerless property transparently and effectively. This prominent level of transparency

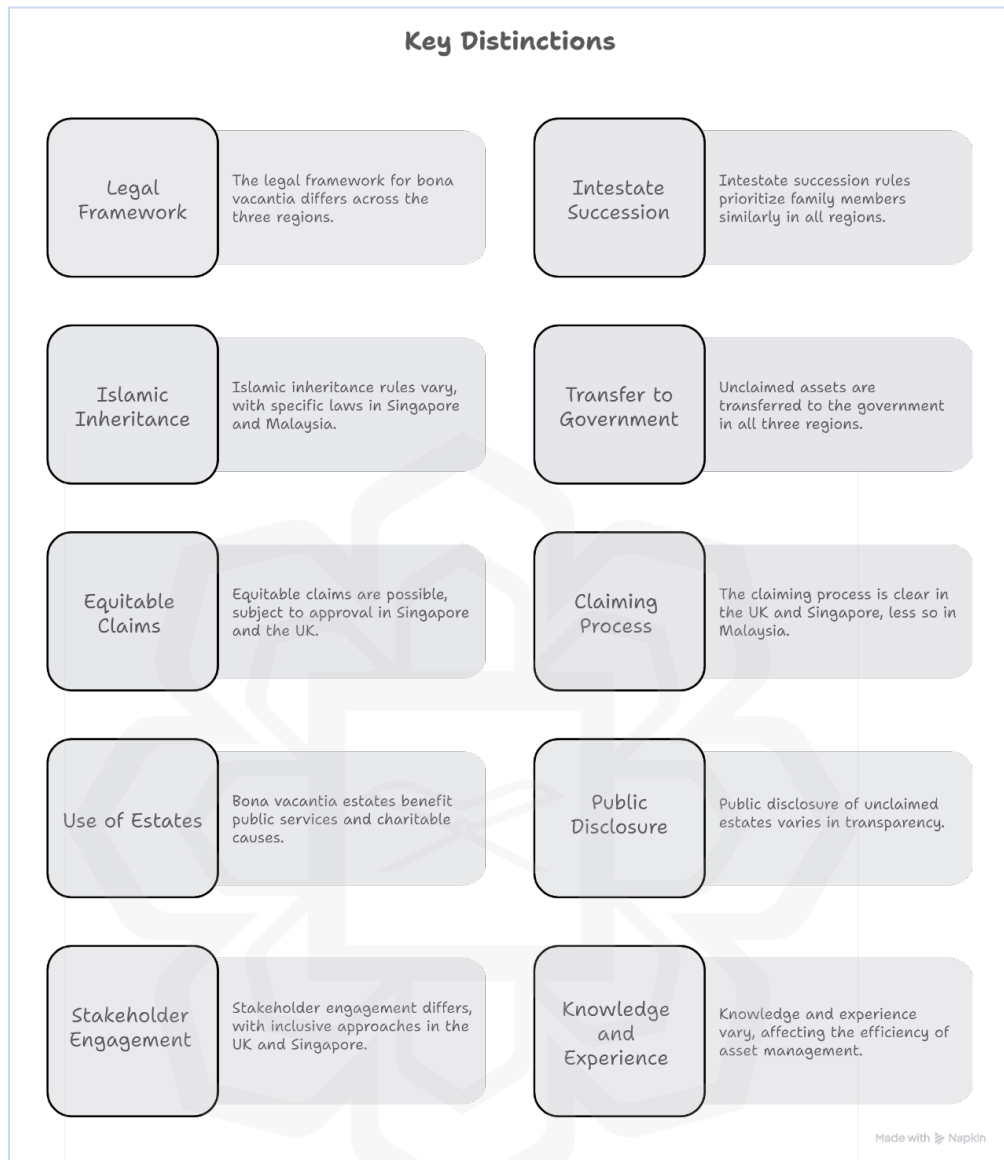
and systematic approach instils public trust in the management of *bona vacantia*, ensuring that assets are appropriately overseen and that the processes involved are clear and consistent.

In contrast, West Malaysia faces challenges due to less experience and transparency in the management of *bona vacantia* assets. The lack of a unified system and varying levels of experience across different regions contribute to potential inefficiencies and inconsistencies. The public's trust in the management of *bona vacantia* is often undermined by the lack of transparency and the absence of a well-integrated knowledge base among authorities. Unlike Singapore and the UK, where a centralised and systematic approach is standard, West Malaysia's decentralised and less coordinated management of ownerless assets can lead to issues in asset handling and disposition. The regional variations in experience further complicate the situation, resulting in a less efficient system that struggles to gain the public's confidence.

Overall, while Singapore and the UK demonstrate the benefits of accumulated knowledge, clear processes, and transparency, West Malaysia's system highlights the need for greater integration, experience, and public trust in the *bona vacantia* management assets.

Table 4.12 below illustrates the comparative analysis of the treatment of *bona vacantia* in the United Kingdom (UK), Singapore, and West Malaysia, presented as follows:

Table 4.12: Comparative Analysis of *Bona vacantia* Administration in West Malaysia, Singapore, and the UK



4.5 CHAPTER SUMMARY

The administration of *bona vacantia* in the UK, Singapore, and West Malaysia presents a fascinating study of diverse legal approaches to a common issue. While the fundamental concept remains consistent – assets without a clear owner eventually revert to the state – significant variations exist in the specific procedures, responsible authorities, and regulations governing the process.

Singapore's administration of *bona vacantia* stands out with notable strengths compared to Malaysia and the UK. The Civil Law Act in Singapore covers both non-Muslim and Muslim estates, resulting in a very thorough and well-organised legal system. As a result of relying on a variety of sources rather than a specific statute, Malaysia may experience uncertainty and inconsistencies. Whereas Malaysia's distinct procedures for Muslim and non-Muslim estates may cause issues, Singapore's dedication to Islamic inheritance rules guarantees equitable distribution. In contrast to Malaysia's stricter regulations, Singapore is more accommodating to moral or equitable claims, which may hinder qualified applicants. Whereas Malaysia's approach, which involves multiple authorities, may be inefficient and opaque, Singapore ensures transparency in the transfer of assets, promoting accountability. Effective asset management lowers the possibility of future problems thanks to Singapore's abundance of knowledge and expertise.

On the other hand, the UK has well-defined laws and uniform protocols for *bona vacantia*, with different organisations managing assets in different areas. Malaysia, on the other hand, has different processes for Muslim and non-Muslim estates, which could cause delays and arguments. The open public disclosure policy of the United Kingdom outperforms that of Malaysia, which may provide a challenge to legitimate applicants. Malaysia's opaque policies contrast with the UK's equitable claims procedure, and the UK uses assets responsibly for charitable organisations and public services, while Malaysia has a less defined stance. The efficacy of *bona vacantia* may be limited by Malaysia's more centralised approach in comparison to the UK's inclusive stakeholder participation.

Even though West Malaysia has built its framework for the management of *bona vacantia*, there is room for development by drawing inspiration from the processes that

are witnessed in Singapore. If Malaysia's *bona vacantia* administration were to increase its transparency, efficiency, and expertise, it could be possible to achieve significant system improvement. It is of the utmost importance to acknowledge the unique legal systems, cultural distinctions, and contextual concerns that are present in both nations. Any prospective improvements in West Malaysia ought to be carefully adapted to the region's particular requirements, considering the West Malaysian legislative framework, cultural diversity, and administrative capabilities that are distinct from those of other regions.

Hence, to optimise the administration of *bona vacantia*, efforts to harmonise procedures, increase information accessibility, raise public awareness, establish international cooperation frameworks, respect cultural diversity, ensure transparency and accountability, and adapt to regional variations are all recommended. These steps will enhance efficiency, empower individuals, encourage rightful claims, facilitate cross-border asset handling, promote cultural sensitivity, strengthen public trust, and tailor solutions to specific contexts. By working together, we can create a legal environment that is fair and impartial for all parties engaged in the difficult sphere of *bona vacantia*.

The forthcoming chapter proposes a legal framework for the *bona vacantia* administration in West Malaysia by introducing the concept of *bona vacantia* and its significance in property law, emphasising the need for a robust legal framework. It compares the local system with those of Singapore and the UK, which have more advanced structures. The chapter reviews the current legal framework in West Malaysia, including key legislation and the roles of various authorities, while identifying gaps and inefficiencies. It then explores the legal frameworks and highlights innovative practices and policies that could be relevant to West Malaysia. A comparative analysis discusses

the strengths and weaknesses of each system, proposing a hybrid model incorporating best practices from Singapore and the UK. Finally, the chapter also outlines specific legal reforms for West Malaysia, suggesting changes to laws, new regulations, and the creation of specialised bodies to manage ownerless properties more effectively, aligning with practices in Singapore and the UK.



CHAPTER FIVE

ISSUES, CHALLENGES AND PROPOSED LEGAL FRAMEWORK FOR THE ADMINISTRATION OF *BONA VACANTIA* IN WEST MALAYSIA

5.1 INTRODUCTION

The growing number of unclaimed estates in Malaysia shows the importance of having a clear system in place to manage "bona vacantia" assets effectively. It is crucial to manage these estates to avoid legal complications and ensure that the assets are distributed or utilised in a way that aligns with Syariah or legal principles. In the context of West Malaysia, the management of *Bona vacantia* is particularly significant due to the country's diverse legal landscape, which includes both Islamic and civil law systems. A robust legal framework is essential to ensure the efficient administration of ownerless properties, prevent potential legal disputes, and ensure that these assets contribute positively to societal needs. The current legal framework, governed by a combination of the Federal Constitution, Civil Law Act 1956, and National Land Code 1965, among others, provides the foundation for managing *Bona vacantia*. However, the complexities inherent in Malaysia's dual legal system necessitate careful consideration to ensure that Islamic principles, particularly for Muslim estates, are respected while maintaining uniformity and fairness in the administration of all ownerless properties.

This chapter critically examines the current legal framework for the administration of *bona vacantia* in West Malaysia, intending to identify areas in need of reform. Given the growing issues, legal challenges and the need for continuous improvement, a comparative analysis with more advanced legal systems, such as those of Singapore and the United Kingdom, is invaluable. Both Singapore and the UK have

well-established frameworks for managing *Bona vacantia*, offering insights into potential reforms that could enhance the Malaysian system. Singapore's approach, which includes the role of the Public Trustee, and the UK's system, where the Crown manages ownerless estates, provide models that could be adapted to fit the Malaysian context. By conducting a detailed analysis of the frameworks in Singapore and the United Kingdom, this chapter also seeks to draw valuable insights from these more established systems. The comparative analysis highlights best practices that can be adapted to the West Malaysian context, ensuring that the administration of ownerless property is both efficient and equitable.

The proposed legal framework for *bona vacantia* in West Malaysia will focus on addressing the existing legal complexities and ensuring that asset distribution aligns with both civil and Islamic principles. This will involve establishing clear regulations and procedures that are responsive to the unique dual legal system in Malaysia. The ultimate goal is to contribute to the evolution of the legal system to better meet societal needs, ensuring that the management of *bona vacantia* is conducted in a manner that is just, transparent, and in line with global best practices.

5.2 CURRENT LEGAL AND PROCEDURAL FRAMEWORK OF *BONA VACANTIA* IN WEST MALAYSIA

As outlined in Chapter Two, the legal and procedural framework governing *bona vacantia* in West Malaysia is rooted in a combination of federal and state laws. The Federal Constitution, the Civil Law Act 1956, the National Land Code 1965, the Distribution Act 1958, the Small Estates (Distribution) Act 1955, and relevant Islamic law enactments collectively establish the rules for the administration of ownerless property. In general, estates belonging to Muslims without heirs are transferred to the

Baitulmal in accordance with Syariah principles, while estates of non-Muslims devolve upon the State Authority or the Federal Consolidated Fund, depending on whether the assets are immovable or movable.

5.2.1 Overview of the Existing Laws Governing *Bona Vacantia* in West Malaysia

Given that the substantive provisions of these laws have been examined in detail earlier, the focus here is not on restating their contents but on considering how they function in practice. The interaction between federal and state jurisdiction, the dual application of civil and Islamic law, and the procedural roles of agencies such as the Registrar of Unclaimed Moneys, the Estate Distribution Officer, and the Islamic Religious Councils illustrate the complexity of administering *bona vacantia*.

Accordingly, this section evaluates the adequacy of the existing framework in ensuring clarity, efficiency, and fairness. Particular attention will be given to whether the current procedures sufficiently prevent overlapping jurisdiction, address potential disputes between civil and Syariah courts, and provide a transparent mechanism for safeguarding assets that fall within the category of *bona vacantia*.

5.2.2 Overview of the Procedural Framework of *Bona Vacantia* in West Malaysia

5.2.2.1 Responsible Authorities

The administration of *bona vacantia* in West Malaysia is conducted by different authorities, depending on the deceased's religious background, ensuring that the handling of estates aligns with relevant legal and religious obligations. This dual system reflects Malaysia's plural legal structure and ensures that both Islamic and civil law requirements are observed.

For Muslims, the *Baitulmal* administered by the State Islamic Religious Council (*Majlis Agama Islam Negeri*) is the principal authority. When a Muslim dies intestate and without heirs, the estate reverts to the *Baitulmal*. This role is empowered by statutory provisions, such as Section 60 of the Administration of Islamic Law (Federal Territories) Act 1993, which establishes the role of *Baitulmal* as the fund responsible for managing zakat, charitable contributions, and other assets of Muslims in the Federal Territories. The same provision is also equivalent in Johor, Section 81 of the Islamic Religious Administration (State of Johor) Enactment 2003 (*Enakmen Pentadbiran Agama Islam (Negeri Johor) 2003*);¹ in Kedah, Section 47 of the Administration of Islamic Law (Kedah Darul Aman) Enactment 2008 (*Enakmen Pentadbiran Undang-Undang Islam (Kedah Darul Aman) 2008*);² and in Kelantan, Section 41(1) of the Kelantan Islamic Religious Council and Malay Customs Enactment 1994 (*Enakmen Majlis Agama Islam dan Adat Istiadat Melayu Kelantan 1994*).³ These provisions authorise the *Baitulmal* under the Religious Councils to administer property without the lawful owners and utilise it for the welfare of the Muslim community.

For non-Muslims, the Registrar of Unclaimed Moneys is responsible for movable assets under the *Unclaimed Moneys Act 1965*. Sections 10 and 11 empower the Registrar to hold such monies until claimed, after which unclaimed sums are transferred to the Consolidated Trust Account and eventually absorbed into federal custody. Immovable property, however, falls under the jurisdiction of the State

¹ See Section: 81 – (1) A fund called Baitulmal is hereby established. (2) Baitulmal shall consist of all money and property, movable or immovable, that according to Islamic law or under this Enactment or regulations or rules made under it, has accrued or been contributed by any person to Baitulmal.

² See Section 47 - (1) A fund named Baitulmal is hereby established. (2) Baitulmal shall consist of all money and property, movable or immovable, that according to Sharia law or under this Enactment or regulations or rules made thereunder, accrue, or are contributed by any person, to Baitulmal.

³ See Section 41 – (1) A fund named Baitulmal is hereby established. Baitulmal shall consist of all money and property, movable or immovable, that according to Sharia law or under this Enactment or regulations or rules made thereunder, accrue, or are contributed by any person, to Baitulmal.

Authority by virtue of section 351 of the *National Land Code 1965*, which provides that land without a proprietor reverts to the State. At the federal level, Article 97 of the *Federal Constitution* ensures that revenues, including *bona vacantia* assets, are consolidated into the Federal Consolidated Fund. A summary of the statutory provisions empowering each authority is provided in Table 5.1 below:

Table 5.1: Legal Provisions Empowering Authorities in the Administration of *Bona vacantia* in West Malaysia

Authority / Institution	Legal Basis	Key Provision(s)	Scope of Power
Baitulmal / State Islamic Religious Councils	<i>Administration of Islamic Law (Federal Territories) Act 1993</i> (s. 60); equivalent state enactments (e.g., Section 81 - <i>Enakmen Pentadbiran Agama Islam (Negeri Johor) 2003</i> ; Section 47 of the <i>Enakmen Pentadbiran Undang-Undang Islam (Kedah Darul Aman) 2008</i> ; and Section 41(1) of <i>Enakmen Majlis Agama Islam dan Adat Istiadat Melayu Kelantan 1994</i>	Majlis Agama Islam is authorised to administer property without the lawful owners	Receives and manages intestate Muslim estates without heirs; applies funds to welfare/charitable purposes in accordance with Syariah
Registrar of Unclaimed Moneys	<i>Unclaimed Moneys Act 1965</i> (ss. 10, 11)	The registrar is empowered to hold unclaimed monies; unclaimed sums are transferred to the Consolidated Trust Account	Manages unclaimed movable property and funds of non-Muslims until claimed; unclaimed monies are absorbed into federal custody
State Authority	<i>National Land Code 1965</i> (s. 351)	Land without a proprietor reverts to the State Authority	Manages and disposes of <i>bona vacantia</i> land (immovable property)
Federal Government (Accountant General / Consolidated Fund)	<i>Federal Constitution</i> (Art. 97)	All revenues, including <i>bona vacantia</i> movable property, must be credited into the Consolidated Fund	Ensures centralisation and transparency in handling unclaimed federal revenues

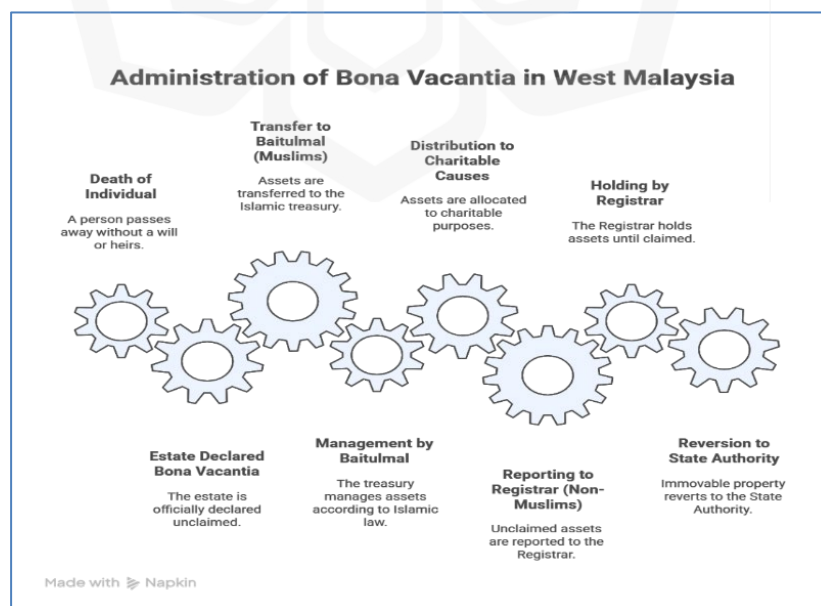
5.2.2.2 Process of Administration

The process of administering *bona vacantia* estates in West Malaysia reflects this division of authority. For Muslims, once an estate is determined to have no heirs, the property (both movable and immovable) is vested in the *Baitulmal*. The Majlis Agama

Islam, empowered under the relevant state enactments, then manages these assets in accordance with Syariah principles, typically through allocations to charitable causes and welfare activities that serve the Muslim community.

For non-Muslims, movable property is reported to and held by the Registrar of Unclaimed Moneys pursuant to the Unclaimed Moneys Act 1965. The Registrar safeguards such assets until they are claimed; otherwise, they are transferred to the Consolidated Trust Account and ultimately become part of the Federal Consolidated Fund, as per Article 97 of the Federal Constitution. Immovable property, on the other hand, is governed by section 351 of the National Land Code 1965, which requires such land to revert to the State Authority after the prescribed period. Thus, while the authorities differ according to the deceased's religious background, the legal provisions outlined in Table 5.2 ensure that every *bona vacantia* estate is managed within a clear statutory and procedural framework.

Table 5.2: Summary Overview of *Bona vacantia* Administration Procedures in West Malaysia for Muslim and Non-Muslim



In conclusion, while the current legal framework in West Malaysia provides a basic structure for managing *Bona vacantia*, there are significant opportunities for improvement. However, several gaps, inefficiencies, and areas for improvement could be addressed to enhance the system. Addressing these gaps and inefficiencies could lead to a more effective and equitable system that better serves the population's needs.

5.2.3 Issues

The administration of *Bona vacantia* faces several issues and challenges. Issues and challenges encompass a broader range of problems, including gaps and inefficiencies, among other issues. The increasing number of unclaimed estates in Malaysia underscores the need for improved regulation and management. The dual legal system can lead to various difficulties in the administration process, particularly when identifying and categorising estates under *bona vacantia*. Additionally, there may be issues with the distribution and determination of escheatable estates, which can result in delays and unresolved disputes. The key issues include:

a) Jurisdictional Split

The division of powers between federal and state authorities causes inconsistencies in the management of *Baitulmal*. This is due to the separation of powers between the federal and state governments in the administration of Muslim estates in West Malaysia as stipulated in List 2(1), State List, and List 1(4)(e)(i), Federal List, Ninth Schedule, Federal Constitution.⁴ While the Federal Constitution outlines the scope (Art. 97(3);

⁴ Bibi Nur Adila Zulkafli and Md Yazid Ahmad, "Kekangan Dan Penyelesaian Kelewatan Pengurusan Aset Pusaka Tak Alih Orang Islam Di Malaysia Constraints and Solutions of Delayed Management of Muslim Immovable Property Management in Malaysia," *Islamiyyat* 38, no. 1 (2016): 53–63, <http://dx.doi.org/10.17576/islamiyyat-2016-3801-06>.

List II, State List), state enactments differ in detail. For instance, the Federal Territories require YDPA approval for investments (s. 60, Act 505), while Kedah requires compliance with both civil and Syariah law (s. 47, Enactment 2008). This fragmented approach undermines uniformity and efficiency in administering Muslim estates. This fragmented approach has marginalised *Baitulmal*'s role, minimised its functions within State Islamic Religious Councils, and created confusing, overlapping jurisdictions that complicate the estate administration process for the public.⁵

b) Unclear Definition of Bona Vacantia

The ambiguity surrounding the definition of *Bona vacantia* for non-Muslims is also addressed by a few studies. It was found that such occurrences may result in the misclassification of unclaimed estates and the misadministration of assets. Confusion and uncertainty result from the absence of a consistent and precise understanding of *Bona vacantia* for non-Muslims. This can lead to misidentification of unclaimed estates and potential mismanagement of assets.⁶ The absence of a clear definition also allows for inconsistent application of the law across different states, potentially leading to inequities in the distribution of unclaimed assets.

⁵ Mohd Farihal Osman et al., "Prospek Pengurusan Modal Mampu Meningkatkan Prestasi Baitulmal Di Malaysia," in *Seminar Waqf Iqlimi 2014* organised by Universiti Sains Islam Malaysia (Nilai: Universiti Sains Islam Malaysia, April 2014), 123, <https://tinyurl.com/2wyna2fx>; Abdullah Muhamad, "Isu dan Masalah dalam Pengurusan Pembahagian Pusaka Kecil," in *Seminar Kebangsaan Pengurusan Harta dalam Islam* organised by Jabatan Syariah, Fakulti Pengajian Islam, Universiti Kebangsaan Malaysia and KIPSAS (Bangi: Universiti Kebangsaan Malaysia, 2006), 27–40.

⁶ Md Yazid Ahmad et al., "Baitulmal's Potential as Trustee for Unclaimed Moneys of Muslims," *International Journal of Civil Engineering and Technology IJCIET* 8, no. 12 (2017): 593-599, <https://tinyurl.com/557zm2md>

c) Fragmented Legal Provisions

Different laws apply to Muslims and non-Muslims in connection with *bona vacantia*. For Muslims, Islamic law (Sharia) governs the administration of estates, while civil law applies to non-Muslims. This dual system can lead to complexity and inconsistencies in the administration of ownerless properties. It is reported that the legal provisions of *bona vacantia* vary across different states in West Malaysia, leading to inconsistencies in the management of ownerless property. For instance, the procedures and practices surrounding this estate by *Baitulmal* differ from state to state for managing ownerless properties for Muslims.⁷

In furtherance, two key issues arise from these variations. First, disparities in beneficiary treatment emerge as different states impose unique protocols, deadlines, and requirements for claiming inheritance, resulting in unfair and inconsistent treatment. Second, the lack of uniformity creates confusion, making it difficult for individuals to understand their rights and navigate the claims process. This ambiguity can discourage beneficiaries from pursuing their inheritance due to the complex and varied landscape of *Bona vacantia* laws.⁸

⁷ Rahmawati Mohd Yusoff et al., “The Administration of Bona Vacantia (Ownerless Property) in West Malaysia: A Comparative Analysis,” *International Journal of Academic Research in Business and Social Sciences* 11, no. 5 (2021): 586–597, <https://doi.org/10.6007/ijarbss/v11-i5/9824>; Akmal Hidayah Halim et al., “The Administration of Muslims’s and Non-Muslims’s Ownerless Estate (Bona vacantia) in West Malaysia: An Analysis,” *International Journal of Law, Government and Communication* 4, no. 16 (2019): 26-34, <https://doi.org/10.35631/ijlgc.416003>.

⁸ Muhammad (2006) as cited by Md Yazid Ahmad and et al, “Inheritance Management by Baitulmal in Malaysia: Role and Challenges,” *International Journal of Advanced Research IJAR* 8, no. 10 (2020): 1113–1120, <http://dx.doi.org/10.21474/IJAR01/11941>.

d) Inefficiency in Administration and Lack of Resources

A lack of effective administrative systems can lead to delays and complications in the distribution process.⁹ Ineffective estate administration can lead to the waste of resources, requiring additional time, energy, and financial resources to resolve distribution issues. If the administrative systems are ineffective, this can lead to various problems in the distribution process. Firstly, there may be delays if there is no direct procedure to figure out who the rightful owners of the estates are. Besides, there is the potential waste of resources due to ineffective estate administration. Administering an estate involves a variety of tasks, such as identifying and valuing assets, identifying potential beneficiaries or claimants, and then distributing the estate.¹⁰

Baitulmal institutions often lack sufficient resources and expertise, hindering their effective management of ownerless estates. This often results in delays in processing claims and distributing funds. However, there is the potential of *Baitulmal* as a public trustee for unclaimed monies of Muslims, provided there is effective collaboration among the involved parties. Shariah principles include ownerless monies and estates of Muslims as part of *Baitulmal*'s resources, but the Unclaimed Moneys Act of 1965 takes precedence in Malaysia, limiting *Baitulmal*'s authority.¹¹

It is suggested that the *Baitulmal* should play a more significant role within the administrative framework of the country. To strengthen the *Baitulmal*, a comprehensive approach is necessary that considers legal, administrative, and cooperative aspects. Managerial limitations, particularly within State Islamic Religious Councils, are due to

⁹ Rusnadewi Abdul Rashid and Nor Hisyam Ahmad, "Pengurusan Harta Melalui Hibah: Kepentingan Dan Manfaat Dari Pelbagai Aspek Untuk Kemajuan Ummah (Hibah Wealth Management: The Important and Benefit from Various Aspects for Ummah Development)," *Jurnal Hadhari* 5, no. 1 (2013): 91–104, <http://www.ukm.edu.my/jhadhari/makalah/V5n12013/makalah06.pdf>.

¹⁰ Siti Khadijah Abdullah Sanek et al., "Bona Vacantia in West Malaysia: Issues and Challenges," *International Journal of Law, Government and Communication* 9, no. 36 (2024): 131–142, <https://doi.org/10.35631/ijlgc.936010>.

¹¹ Yazid et al., "Baitulmal's Potential as Trustee for Unclaimed Moneys of Muslims," 593–599.

a lack of skilled human resources.¹² Addressing this issue is crucial in the context of the Fourth Industrial Revolution (Industry 4.0), where advanced technologies and skilled staff are essential for organisational progress. Industry 4.0 underscores the need for the *Baitulmal* to adopt technological advancements and develop a knowledgeable workforce.¹³ Competencies and behaviours relevant to Industry 4.0, such as collaboration, innovation, skill, and learning, are vital for organisational performance.¹⁴

e) Inconsistencies in Administration Across States

A multitude of jurisdictions could be confusing, and occasionally, their distinct functions overlap. Moreover, it becomes more challenging for the public to cope, particularly for those with inadequate comprehension of information.¹⁵ Furthermore, the inconsistencies across states can lead to inefficiencies and delays. *Baitulmal* plays a vital function in the administration of Muslim deceased estates that are ownerless. This is per the provisions of the Federal Constitution, specifically stated in Item 1 of List II (State List), Ninth Schedule. Therefore, each *Baitulmal* in every state can autonomously exercise its jurisdiction, which differs from one state to another. It underscores the need for better coordination and even standardisation across states to make the system more understandable and accessible for everyone.

Another concern arises from the increasing number of government and private entities with functions similar to *Baitulmal*, causing confusion and misunderstanding in

¹² Syamsul Rusydi Somad Abdul Bashit, “Amalan dan Cabaran Baitulmal Dalam Pengurusan Harta Pusaka di Malaysia [Practice and Challenges of Baitulmal in Managing Inheritance in Malaysia],” (unpublished master’s dissertation, Universiti Kebangsaan Malaysia, 2016), 85.

¹³ Ibid.

¹⁴ Saqib Shamim and et al, “Management Approaches for Industry 4.0: A Human Resource Management Perspective,” *2016 IEEE Congress on Evolutionary Computation (CEC)*, (2016): 5309-5316, <https://doi.org/10.1109/CEC.2016.7748365>

¹⁵ Abdullah, “Isu dan Masalah dalam Pengurusan Pembahagian Pusaka Kecil,” 27–40.

society about *Baitulmal's* actual roles.¹⁶ The confusion over the role of *Baitulmal* is a valid concern. This confusion can undermine *Baitulmal's* role and effectiveness in managing Muslim estates. The issue becomes even more critical in the context of estate administration. It has been observed that *Baitulmal's* involvement in managing Muslims' inheritance is not prominent.¹⁷ *Baitulmal* serves as the last reference centre concerning the estate without heirs or where the residual property exists following distribution to the proper heirs.¹⁸ Moreover, some community members are more familiar with the Syariah Court, High Court, Amanah Raya Berhad (ARB) and Land Office than with *Baitulmal*. It has been highlighted that *Baitulmal's* role has been marginalised, with its function reduced to small units within the State Islamic Religious Council, supported by various government agencies.¹⁹

f) Setbacks in Claiming Small Estates and the Redemption Problem

The legal processes involved in claiming *Bona vacantia* estates can be complex and time-consuming, particularly under the Distribution Act 1958 and Civil Law Act 1956. The disproportionate amount of time and expense involved in claiming small estates discourages beneficiaries from claiming their inheritance. Individuals with greater estates are more likely to possess the financial means to pursue their inheritance keenly, contrary to individuals with smaller estates. Mr Seh Nilamuddin bin Hassan, the Deputy Director-General of the Division of Inheritance at the Department of the Director General of Land and Mines (Federal), in his presentation during the Jawhar Intellectual

¹⁶ Yazid et al., "Inheritance Management by Baitulmal," 1113–1120.

¹⁷ Rusydi, "Amalan dan Cabaran Baitulmal," 46.

¹⁸ Mohammad Salleh Abdul Saha et al., "The Issues, Concepts and Functions of Baitulmal in Selangor Islamic Religious Council (MAIS) on the Reclamation of Muslim Inheritance," *International Journal of Academic Research in Business and Social Sciences* 12, no. 11 (2022): 2213–2221, <https://doi.org/10.6007/IJARBS/v12-i11/14835>

¹⁹ Farihal Osman et al., "Prospek Pengurusan Modal," 123.

Discourse (JID) Program No. 2/2012, highlighted that certain state *baitulmal* authorities demonstrate reluctance in initiating applications even upon learning that the deceased had no heirs. Furthermore, some of these authorities are not prepared to make payments, even though they have received their share.²⁰

Moreover, some non-Muslim heirs feel entitled to the estate left by the deceased convert. They questioned *Baitulmal's* right not to give the estate to them, as they are the heirs of the deceased who are still alive and entitled to receive the deceased's inheritance. This causes the non-Muslim heirs to be dissatisfied and make claims against the convert's estate when they do not get their rights due to the Islamic status of the deceased convert.²¹ This is a complex issue involving religious conversion and the rights of heirs. It reflects the legal and ethical challenges in balancing Islamic inheritance laws with the rights of non-Muslim heirs.

There is also a case of deliberately failing to reveal the rightful heirs throughout the distribution procedure, which subsequently led to a retrial after *Baitulmal* sold a portion of the existing rightful heirs' part to other heirs. The heirs of the deceased are therefore permitted, with the authorisation of the Majlis Agama Islam Negeri (MAIN), to redeem the property at the current price assessed by the Settlement Officer of the District Land Office or the Assessment Office. In addition, should the estate owned by *baitulmal* have been registered in the Deed of Title owing to the expiration of the redemption offer period, the entitled heirs may also redeem the property if it is inappropriate and unable to be developed by *baitulmal*.²²

²⁰ Seh Nilamuddin Hassan, "Isu-Isu dan Permasalahan dalam Pembahagian Pusaka Orang Islam di Malaysia," paper presented at Jawhar Intellectual Discourse, Putrajaya, June 13, 2012, <https://e-muamalat.islam.gov.my/en/bahan-ilmiah/kertas-ilmiah/372-isu-isu-permasalahan-dalam-pembahagian-harta-pusaka-orang-islam-di-malaysia>.

²¹ Yazid et al., "Inheritance Management by Baitulmal," 1113–1120.

²² Nor Azlina Abd. Wahab (2007) as cited by Yazid et al., "Inheritance Management by Baitulmal," 1113–1120.

g) Lack of Data on Bona Vacantia

Muslim and non-Muslim estates face different administrative processes depending on the nature of the properties involved. There is a notable lack of comprehensive data on *bona vacantia* amounts and no standard procedure for managing and valuing these assets.²³ Furthermore, in the 2023 interview with the National Accountant Department of Malaysia, it was made clear that unclaimed money (Wang Tak Dituntut or WTD) and *bona vacantia* are distinct. Over the past 10 years, a total of RM8.68 billion in WTD has been reported, and none of them are classified as *Bona vacantia*. These funds are managed under the Unclaimed Moneys Act 1965.²⁴ Nevertheless, there is a lack of precise techniques to identify *bona vacantia* funds, and anyone seeking to claim such funds must proactively apply to the Registrar of Unclaimed Money. There is also no established method to differentiate between unclaimed money for a living person and a deceased. Hence, lacking this data hinders the efforts of authorities to outline policies and strategies for managing these estates. Without accurate data, planning for the management of unclaimed estates is halted, too.

5.2.4 Challenges

a) Legal and Policy Standardisation

A major challenge lies in harmonising civil and Syariah laws across states. Without a standardised framework, *bona vacantia* administration remains fragmented and inconsistent. However, the law development process is more crucial than the content of

²³ Rahmawati Mohd Yusoff, “The Administration of Unclaimed Estates in West Malaysia: Formulating a Legal Framework” (unpublished Ph.D. thesis, International Islamic University Malaysia, 2019), 95-96.

²⁴ Ibid.

the laws themselves.²⁵ Just as standardisation in Islamic finance has improved transactions, a common legal approach could ensure fairness, transparency, and efficiency in estate management. Moreover, standardisation in Islamic finance has demonstrated that common standards across jurisdictions can facilitate smoother legal and financial transactions.²⁶ This principle can also be applied to the regulation of *bona vacantia*, where a standardised legal framework can promote seamless processes and reduce conflicts arising from jurisdictional differences.

b) Improving Administrative Efficiency

Improving administrative efficiency in the administration of unclaimed property and ownerless estates, also known as *bona vacantia*, involves several key strategies. Firstly, the process can be made more efficient and take less time by reducing the number of steps. Secondly, by encouraging good inter-agency collaboration, including sharing information and ensuring that processes are followed in the same way, delays can be minimised. Lastly, prompt identification, accurate valuation, and fair distribution of *bona vacantia* can further enhance efficiency. By implementing these strategies, we can ensure fair and efficient management of unclaimed properties and ownerless estates.²⁷

²⁵ Katharina Pistor, “G-24 Discussion Paper Series – The Standardization of Law and Its Effect on Developing Economies,” in *The United Nations Conference on Trade and Development* (New York and Geneva: United Nations Publication, 2000), <https://tinyurl.com/4tk8yx9y>.

²⁶ Ibrahim Musa Unal and Ahmet Faruk Aysan, “Fintech, Digitalization, and Blockchain in Islamic Finance: Retrospective Investigation,” *Fin Tech* 1, no. Special Issue 4 (2022): 388–398, <https://doi.org/10.3390/fintech1040029>

²⁷ Siti Khadijah and et al, “Bona Vacantia in West Malaysia: Issues and Challenges,” *International Journal of Law, Government and Communication* 9, No. 36, (2024): 131–142, <https://doi.org/10.35631/ijlgc.936010>

c) Educating the Public

The key component of solving the problem of *bona vacantia*, or ownerless estate, lies in educating the public. The public is often unaware that such estates exist and the consequences of not claiming them. There are many ways to do this, such as through outreach efforts and awareness programmes. By improving public understanding, we can facilitate the claim process, reduce the number of unclaimed estates, and streamline probate management. Ultimately, a knowledgeable audience can make a significant impact on how efficiently *bona vacantia* is administered.

d) Making it Easier for Families to Claim

More of these properties may come into control if the process for heirs to inherit estates without a will is made simpler. Such measures could include the reduction of bureaucratic red tape and an increase in the availability of resources for claimants. Notably, the Malaysian Institute of Estate Planners (MIEP) recommends expanding stamp duty relief for family transfers and tax deductions for will and estate planning to encourage proactive planning and reduce estate-related complications.²⁸

e) Utilising Technology

The current framework may not fully leverage modern technology for estate tracking, public information dissemination, and administrative efficiency. Technology may significantly streamline the management of ownerless property, particularly a national database. This database would serve as a one-stop resource centre for all such estates,

²⁸ Nurul Huda, "MIEP Proposed Initiatives for Responsible Estate Planning and Tackling Issues of Unclaimed Monies," *Business Today*, October 5, 2023, <https://www.business-today.com.my/2023/10/05/miep-proposed-initiatives-for-responsible-estate-planning-and-tackling-issues-of-unclaimed-monies>.

making the process more accessible and transparent. It would be a valuable tool for officials to monitor these estates and for potential claimants to find and claim estates. The government is exploring a proposal to use updated National Registration Department (JPN) data to locate the genuine owners or heirs of unclaimed funds by directly crediting funds into beneficiaries' bank accounts.²⁹ In short, technology can reform the management of ownerless estates, making the process easier, more transparent, and more accessible for everyone involved.

f) Protective Measures for People and the Environment

While direct sources specific to environmental safeguards in *bona vacantia* are lacking, broader studies highlight that unclaimed estates, especially real property, often involve ownership disputes or legal complications that leave assets idle, hindering development and utility.³⁰

In summary, the issues and challenges faced highlight the need for a robust legal framework that can effectively manage ownerless estates. Hence, improving the efficiency of administrative systems is the key to managing *bona vacantia*. This could involve reforming processes, reducing bureaucratic hurdles, implementing effective systems for asset identification and valuation, and improving methods for owner verification and the claiming process. By doing so, it would be possible to reduce delays and complications, save resources, and ultimately ensure that assets are distributed to their rightful owners in a timely and efficient manner.

²⁹ Official Portal of Ministry of Finance, “Press Citation – RM12.8 Bln in Unclaimed Money Still Awaiting Owners,” accessed June 10, 2025, <https://www.mof.gov.my/portal/en/news/press-citations/rm12-8-bln-in-unclaimed-money-still-awaiting-owners>.

³⁰ Wan Zahari Wan Yusoff and Muhammad Azwan Sulaiman. “The Issues of Unclaimed Properties in Malaysia,” *JSTARD: Journal of Science and Technology in Engineering* 3, no.2 (2021): 9-14, <https://publisher.uthm.edu.my/ojs/index.php/jstard/article/view/8740>

5.2.5 Analysis of Issues and Challenges

The following Table 5.3 provides a detailed analysis of the procedural framework for *bona vacantia* administration in West Malaysia, specifically addressing the differences in handling estates for Muslim and non-Muslim individuals. The first part of the table highlights key issues, descriptions, and critical analyses of the current system. It underscores the jurisdictional split between federal and state authorities, the unclear definition of *bona vacantia*, the fragmented legal framework, inefficiencies in administration, inconsistencies across states, setbacks in claiming small estates, and the lack of comprehensive data. Each of these issues contributes to the overall complexity and challenges faced in the administration of *bona vacantia* in West Malaysia. Further, the second part of Table 5.3 highlights the challenges as follows:

Table 5.3: Issues and Challenges Analysis

ISSUE	DESCRIPTION	CRITICAL ANALYSIS
1. Jurisdictional Split between Federal and State	The authority over <i>Baitulmal</i> , the entity in charge of managing Muslim properties, is divided between federal (Wilayah Persekutuan KL, Putrajaya, and Labuan) and state authorities according to the Federal Constitution. This division of power leads to irregularities and inefficiencies in the administration across various states. Whereas for non-Muslims, the immovable estates fall under the State authority, and movable estates shall revert to the Federal authority	This split creates inefficiencies and inconsistencies across states. Each state has its laws and procedures, complicating the administration process and creating disparities.
2. Unclear Definition of <i>Bona vacantia</i>	The definition of <i>Bona vacantia</i> for non-Muslims is ambiguous.	This ambiguity leads to misclassification and misadministration of unclaimed estates. A clear and consistent definition is needed to prevent mismanagement.
3. Fragmented Legal Framework	Inconsistent and state-specific legal frameworks for <i>Bona vacantia</i> .	This fragmentation causes confusion and unequal treatment of beneficiaries, complicating the claims process. Uniform laws across states would ensure fairness and clarity.
4. Inefficiency in Administration	Inefficiency in administration refers to ineffective estate management.	Inefficiency in administration leads to resource wastage and delays, undermining the effectiveness of managing <i>bona vacantia</i> estates. The

and Lack of Resources	Lack of resources and skilled human resources in the related institutions.	lack of skilled resources in <i>Baitulmal</i> institutions is a critical concern that needs to be addressed to enhance estate management efficiency.
5.Inconsistencies in Administration Across States	Variations in the administration across states create confusion and inefficiencies. This inconsistency complicates the understanding of the public and impedes effective coordination and standardisation in estate administration.	The inconsistency across states adds to the complexity and confusion in estate administration, diluting the role and effectiveness of <i>Baitulmal</i> . A standardised approach and better coordination are necessary to improve the system's accessibility and effectiveness.
6.Setbacks in Claiming Small Estates and the Redemption Problem	The legal complexities and excessive costs involved in claiming small estates discourage beneficiaries from pursuing their inheritance. Issues include reluctance from state <i>Baitulmal</i> authorities and disputes involving non-Muslim heirs.	The difficulty in claiming small estates, coupled with the reluctance of some <i>Baitulmal</i> authorities, leads to prolonged disputes and unclaimed estates. The challenges faced by non-Muslim heirs highlight the need for a balanced approach to inheritance laws and religious conversion issues.
7.Lack of Data on Bona vacantia	Mohd Yusoff (2019) highlights the lack of comprehensive data on <i>bona vacantia</i> amounts and the absence of a standard procedure for managing and valuing these assets. ³¹	There is a significant gap in the management of <i>bona vacantia</i> due to the lack of precise techniques to identify such funds. The absence of a standardised method to differentiate between unclaimed money for living persons and the deceased complicates the process. This lack of comprehensive data and clear procedures hinders the authorities' ability to develop effective policies and strategies for managing these estates. Without accurate data, planning for the management of unclaimed estates is severely impeded.
CHALLENGE	DESCRIPTION	KEY CONSIDERATIONS
a) Legal and Policy Standardisation	Developing a standardised legal framework for <i>bona vacantia</i> administration across different states and religious traditions is crucial but challenging.	Requires careful harmonisation of Sharia and civil law. Standardisation can facilitate smoother legal transactions and reduce conflicts arising from jurisdictional differences.
b) Improving Administrative Efficiency	Enhancing the efficiency in managing unclaimed properties involves streamlining processes, improving inter-agency collaboration, and ensuring prompt identification and fair distribution of <i>bona vacantia</i> .	Simplify steps, promote collaboration, and implement clear rules. Efficient valuation and distribution processes are essential to minimise delays and improve fairness.
c) Educating the Public	Increasing public awareness about <i>bona vacantia</i> is vital to reducing the number of unclaimed estates and streamlining probate management.	Outreach programmes and awareness campaigns can help inform the public, making the claim process easier and more understandable, ultimately facilitating more efficient administration of ownerless estates.
d) Making it Easier for Families to Claim	Simplifying the inheritance process for heirs of estates without a will can lead to more properties being claimed.	Reducing bureaucratic obstacles and providing clear guidance and support can empower rightful heirs to confidently navigate the claim process, increasing the likelihood of successful claims.

³¹ Rahmawati, "The Administration of Unclaimed Estates," 95-96.

e) Utilising Technology	Leveraging modern technology can significantly improve the management of ownerless estates, including through the use of a national database.	Technology can streamline estate tracking, improve transparency, simplify the claim process, and enhance documentation, leading to a more accessible and efficient system. Digital records offer easier maintenance and retrieval compared to traditional paper records.
f) Protective Measures for People and the Environment	Ensuring that <i>bona vacantia</i> properties are used sustainably and protecting areas of scientific or environmental value is crucial.	Protective measures must consider local culture, community relationships, safety, and effective estate management. Sustainable usage guidelines should be implemented to preserve environmental and community value while managing ownerless properties responsibly.

The explanation of the analysis above also demonstrates how crucial it is to perform *a'addah* when managing the distribution of Muslim estates. This matter can expedite the administration and distribution process and benefit the immediate heirs. So, it is possible to avoid the connotation that there are abandoned properties worth RM40 billion, as claimed. Performing *a'addah* when managing the distribution of Muslim estates involves adhering to Islamic legal principles to ensure a fair and just allocation of the deceased's assets among their rightful heirs. This process includes identifying the heirs, calculating their specific shares as prescribed by Islamic law, settling any debts and obligations of the deceased, and then distributing the remaining estate accordingly. The term *a'addah* underscores the importance of following these steps meticulously to uphold justice and compliance with religious obligations, thereby preventing disputes and ensuring that each heir receives their rightful portion.³²

³² Roshaimizam Suhaimi and Jasni Sulong, "Konsep A'addah dalam Pengurusan Pindahmilik Harta Pusaka," *ESTEEM Academic Journal* 10, no. 2 (2014): 44–55, <https://mycite.mohe.gov.my/en/files/article/83577>

5.2.6 Areas of Improvement

The following elaborations discuss the potential improvements for the *bona vacantia* framework in West Malaysia.

1. Streamlining the Process

The current system in West Malaysia is divided based on religious boundaries, which can be confusing and cumbersome. A unified legal framework would eliminate this complexity, making it easier for all claimants to navigate the process regardless of their religious background. This could involve creating a centralised authority responsible for managing *bona vacantia* estates, thereby reducing administrative overhead and potential conflicts between different religious courts.

2. Enhanced Public Awareness

A significant number of estates remain unclaimed due to a lack of awareness among potential heirs. To address this, the government could launch comprehensive public education campaigns. These campaigns could include information sessions, distribution of educational materials, and media outreach to inform the public about their rights and the process for claiming *bona vacantia* estates.

3. Digitalisation

Adopting digital technologies can greatly enhance the efficiency of managing *bona vacantia* estates. An online portal could be developed to allow for the submission of claims, tracking of estate statuses, and the dissemination of information. This would make the process more transparent and accessible, especially for younger generations who are more tech-savvy. There is a bibliometric study conducted that briefly mentions

the potential of blockchain technologies for managing *Bona vacantia*. Further research on emerging technologies in this field could explore innovative solutions for tracking, managing, and redistributing ownerless property.³³

4. Interest Incentives

To encourage prompt claims, the government could charge penalties or fees on unclaimed estates. This financial incentive would motivate beneficiaries to come forward and claim their inheritance promptly, reducing the number of estates that remain unclaimed for extended periods.

5. Cross-Jurisdictional Learning

Malaysia can gain valuable insights into effective practices by studying the *bona vacantia* frameworks in other jurisdictions such as Singapore and the UK. These countries have established systems that balance efficiency with fairness, and their experiences can inform potential reforms in Malaysia.

6. Legal Reforms

The legal framework governing *bona vacantia* should be subject to regular reviews to ensure it keeps pace with societal changes and technological advancements. Legal reforms could include updating definitions, clarifying procedures, and introducing new mechanisms to handle complex cases involving multiple claimants or international elements. By implementing these improvements, West Malaysia can create a more

³³ Siti Khadijah Abdullah Sanek and Akmal Hidayah Halim, “Bibliometric Examination of ‘Bona Vacantia’: Charting Patterns and Research Trends,” *Information Management and Business Review* 16, no. 2(I)S (2024): 219–235, [https://doi.org/10.22610/imbr.v16i2\(i\)s.3817](https://doi.org/10.22610/imbr.v16i2(i)s.3817)

efficient and equitable system for managing *bona vacantia* estates, ensuring that ownerless property is distributed fairly and promptly.

5.3 CURRENT LEGAL STATUS IN SINGAPORE

5.3.1 Governing Laws and Regulations

In Singapore, the management of *Bona vacantia* is a well-structured process that is governed by key statutes and regulations. The Civil Law Act and the Intestate Succession Act are the primary legal instruments that outline the procedures for handling estates without a will and without any surviving next-of-kin. These laws ensure that ownerless properties are managed in a manner that is fair and just.

Bona vacantia, or ownerless property, is primarily governed by the Intestate Succession Act for non-Muslims. This act operates on the presumption that a deceased person has next-of-kin entitled to inherit their estate. It outlines a hierarchy of beneficiaries, starting with the spouse and children and moving on to parents, siblings, and so forth, detailing how the estate should be distributed without a will. However, when an individual passes away without a will (intestate) and has no surviving next-of-kin entitled to the estate, the assets are classified as *bona vacantia*. In such cases, these assets rightfully become the property of the government. This transfer to the government ensures that the assets are not left in limbo and can be used for public use or otherwise managed in a manner that serves the interests of the state.

Further, for non-Muslim estates, the Civil Law Act of 1909, particularly Section 27, states that the ownerless estates become government property. However, individuals with proper documentation can claim these estates. If a person who was close to the deceased or a non-legally recognised individual who had a committed relationship with the deceased comes forward, they may present their case under this section. They must

provide evidence of their relationship or contribution to the deceased's welfare to make a claim. The evaluation of claims considers numerous factors as outlined in Section 27(3) of the Act. The law on *bona vacantia* in Singapore is an interesting legal concept that comes into play when someone passes away without leaving a will or having any family members inherit their belongings. The Public Trustee plays a crucial role in this process. They are responsible for assessing claims against *Bona vacantia* estates, considering several factors such as the relationship between the claimant and the deceased, any legal or moral obligations, and the deceased's last wishes. The Public Trustee's role is to function as an impartial adjudicator, ensuring that claims are evaluated fairly and that the rightful heirs receive their due inheritance. This process involves carefully examining each claim that is made, requiring individuals to provide the necessary documentation and evidence to support their claim. This framework in Singapore ensures that while the state acts as a default beneficiary to prevent assets from going unclaimed, there is still room for rightful claimants to come forward and receive their due inheritance, provided they can substantiate their claims under the law. It strikes a balance between the efficient management of estates and the recognition of potential moral rights that might exist over these properties.

Whereas for Muslims, the Administration of Muslim Law Act 1966 (2020 Revised Edition) provides guidelines for Muslim religious affairs in Singapore. It establishes a council to oversee matters related to the Muslim religion and the Syariah Court. Notably, Section 112 of the Act addresses the distribution of estates belonging to Muslims according to Muslim law. The regulatory framework for unclaimed property, or *bona vacantia*, includes specific provisions for managing such estates. Muslim estates follow unique rules where, if no next-of-kin is identified, funds are distributed according to Islamic inheritance laws, with *Baitulmal*, managed by the Islamic

Religious Council of Singapore (MUIS), receiving the allocations. This aligns with Section 27(6) of the Civil Law Act, which excludes Muslim estates from certain regulations. It is worth noting that if the deceased person happens to be Muslim, their belongings are excluded from *bona vacantia* under the Civil Law Act. This ensures that the distribution of Muslim belongings aligns with the religious customs and practices followed by the Muslim community in Singapore.

Therefore, for Muslims, the fact that Singapore has specifically legislated legislation regarding Islamic inheritance is evidence of the country's commitment to satisfying the diverse needs of its Muslim community. Islamic inheritance laws, also known as *Faraid*, and the Administration of Muslim Law Act (AMLA) are two pieces of legislation that systematically manage the transfer of assets by Islamic principles. The implementation of this shows that Singapore is aware of religious and cultural issues and ensures fair asset distribution among rightful heirs. Singapore has a system that is both well-established and efficient for the administration of estates that are considered to be *bona vacantia*.

5.3.2 Administration Process

Singapore has a system that is both well-established and efficient for the administration of estates that are considered to be *bona vacantia*. This system involves the appointment of the Public Trustee, who is appointed by the Minister for Law, and the Majlis Ugama Islam Singapura (MUIS), who is appointed by the President, for non-Muslim estates and Muslim estates, respectively. The administration of *bona vacantia* estates in Singapore is managed by the Public Trustee's Office (PTO) for non-Muslims. Claims can be made by anyone who can produce the necessary proof and demonstrate that the deceased has no surviving next-of-kin eligible to inherit under the Intestate Succession



Act. The PTO assesses claims on a case-by-case basis, considering factors such as the relationship between the claimant and the deceased, any obligations the deceased had towards the claimant, and the deceased's last wishes. There is a waiting period before claims can be made: 3 years for estates involving immovable property and 6 months for those that do not. When an estate becomes *bona vacantia*, the PTO publishes a notice allowing potential claimants to come forward. Claimants must provide sufficient proof of their relationship to the deceased or demonstrate any obligations that the deceased may have had towards them. Additionally, the PTO takes into consideration any known last wishes of the deceased that could influence the distribution of the estate.


Whereas for Muslims, the concept of *bona vacantia* is governed by the Administration of Muslim Law Act (AMLA). The implementation of the Act (AMLA) involves instances in which individuals passed away without leaving a valid will or a qualifying next-of-kin. When evaluating whether or not the estates were *bona vacantia*, the courts took into consideration several criteria, including the possibility of shared property ownership, the religious affiliation of the recipients, and the absence of known successors. Once an estate is deemed *bona vacantia*, the Majlis Ugama Islam Singapura (MUIS) can apply to manage and distribute the estate. Upon approval, the estate is then administered by *Baitulmal*, ensuring the assets are managed under Islamic principles and used for the benefit of the Muslim community.

Singapore's approach to *Bona vacantia* includes innovative practices that could be beneficial for West Malaysia. One such practice is the allowance for anyone to make an equitable or moral claim on an estate, provided they can substantiate their claim with necessary documents and evidence. This inclusive approach ensures that all potential claimants have an opportunity to come forward, which could be particularly useful in

West Malaysia, where there may be a lack of awareness about *Bona vacantia*. Table 5.4 below indicates the ownerless estate administration in Singapore.

Table 5.4: Estate Administration Comparison in Singapore

	 Public Trustee (Non-Muslim)	 MUIS (Muslim)
Appointed By	Minister for Law	President
Governing Law	Intestate Succession Act	Administration of Muslim Law Act (AMLA)
Claim Assessment	Case-by-case basis	Considers shared property, religious affiliation
Waiting Period	6 months (no property), 3 years (property)	Not specified
Estate Management	Public Trustee's Office (PTO)	Baitulmal
Claim Proof	Relationship, obligations, last wishes	Absence of known successors
Estate Usage	Not specified	Benefit of the Muslim community

Made with  Napkin

By adopting similar practices, West Malaysia could improve its system for managing *Bona vacantia* estates, making it more efficient, transparent, and equitable. The role of the Public Trustee as an impartial adjudicator could also serve as a model for establishing a similar authority in West Malaysia, while public education campaigns could help increase awareness and encourage more claims.

5.4 CURRENT LEGAL STATUS IN THE UK

5.4.1 Governing Laws and Regulations

In the United Kingdom, the concept of *bona vacantia* addresses the issue of property that lacks a legal owner. The term means “ownerless goods” and is a significant aspect of property law. When an individual dies intestate (without a will) and without any known kin, or when a company is dissolved without disposing of its assets, these assets fall under the category of *bona vacantia*. By default, such property is transferred to the Crown, represented by the Treasury Solicitor.

The governance of *bona vacantia* in the UK is supported by several key legal frameworks. The Administration of Estates Act 1925 provides the foundational structure for managing the estates of deceased persons, outlining the order of entitlement for heirs and the process for administering estates, including those that become *bona vacantia*. The Companies Act 2006 governs the formation, management, and dissolution of companies, specifying that the assets of a dissolved company that have not been distributed or disposed of are considered *bona vacantia*. Additionally, the Dissolution of Companies Regulations details the procedures for dissolving companies and managing any remaining assets.

However, in the UK, *bona vacantia* laws apply universally, including to Muslims, without specific exemptions or modifications based on religious beliefs.

When a Muslim individual dies intestate (without a will) and without known heirs, their estate is treated as *bona vacantia*, meaning it passes to the Crown. Therefore, Muslims should create a will that aligns with both UK law and Islamic principles to ensure their estate is distributed according to their wishes and religious guidelines.

The legal mechanisms in place include the Companies Act 2006, which stipulates that property, cash, and other assets owned by a company when it is dissolved automatically pass to the Crown. Liabilities of a company do not pass to the Crown on dissolution; they are normally extinguished. The *Bona vacantia* Division (BVD) of the Government Legal Department is responsible for collecting some *Bona vacantia* assets for the Crown. This specialised division is responsible for managing the assets of individuals who pass away without leaving a will and without any surviving family members, as well as the assets of companies that no longer exist. The *Bona vacantia* Division plays a crucial role in ensuring that these assets are properly accounted for and managed. The *Bona vacantia* Division (BVD) also oversees the management of unclaimed property from dissolved companies, as well as unclaimed lottery winnings associated with deceased individuals.

In the UK, *bona vacantia* (ownerless property) management varies by region. In England & Wales, the Treasury Solicitor oversees it, guided by the Administration of Estates Act 1925 and the Inheritance (Provision for Family and Dependents) Act 1975. The Companies Act 2006 also defines dissolved company assets as *bona vacantia*. Company assets that can be transferred to the Crown as *bona vacantia* include various forms of property, such as interests in land (both freehold and leasehold), cash, intellectual property (including patents and copyrights), and contractual rights.³⁴

³⁴ Philip Lardner, "How Does Bona Vacantia Apply to Foreign Companies and Assets?," *Russell Cooke*, accessed February 1, 2023, <https://tinyurl.com/yc3y7cfr>.

Northern Ireland relies on the Crown Solicitor's Office and primarily uses the Companies Act 2006 for dissolved companies. Scotland's Office of King's and Lord Treasurer's Remembrancer manages *bona vacantia*, with sections 1020-1022 of the Companies Act 2006 outlining procedures for claiming dissolved company assets.

While all UK jurisdictions use the Companies Act 2006 for dissolved companies, they differ in managing intestacy, with England & Wales having dedicated legislation, Northern Ireland relying on the Companies Act, and Scotland using separate legislation. Understanding these specific regulations and procedures is crucial for navigating *bona vacantia* effectively.

For example, if a UK resident with no living relatives passes away without leaving a will, their entire estate, including property, savings, and personal belongings, would be considered *bona vacantia*. Similarly, if a company is dissolved and it still has assets in its name, those assets would also be collected by the Crown. The Crown, through the Treasury Solicitor's Office, then has the responsibility to collect and manage these assets. The office may use the assets to support public services or other government functions. In some cases, if a rightful heir is later identified, they may claim the estate from the Crown.

This system ensures that assets do not remain unclaimed or misused and provides a clear legal pathway for handling estates without heirs or owners. It reflects the UK's commitment to orderly and lawful asset management, ensuring that even in the absence of a will or heirs, there is a mechanism in place to deal with property responsibly and ethically.

5.4.2 Administration Process

In the United Kingdom, when a property does not have an owner, it is taken over by the Crown. Although this feudal land tenure has been abolished in most common-law jurisdictions, the Crown can still acquire such property if no one else is eligible for it.³⁵ The approach to *Bona vacantia* is characterised by the role of the Crown in managing ownerless estates. The Crown or relevant Duchy, through the Treasury Solicitor, administers the estates of individuals who die intestate (without a will) and without known kin, as well as collecting assets from dissolved companies and other various ownerless goods. This centralised management ensures a consistent and efficient process for managing such properties. *Bona vacantia* applies uniformly regardless of religious affiliation, based on intestacy laws. The Treasury Solicitor and Crown Estate manage these assets, but specific procedures for *bona vacantia* administration are not detailed.

For Muslims, Sharia Councils manage Islamic family law matters. To ensure an estate is distributed according to Islamic law, Muslims should include specific provisions in their will, adhering to both Islamic and UK inheritance laws. Without a Sharia-compliant will, the estate will be distributed according to UK intestacy laws, potentially complicating estate administration.

Generally, the *Bona vacantia* Division (BVD) of the Government Legal Department is responsible for administering unclaimed estates and assets of dissolved companies in England and Wales. The process involves identifying unclaimed estates, publishing the list of such estates, and allowing potential claimants to come forward.

³⁵ Conrad Bower, "Inequitable Escheat?: Reflecting on Unclaimed Property Law and the Supreme Court's Interstate Escheat Framework," *Ohio State Law Journal* 74, no. 3 (2013): 520, <https://www.academia.edu/85237320/>

Claimants must provide evidence of their entitlement, such as proof of relationship to the deceased, and follow specific procedures to make a claim.

The administration of unclaimed estates and assets of dissolved companies in England and Wales is a thorough process overseen by the *Bona vacantia* Division (BVD) of the Government Legal Department. The BVD's responsibilities include the identification of unclaimed estates, which may arise when a person dies intestate (without a will) and without known heirs, or when a company is dissolved without properly disposing of its assets. Once an unclaimed estate is identified, the BVD publishes a comprehensive list of such estates. This list is made publicly available to allow potential claimants to come forward. The publication serves as an open invitation for individuals who believe they have a legitimate claim to the estate to assert their rights. Potential claimants are required to provide concrete evidence of their entitlement. This typically involves submitting proof of relationship to the deceased, such as birth certificates, marriage certificates, or other legal documents that establish kinship. In addition to proving their relationship, claimants must adhere to specific procedures outlined by the BVD to formally make their claim. The BVD then reviews all claims thoroughly to ensure their validity before any assets are released. This process is designed to be fair and transparent, ensuring that only rightful heirs receive what is due to them and that the assets of dissolved companies are dealt with in an orderly and lawful manner. It is a system that upholds the principles of equity and due process, providing a clear and structured approach to dealing with estates that would otherwise remain ownerless.

However, it is important to note that not all *bona vacantia* assets are automatically transferred to the Crown. In certain regions of the UK, such as Cornwall and Lancaster, the local duchies receive the assets instead. These duchies, which have

a long-standing historical connection to the Crown, are entitled to receive the assets within their respective territories. The *Bona vacantia* Division works closely with the Duchies and other relevant authorities to ensure a smooth and efficient transfer of assets. This involves conducting thorough investigations to determine the rightful ownership of the assets and facilitating the necessary legal processes.

By managing these unclaimed assets, the *Bona vacantia* Division plays a vital role in upholding the principles of fairness and justice. It ensures that assets left behind by individuals without any known heirs or beneficiaries are not left unattended or forgotten. Instead, these assets are put to effective use for the benefit of the wider community. Through its diligent work, it ensures that these assets are effectively managed and distributed, either to the Crown or to the relevant Duchies.

Whereas in Scotland, unclaimed estates are advertised in the Gazette for two years. If they remain unclaimed after ten years, the assets are removed from the *Bona vacantia* list and valued by the Office of the King's and Lord Treasurer's Remembrancer (KLTR). The valued amount is then paid into the Scottish Consolidated Fund for use by the Scottish Executive. Information on these estates, which may be eligible for claims, is listed on the KLTR website. When a Scottish resident dies intestate with no known and traceable relatives, the Crown becomes the "ultimus haeres" (last heir) under section 29 of the Family Law (Scotland) Act 2006. This process ensures that unclaimed estates are managed and utilised for the benefit of the people of Scotland.

Lastly, in Northern Ireland, when the Crown Solicitor receives a death report, the process of locating the next of kin is carried out through newspaper advertisements. Notices regarding estates are published in the Belfast Telegraph and a regional newspaper widely circulated in the deceased's place of birth, with no online

advertisements. This underscores the application of the Administration of Estates Act (Northern Ireland) 1955 in situations where no rightful heir is identified.

Best practices from the UK framework that could enhance the West Malaysian system include the clear legal definition of *Bona vacantia* as property with no owner, which effectively means it becomes the property of the Crown. Additionally, the UK's transparent process, where assets are realised and the balance is transferred to His Majesty's Treasury (HM Treasury) if no heirs can be found, could serve as a model for West Malaysia to ensure that unclaimed assets are managed responsibly and fairly.

The following Table 5.5 provides a comparative overview of the procedural frameworks for *bona vacantia* administration in West Malaysia, Singapore, and the UK. It highlights the legal frameworks for both Muslim and non-Muslim estates, the regulating bodies, the claim processes, the outcomes for unclaimed estates, and the levels of transparency and public access. This comparison underscores the differences and similarities in how each jurisdiction manages ownerless estates, reflecting their unique legal traditions and administrative practices as follows:

Table 5.5: Comparative Overview of *Bona vacantia* Administration in West Malaysia, Singapore, and the UK

ASPECT	WEST MALAYSIA	SINGAPORE	UK
Legal Framework (Muslims)	Islamic Law: Syariah Courts manage Muslim estates.	Administration of Muslim Law Act 1966: Section 112 outlines estate distribution per Islamic law. <i>Baitulmal</i> is managed by MUIS.	Intestacy Laws: Sharia Councils manage Islamic family law. Must have a Sharia-compliant will for Islamic inheritance. Without it, UK intestacy laws apply.
Legal Framework (Non-Muslims)	Civil Law: Federal and	Civil Law Act 1909: Section 27 specifies that unclaimed estates become government property. The Public	Intestacy Laws: The <i>Bona vacantia</i> Division manages estates. The Treasury

ASPECT	WEST MALAYSIA	SINGAPORE	UK
	state authorities manage estates.	Trustee's Office handles claims.	Solicitor and the Crown Estate handle assets.
Regulating Body	Muslims: Syariah Courts Non-Muslims: Civil Courts	Public Trustee's Office for non-Muslim estates. MUIS for Muslim estates.	Bona vacantia Division (BVD)
Claim Process	Muslims: <i>Faraid</i> system for distribution. Non-Muslims: Claims by next-of-kin via civil courts.	Muslims: MUIS manages claims. Non-Muslims: Claims by next-of-kin via the Public Trustee's Office with documentation.	All Estates: Claims processed by the <i>Bona vacantia</i> Division with proper documentation.
Ownerless Estates Outcome	Muslims: Reverted to <i>Baitulmal</i> . Non-Muslims: Vested in Federal or State Authority.	Muslims: Distributed according to Islamic law; unclaimed go to <i>Baitulmal</i> . Non-Muslims: Government property if unclaimed.	All Estates: Claimed by the Crown or relevant Duchy.
Transparency and Public Access	Moderate: Limited online information.	High: The Public Trustee's Office provides online access and claim tracking.	High: The <i>Bona vacantia</i> Division provides public information online.

5.5 COMPARATIVE ANALYSIS

West Malaysia's legal system is primarily based on the English common law system, which was inherited from British colonial rule. The legal framework is characterised by a blend of common law and Islamic law, with the latter playing a significant role in personal and family matters for Muslims. Singapore's legal system is also rooted in the English common law tradition, but has evolved to incorporate elements of civil law. The Constitution is the supreme law, and the legal framework is designed to be flexible and

responsive to the needs of a modern, globalised society. The UK has three separate legal systems: English law, Scots law, and Northern Ireland law. Each system has its distinct features and historical development. The UK's legal framework emphasises parliamentary sovereignty, the rule of law, and democratic principles.

The comparative study aims to evaluate the efficiency and fairness of these systems in administering *Bona vacantia*. It assesses how responsive each legal structure is to challenges, how equitably assets are distributed, and how streamlined the process is for managing unclaimed property. The goal is to identify best practices from Singapore and the UK that could enhance West Malaysia's legal framework for *Bona vacantia*, ensuring it is both effective and culturally appropriate.

In this comparison, the significance of *bona vacantia* in each jurisdiction reflects the relationship between historical legal traditions and contemporary societal needs. While all three jurisdictions share the common principle of managing an ownerless estate or property, the approach and administration vary significantly. West Malaysia has two different jurisdictions for handling *Bona vacantia*, either civil law or Islamic law, depending on the deceased's religion. Whilst Singapore, through its Public Trustee's Office, Singapore has its way of dealing with *bona vacantia*. By involving the Public Trustee's Office, this key office makes sure that lost assets are well looked after. It ensures these assets may help society. In contrast, the UK adheres to its traditional law where the queen or king gets everything in the end when nobody claims. This law signifies how UK property laws grew and points out how important the monarchy is in its rules. The way these countries manage *Bona vacantia* reveals the distinctiveness of each of their laws and cultures. The diverse ways these places manage ownerless stuff help us see the close ties between law, tradition, and the past. When we look at these

rules for ownerless estates, we understand why legal systems and cultural details are special in their societies.

The administration of *bona vacantia* presents a unique set of strengths and weaknesses across different jurisdictions. In West Malaysia, the dual legal system provides a tailored approach to estate administration, aligning with the religious beliefs of the deceased. However, this complexity can result in delays and inefficiencies in estate distribution. The UK's *Bona vacantia* Division is notable for its systematic approach to managing estates, offering clear guidance on intestate succession. Yet, a decline in new referrals suggests potential difficulties in identifying heirs or complexities in estate management.³⁶ Singapore's Intestate Succession Act is praised for its clear rules regarding next-of-kin and the allowance for equitable or moral claims against estates. Nonetheless, the exclusion of Muslim estates from certain claims and the case-by-case assessment of claims may lead to inconsistencies and perceived limitations.

5.5.1 Comparative Analysis: Key Differences and Similarities between Singapore and West Malaysia

In West Malaysia and Singapore, the administration of *bona vacantia* estates for Muslims and non-Muslims encompasses both resemblances and variances, mainly influenced by their respective legal frameworks and religious considerations. The key difference between Singapore and West Malaysia is the approach to Muslim estates. In Singapore, Muslim estates are specifically excluded from *bona vacantia* under the Civil Law Act, and ownerless Muslim estates are paid to the *Baitulmal* following Muslim

³⁶ Fraser & Fraser, "Making Sense of Bona Vacantia Estates," accessed September 15, 2024, <https://www.fraserandfraser.co.uk/news/making-sense-of-bona-vacantia-estates/>.

inheritance laws. In contrast, West Malaysia has a dual legal system where Islamic law governs the administration of *bona vacantia* for Muslims, and civil laws apply to non-Muslims. Both jurisdictions recognise the need for a legal framework to manage such estates, but they differ in their administrative processes and the authorities responsible for managing *bona vacantia* estates.

For Muslims, the process is guided by Islamic principles and respective local laws. In Singapore, the Administration of Muslim Law Act (AMLA) governs the classification and management of *bona vacantia* estates. When a Muslim dies intestate (without a valid will) and without known heirs, the estate is assessed for shared ownership and religious affiliation and then managed by *Baitulmal*, which distributes the assets according to Islamic principles. Therefore, the Islamic Religious Council of Singapore (MUIS) oversees the management of unclaimed estates for Muslims, ensuring that the distribution aligns with Islamic law. Similarly, in West Malaysia, *baitulmal* is the recipient of the property if the deceased left no heirs or no heirs who can claim the deceased's estate assets as *asabah*. The management of redemption of small estates for all states in West Malaysia lacks uniformity, as it is subject to the respective State Islamic Councils (SIRC).³⁷ The key similarity here is the religious basis for the distribution of the estate, with both *Baitulmal* in Malaysia and Singapore playing crucial roles.

For non-Muslims, the administration of *bona vacantia* estates in West Malaysia is more fragmented. Their estates are governed by specific acts such as the Civil Law Act 1956, the Inheritance (Family Provision) Act 1971, and the Distribution Act 1958.

³⁷ Baharuddin Aziz, "Kertas 5: Hal Ehwal Pentadbiran Harta Pusaka di Malaysia dan Permasalahannya," paper presented at Kursus Asas Kaedah Pengurusan Harta Keluarga Islam, Kuala Lumpur, October 14–15, 2019, <https://www.ikim.gov.my/new-wp/wp-content/uploads/2019/09/Kertas-5-1.pdf>; Seh Nilamuddin, "Isu-Isu dan Permasalahan".

However, other statutes relating to estates also include the National Land Code 1965, the Small Estates (Distribution) Act 1955, and the Federal Constitution. Various state laws can create inconsistencies and confusion, complicating the equitable distribution of unclaimed assets. In contrast, Singapore has a more streamlined approach where unclaimed estates are managed centrally by the Public Trustee's Office, ensuring a more uniform application of laws and procedures. This centralisation helps mitigate some of the inefficiencies observed in West Malaysia.

Despite these differences, both regions face shared challenges such as the need for public awareness, efficient management, and the equitable distribution of assets. However, the religious framework for Muslims is more complex, as it ensures that the distribution aligns with Islamic laws and principles. Therefore, while the administrative processes may vary, the principal aims of fairness, efficiency, and adherence to legal and religious guidelines remain consistent across both West Malaysia and Singapore. The similarities lie in the recognition of moral or equitable claims and the case-by-case assessment of such claims, although the specific criteria and processes differ. Both jurisdictions also face challenges in effectively managing the growing number of unclaimed estates, highlighting the importance of continuous legal development to address societal needs.

5.5.2 Comparative Analysis: Key Differences and Similarities between the United Kingdom and West Malaysia

One of the key differences between the UK and West Malaysia is the centralisation of the administration process in the UK, where the BVD manages all *bona vacantia* matters, compared to the dual legal system in West Malaysia that separates the administration based on the deceased's religion. Additionally, in the UK, the Crown is

the ultimate beneficiary of *bona vacantia* assets. Contrastingly, in West Malaysia, the administration is divided based on the deceased's religion due to its dual legal system. For Muslims, the *Baitulmal*, being the Islamic charitable organisation, manages the assets, ensuring they are distributed according to Islamic law principles. For non-Muslims, the Registrar of Unclaimed Moneys is responsible for managing the assets and adhering to civil law practices. This separation acknowledges the country's religious diversity and ensures that the administration of estates aligns with the respective religious laws and cultural norms.

Despite these differences, both jurisdictions share a common recognition of the need for a legal framework to manage ownerless property. They provide processes for potential claimants to assert their rights and claim estates. However, the criteria and procedures for making claims reflect the distinct legal traditions of each country. The UK's system is based on common law, which is characterised by case law and judicial precedents, while West Malaysia's approach is influenced by both civil and Islamic law, catering to its diverse population. This comparison highlights how legal systems adapt to their context, balancing the need for a structured approach to manage *bona vacantia* with respect for the cultural and religious diversity of the population they serve. Both systems aim to ensure that ownerless properties are managed efficiently and ethically, with opportunities for rightful heirs to claim their inheritance.

5.5.3 Hybrid Model

In comparing the administration of *bona vacantia* estates in West Malaysia, Singapore, and the UK, a hybrid model for West Malaysia can be suggested, incorporating the strengths of both Singapore and the UK. West Malaysia currently employs a dual legal system, wherein Islamic law governs Muslim estates, and civil law governs non-Muslim

estates. However, this creates fragmentation and inconsistencies, particularly in the administration of non-Muslim estates, which is complicated by the involvement of various state laws. Singapore's model offers a more streamlined approach, particularly in its centralised management of non-Muslim estates by the Public Trustee's Office, ensuring uniformity and efficiency.³⁸

Furthermore, Singapore's *bona vacantia* system for Muslims is exclusively managed by the Islamic Religious Council of Singapore (MUIS), ensuring that estate distribution strictly adheres to Islamic principles through *Baitulmal*.³⁹ The UK, with its centralised and secular approach managed by the Crown through the *Bona vacantia* Division (BVD), ensures a uniform and consistent administration of ownerless estates.⁴⁰ To enhance the efficiency and fairness of *bona vacantia* management in West Malaysia, a hybrid model could centralise the administration of non-Muslim estates, similar to Singapore's approach, while maintaining a distinct and religiously sensitive system for Muslim estates. This would reduce fragmentation and ensure consistent application of laws across the states.

Additionally, the UK's emphasis on transparency and accessibility in the administration of *bona vacantia* could be adopted to enhance public trust and ensure that the process is seen as equitable and just, especially for non-Muslims in Malaysia. Such a hybrid model would not only respect the religious and cultural diversity of West Malaysia but also address the inefficiencies present in the current system. In developing this hybrid model, incorporating diverse viewpoints and conducting thorough

³⁸ Ministry of Law, Singapore. "Claims against Bona Vacantia Estates," Ministry of Law, Singapore, accessed September 15, 2024, <https://pto.mlaw.gov.sg/deceased-cpf-estate-monies/claims-against-bona-vacantia-estates/>.

³⁹ Majlis Ugama Islam Singapura, "Faraidh: The Islamic Law of Inheritance," accessed May 9, 2022, <https://www.muis.gov.sg/-/media/Files/OOM/Resources/Faraidh.pdf>.

⁴⁰ GOV.UK. "Bona Vacantia," GOV.UK, accessed September 15, 2023, <https://www.gov.uk/government/organisations/government-legal-department>.

assessments during decision-making processes is vital for effective policymaking. Public forums and town hall meetings can also be organised to facilitate open discussions and gather diverse perspectives.⁴¹ Importantly, diverse viewpoints and thorough assessments during the decision-making process enhance inclusivity, transparency, and policy effectiveness.⁴²

The proposed hybrid model for West Malaysia seeks to integrate the adaptability and efficiency of Singapore's model while concurrently maintaining a robust foundation of Islamic principles. This model also aims to incorporate best practices from the UK, particularly those related to judicial independence and the rule of law. The overarching objective of this model is to establish a balanced legal system that respects cultural values while fostering economic growth and social justice.

The first component of this model involves adopting the systematic approach of the UK's *Bona vacantia* Division (BVD) for managing estates. The BVD's structured and efficient process for administering the estates of individuals who die intestate and without known kin serves as a benchmark for estate management. The second component entails the incorporation of Singapore's Intestate Succession Act 1967, which provides clear rules for the distribution of estates for non-Muslim intestates. The Act delineates the individuals who will inherit the intestate's estate and the proportion they are entitled to, thereby providing clarity and reducing potential disputes over inheritance.

Given the significant Muslim population in West Malaysia, it is crucial to consider the Muslim inheritance law as practised in Singapore. This ensures that the

⁴¹ Jarrett Lau, "The Role of Property Management in Community Building," *Green Ocean Property Management*, accessed September 15, 2024, <https://greenoceanpropertymanagement.com/stronger-connections-the-role-of-property-management-in-community-building/#more>.

⁴² Aaron Hall Attorney, "Expanding Perspectives for Informed Decision-Making," accessed December 29, 2023, <https://aaronhall.com/expanding-perspectives-for-informed-decision-making/>.

model is inclusive and caters to the diverse population in West Malaysia. The existing Distribution Act 1958 in West Malaysia, which outlines the manner of distribution of any property to specific beneficiaries after all outstanding debts are paid, should be incorporated into the hybrid model. This ensures continuity and respect for existing legal frameworks.

To address the observed decline in new referrals in the UK's BVD, the hybrid model could incorporate initiative-taking measures to identify potential heirs and simplify estate management processes. This could include public awareness campaigns about the importance of wills and estate planning. Besides, the use of technology is useful to streamline estate management processes.⁴³ The integration of technology can help in identifying and valuing ownerless properties effectively. Technologies such as blockchain for secure record-keeping and AI for predictive analytics could be particularly beneficial. Digital platforms (DP) are fundamental to digital transformation⁴⁴ and are currently of particular interest to policymakers.⁴⁵ Rapid digital advancements have reshaped the economy and daily life, making adaptation essential to stay ahead in today's world.⁴⁶

Finally, the hybrid model should recognise the validity of international wills that relate to properties and assets owned by the testator in other parts of the world, akin to

⁴³ Tarek Al-Rimawi and Michael Nadler, "Leveraging Smart City Technologies for Enhanced Real Estate Development: An Integrative Review," *Smart Cities* 8, no. 1 (2025): 10, <https://doi.org/10.3390/smartcities8010010>.

⁴⁴ Ayomikun Idowu and Amany Elbanna, "Digital Platforms of Work and the Crafting of Career Path: The Crowdworkers' Perspective," *Information Systems Frontiers* 24, (2020): 444, <https://doi.org/10.1007/s10796-020-10036-1>.

⁴⁵ Pieter Nooren and et al, "Should We Regulate Digital Platforms? A New Framework for Evaluating Policy Options: Evaluating Policy Options for Digital Platforms," *Policy & Internet* 10, no. 2 (2018): 276, <https://doi.org/10.1002/poi3.177>

⁴⁶ Xiaolan Fu, Elvis Avenyo, and Pervez Ghauri, "Digital Platforms and Development: A Survey of the Literature," *Innovation and Development* 11, no. 1 (2021): 1, <https://doi.org/10.1080/2157930x.2021.1975361>.

the practice in the UK.⁴⁷ This ensures that the rights of foreign residents in West Malaysia are protected.

This proposed model, therefore, aims to combine the strengths of the legal systems in Singapore and the UK, while also considering the unique context of West Malaysia. It is important to note that any changes to the legal system should be made in consultation with legal experts and stakeholders and after a thorough review of the potential impacts. This model, if implemented correctly, could significantly improve the process of intestate succession in West Malaysia. Table 5.6 below summarises the hybrid model.

Table 5.6: Hybrid Model Summary

Component	Description
Legal System Integration	Combines Singapore’s commercial/administrative law and the UK’s judicial independence with Islamic principles.
Estate Management	Adopts the UK’s <i>Bona vacantia</i> Division approach for systematic estate management of intestate cases.
Intestate Succession Act	Incorporates Singapore’s Intestate Succession Act for clear rules on estate distribution for non-Muslims.
Muslim Inheritance Law	Considers Muslim inheritance law to cater to West Malaysia’s significant Muslim population.
Distribution Act 1958	Includes West Malaysia’s Distribution Act for continuity in property distribution after debts.
Initiative-taking Measures	Implements initiative-taking measures to counter the decline in new referrals, like public awareness and technology use.
International Wills Recognition	Recognises the international will to protect the rights of foreign residents in West Malaysia.

⁴⁷ Hague Conference on Private International Law, “Convention Providing a Uniform Law on the Form of an International Will,” accessed August 25, 2025, <https://www.unidroit.org/instruments/international-will/>.

5.6 PROPOSED LEGAL AND ADMINISTRATIVE FRAMEWORK FOR WEST MALAYSIA

The rationale for a refined legal and administrative framework for administering *bona vacantia* in West Malaysia is driven by the increasing number of unclaimed estates, including *bona vacantia*. These are properties that lack legal ownership due to the absence of a will or identifiable heirs. The current system, which operates under a dual legal structure combining civil and Islamic law, often results in procedural redundancies and complexities that can delay the administration of these estates. To enhance the management of *bona vacantia* in West Malaysia for Muslims and non-Muslims, we can draw valuable insights from the legal and administrative frameworks of the UK and Singapore.

To improve the administration of *bona vacantia* in West Malaysia, specific legal reforms should be introduced and focused on streamlining and centralising the process, drawing from practices in Singapore and the UK. The current dual legal system in West Malaysia, which separates the administration of Muslim and non-Muslim estates, results in fragmentation and inconsistencies. Thus, establishing a centralised authority to manage *bona vacantia* properties is crucial in ensuring efficient and transparent administration.⁴⁸ The proposal for a unified body for estate management was first raised in 1981 by a Member of Parliament. MP Hashim Haji Endut, and later supported by several other figures, including Abd Shukur Haji Siraj and Ismail Said. This idea was revisited by Akmal Hidayah Halim in 2006 and further promoted by others such as Hj

⁴⁸ Azmi & Mohammad, 2015 as cited by Siti Khadijah Abdullah Sanek et al., “Administration of Unclaimed Estates (Bona Vacantia) for Muslims in Penang,” in *The 2nd Islamic Management Development Conference (IMDeC 2018)* organised by Universiti Teknologi MARA Kedah and Centre for Islamic Development Management Studies (ISDEV), Universiti Sains Malaysia (Merbok: Ethics & Governance Research Interest Group & ISDEV, June 2018), 151, https://www.researchgate.net/publication/331087620_Administration_of_Unclaimed_Estates_Bona_Vacantia_for_Muslim_in_Penang.

Abdullah Muhammad, Nik Mohd Zain Nik Yusof, and Zulkifli Hasan.⁴⁹ The proposed Estate Department would centralise the administration of such estates, ensuring a more streamlined and efficient process.⁵⁰

Firstly, specific legal reforms could include centralising the administration of *bona vacantia* under a single, specialised body that operates at the federal level, akin to Singapore's Public Trustee's Office and the UK's *Bona vacantia* Division (BVD). This body should manage Muslim and non-Muslim estates, ensuring uniformity and transparency across all states. For Muslim estates, collaboration with the State Islamic Religious Councils (SIRC) would remain essential, but this should be integrated into a centralised framework to ensure that Muslim estates continue to be managed following Islamic law and to reduce inconsistencies. Additionally, current laws such as the Civil Law Act 1956 and the Distribution Act 1958 could be amended to establish a unified framework for managing unclaimed estates and to provide clearer guidelines on *bona vacantia* management, eliminating legal ambiguities that complicate the process. Additionally, introducing new regulations that mandate clear, uniform procedures across all states would reduce the fragmentation and inconsistencies which currently exist. Research on performance measuring systems, for instance, shows how important consistent practices are to simplify procedures and improve efficiency.⁵¹ The introduction of new regulations should include the mandate of regular audits and public

⁴⁹ Azhani Arshad, "Administration of Non-Contentious Estates in West Malaysia: Legal and Administrative Reforms" (unpublished Ph.D. thesis, International Islamic University Malaysia, 2015), 169-170.

⁵⁰ Ibid.

⁵¹ Andy Neely, Mike Gregory, and Ken Platts, "Performance Measurement System Design: A Literature Review and Research Agenda," *International Journal of Operations & Production Management* 15, no. 4 (1995): 80, <https://www.emerald.com/insight/content/doi/10.1108/01443579510083622/full/html>.

reporting, as this would enhance accountability and public trust in the system. Audits verify that all procedures and actions align with relevant laws and regulations.⁵²

These reforms would differ from the UK's secular approach but align more closely with Singapore's dual framework, where religious principles guide the management of Muslim estates, and secular laws govern non-Muslim estates. Unlike Singapore, which has a streamlined and centralised approach, and the UK, where the Crown ultimately benefits from *bona vacantia* assets, West Malaysia's proposed reforms would need to balance the dual legal system by preserving the religious sensitivities while adopting a more cohesive administrative model. This hybrid model would respect West Malaysia's religious diversity while addressing the current administrative challenges, ensuring a fair and efficient system for all citizens. These changes would not only align West Malaysia with international best practices but also address the country's unique legal and cultural complexities.

5.7 CHAPTER SUMMARY

This chapter on "Proposed Legal Framework for the Administration of *Bona vacantia* in West Malaysia" begins by introducing the concept of *bona vacantia* and its significance in property law. It highlights the importance of a robust legal framework to manage ownerless properties in West Malaysia, noting the relevance of comparing the local system with those of Singapore and the United Kingdom, which have more advanced legal structures. The chapter then provides an overview of the current legal framework in West Malaysia, examining key legislation such as the Federal Constitution, Civil Law Act 1956, and National Land Code 1965. It also discusses the

⁵² Todd Landaburu, "Ensuring Compliance with Laws and Regulations," *Inc Authority*, accessed September 15, 2024, <https://www.incauthority.com/blog/ensuring-compliance-with-laws-and-regulations-a-comprehensive-guide>.

roles of various authorities, including the *Baitulmal* for Muslims and the Registrar of Unclaimed Moneys for non-Muslims, while identifying gaps and inefficiencies in the existing system.

The chapter proceeds to explore the legal framework in Singapore, detailing how *bona vacantia* is managed, particularly through the Public Trustee's role in handling ownerless properties. It highlights innovative practices and policies in Singapore that could be relevant to West Malaysia. Similarly, the chapter examines the UK's approach to *bona vacantia*, focusing on the Crown's role in managing such estates and analysing the legal mechanisms that ensure smooth administration. Best practices from the UK that could enhance West Malaysia's system are also identified.

In the comparative analysis section, the chapter compares the legal frameworks of West Malaysia, Singapore, and the United Kingdom. It discusses the strengths and weaknesses of each system, emphasising the areas where West Malaysia could benefit from adopting practices from the other two jurisdictions. The chapter concludes by proposing a hybrid model incorporating the best practices from Singapore and the UK into the West Malaysian context.

Finally, the chapter outlines specific legal reforms for West Malaysia to improve the administration of *bona vacantia*. It suggests changes to existing laws, the introduction of new regulations, and the creation of specialised bodies to manage ownerless properties more effectively. The proposed reforms are discussed with the practices in Singapore and the UK, highlighting how they could be aligned or adapted to fit the West Malaysian legal and cultural landscape.

The forthcoming chapter proposes a legal framework for the administration of *bona vacantia* in West Malaysia in comparison with Singapore and the United Kingdom. The next chapter examines the concept of *bona vacantia*, or ownerless

property, within the legal framework of West Malaysia. It also explores how *bona vacantia*, which includes estates of deceased individuals with no known heirs, unclaimed property, and assets from dissolved companies, reverts to the state. Historically rooted in the feudal practice of escheat, the chapter highlights the inefficiencies in the current system due to the separation between Islamic and civil legal frameworks. It further compares West Malaysia's fragmented approach with the more centralised and efficient systems in Singapore and the UK, identifying significant gaps such as a lack of coordination and inadequate data management. Proposed reforms include the establishment of a central authority to unify Islamic and civil law systems, enhance transparency, and adopt best practices from Singapore and the UK. The chapter advocates for the creation of a *Bona vacantia* Act to standardise administration, improve classification, and streamline processes. Additionally, it emphasises the importance of integrating with State Islamic Religious Councils, introducing a *bona vacantia* website, and utilising digital technologies and regular audits to enhance management efficiency. The chapter concludes by stressing the need for comprehensive legal reforms, better data accessibility, and international collaboration to improve the management of *bona vacantia* in West Malaysia.

CHAPTER SIX

RECOMMENDATIONS AND CONCLUSION

6.1 INTRODUCTION

The earlier chapters have discussed the concept of *bona vacantia* and its significance within the legal framework of West Malaysia. This final chapter brings together the findings of the study and considers their broader implications. It reflects on the research objectives set out at the beginning of the thesis, summarises the key outcomes, and highlights how these findings contribute to a deeper understanding of the administration of *bona vacantia* in West Malaysia. In doing so, it identifies the limitations of the current legal framework, evaluates the effectiveness of existing practices, and draws comparative lessons from Singapore and the United Kingdom.

Building on this foundation, the chapter then sets out recommendations for legal and regulatory reforms, institutional restructuring, and the adoption of best practices personalised to the West Malaysian context. The aim is not only to propose a more comprehensible and efficient framework for administering *bona vacantia* but also to ensure that such reforms are consistent with both civil and Islamic legal principles, thereby promoting fairness, transparency, and public confidence in the system.

The next section, therefore, examines the adoption of best practices from Singapore and the United Kingdom as a basis for shaping recommendations that are both practicable and responsive to Malaysia's unique dual-legal framework.

6.2 ADOPTION OF BEST PRACTICES JURISDICTIONS

The comparative study with Singapore and the United Kingdom highlights several best practices that could inform the reform of the West Malaysian *bona vacantia* framework. Both jurisdictions, while not having enacted a dedicated *Bona vacantia* Act, have successfully embedded the doctrine within wider statutory structures administered by specialised central authorities. In Singapore, the Public Trustee plays this role, whereas in the United Kingdom, the *Bona vacantia* Division under the Treasury Solicitor's Department fulfils a similar function. These bodies ensure transparency, efficiency, and accessibility, particularly through the use of publicly available registers and streamlined claims procedures.

By contrast, Malaysia's current framework remains fragmented. Muslim estates without heirs pass to *Baitulmal* through the State Islamic Religious Councils, while non-Muslim estates are absorbed into the Federal Consolidated Fund. The lack of coordination between these two systems, coupled with the absence of a centralised registry, has led to inefficiencies, inconsistencies, and administrative delays. This comparative gap demonstrates the urgent need for Malaysia to adopt international best practices while adapting them to local conditions and to the dual legal system that governs both civil and Islamic inheritance matters.

This study was guided by four main research objectives, and the findings obtained from the analysis provide the foundation for the recommendations that follow. The first objective was to analyse the applicable laws and procedures governing *bona vacantia* in West Malaysia and to evaluate their adequacy. The study found that the existing provisions in the Civil Law Act 1956 and the Distribution Act 1958 provide only limited guidance on heirless estates and do not expressly recognise the doctrine of *bona vacantia*. Moreover, the procedures for administration vary between Muslims and

non-Muslims, leading to inefficiencies and inconsistencies. In response, this thesis recommends the amendment of section 24 of the Civil Law Act and section 6(1)(j) of the Distribution Act to explicitly incorporate *bona vacantia*. Beyond fragmentary amendments, the findings also justify the enactment of a dedicated *Bona vacantia* Act to provide a unified and comprehensive framework.

The second objective was to identify *bona vacantia* estates and examine the legal and procedural constraints faced by the Yang di-Pertuan Agong Fund, state authorities, and *Baitulmal* in administering such estates. The research revealed that the current system is fragmented. While Muslim estates devolve to *Baitulmal* through the State Islamic Religious Councils, non-Muslim estates are channelled to the Consolidated Fund. The lack of coordination and the absence of a centralised database contribute to administrative delays and confusion. To address these challenges, this thesis recommends the creation of a centralised authority to oversee *bona vacantia* estates, with separate divisions for Muslim and non-Muslim cases. This authority should work in close coordination with State Islamic Religious Councils and should be supported by a national digital registry and standardised operating procedures.

Next, the third objective was to critically examine and compare the legal frameworks governing *bona vacantia* in Malaysia, Singapore, and the United Kingdom. The study found that while neither Singapore nor the United Kingdom has enacted a standalone *Bona vacantia* Act, the doctrine is effectively embedded within wider statutory schemes and is administered by specialised central bodies, namely the Public Trustee in Singapore and the *Bona vacantia* Division of the Treasury Solicitor's Department in the United Kingdom. Both jurisdictions emphasise transparency and efficiency, with publicly accessible registers and clear procedures for claims. Compared to these models, Malaysia's current system lacks centralisation, transparency, and

accessibility. Accordingly, this thesis recommends the adaptation of international best practices by introducing a centralised *bona vacantia* portal, establishing clear procedures for claims, and implementing transparent timelines for holding unclaimed assets, with due regard to Islamic principles in the administration of Muslim estates.

Finally, the fourth objective was to propose a comprehensive legal framework for the administration of *bona vacantia* in West Malaysia. The research established that the absence of a unified framework contributes to inconsistency, delays, and disputes, while public awareness of *bona vacantia* remains generally low. In response, this thesis proposes the development of a comprehensive *Bona vacantia* Act that integrates both Islamic and civil law principles, strengthens the supervisory role of *Baitulmal* while ensuring federal oversight, and mandates that assets be used ethically for public purposes. This framework should also be supported by measures to improve administrative capacity, including training, digitalisation, and AI-supported data management, as well as enhanced public education campaigns to raise awareness about the importance of will-making and the consequences of intestacy.

Thus, these findings demonstrate the necessity of reforming the current legal and institutional framework for *bona vacantia* in Malaysia. They also provide the basis for the recommendations set out in the following Section 6.3.

6.3 RECOMMENDATIONS

Building on the comparative analysis and lessons drawn from Singapore and the United Kingdom, this section sets out recommendations for strengthening the administration of *bona vacantia* in West Malaysia. The proposals are designed to ensure clarity, efficiency, and fairness while remaining consistent with Malaysia's dual legal system.

6.3.1 Establishment of a Centralised Authority and Public Registry

In West Malaysia, *bona vacantia* estates, those left intestate and without heirs, are currently managed by different authorities depending on the deceased's religion. This fragmented system creates inefficiency, delays, and a lack of transparency. To address this, a centralised authority, or Estate Department, is proposed as a one-stop agency for managing such estates.

The body would oversee the identification, registration, and administration of ownerless properties, with divisions applying Islamic law for Muslims and civil law for non-Muslims. This ensures respect for Malaysia's dual legal system while streamlining processes. A digital registry should also be developed to enhance data transparency and tracking.

Models from the UK (*Bona vacantia* Division) and Singapore (Public Trustee's Office) show the effectiveness of centralised approaches. Adapting these practices to Malaysia's context would reduce administrative burdens, improve efficiency, and foster public trust. Ultimately, a unified authority would create a fairer and more effective system for managing *bona vacantia* estates.

The following Table 6.1 outlines a structured approach to managing *Bona vacantia*, emphasising a detailed description of each component and sub-component of the proposed Centralised Authority for Managing *Bona vacantia* Properties in West Malaysia as follows:

Table 6.1: Structured Approach Overview to Managing *Bona vacantia* in West Malaysia

Component	Sub-Component	Description
Governing Body	Executive Board	- Comprises representatives from Islamic and civil legal systems.

		<ul style="list-style-type: none"> - Includes experts in estate law, finance, property management, and representatives from SIRCs and civil estate authorities. - Sets strategic direction, oversees operations, and ensures compliance with religious and civil laws.
	Advisory Committee	<ul style="list-style-type: none"> - Includes legal scholars, religious leaders, and civil society stakeholders. - Provides guidance on policy development, especially where Islamic and civil law intersect.
Administrative Divisions	Legal Division	<p>Islamic Legal Unit: Manages <i>bona vacantia</i> properties under Islamic law, working with SIRCs to ensure Sharia compliance.</p> <p>Civil Legal Unit: Manages non-Muslim <i>bona vacantia</i> properties, ensuring compliance with national laws.</p>
	Property Management Division	<p>Asset Identification and also Principal and Centralised Registry Unit: Maintains a centralised database of all <i>Bona vacantia</i> properties, using digital tools for tracking.</p> <p>Valuation and Disposal Unit: Appraises, sells, or transfers <i>bona vacantia</i> properties, ensuring transparency.</p>
Operations and Support	Finance and Auditing Division	<ul style="list-style-type: none"> - Manages financial aspects, including revenue from property sales. - Conducts regular audits to ensure transparency and accountability.
	Dispute Resolution Unit	<ul style="list-style-type: none"> - Provides mechanisms for resolving disputes over <i>bona vacantia</i> properties. - Incorporates practices from Singapore's legal system for efficient conflict resolution.
Public Engagement and Communication	Public Relations and Outreach Unit	<ul style="list-style-type: none"> - Facilitates public communication, including awareness campaigns. - Engages stakeholders to gather feedback and improve services.
	Stakeholder Engagement Division	<ul style="list-style-type: none"> - Interfaces regularly with religious councils, civil society, and the public. - Ensures that the authority's activities are well-understood and supported.
Compliance and Regulatory Affairs	Compliance Unit	<ul style="list-style-type: none"> - Ensures all actions comply with both Islamic and civil law. - Monitors the adherence to national and international estate management practices.
	Regulatory Affairs Unit	<ul style="list-style-type: none"> - Collaborates with government bodies to align operations with regulations. - Proposes legal reforms to improve <i>bona vacantia</i> property management.

This structure ensures a thorough and systematic approach to managing *bona vacantia* properties and aims to enhance transparency, accountability, and efficiency in the management of *bona vacantia* properties. Each of these departments would have specialised roles to manage the needs of both Muslim and non-Muslim estates according to relevant laws and regulations. Figure 6.1 below depicts the structure in summary as follows:

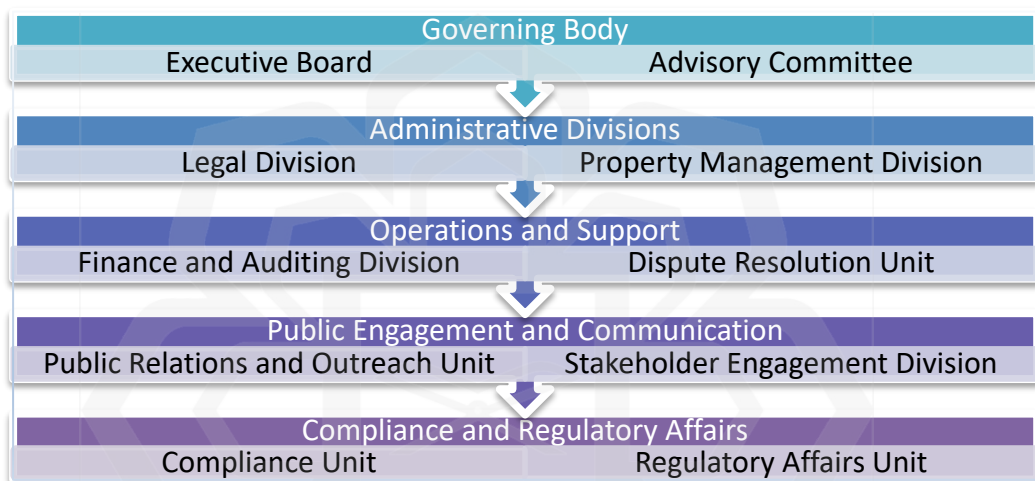


Figure 6.1: Overview of the Centralised Authority for Bona Vacantia Estates (CABVE)

However, several challenges must be addressed in establishing a centralised authority to manage *bona vacantia* in West Malaysia, including harmonising Islamic and civil legal frameworks within the dual legal system, ensuring coordination with existing bodies such as *Baitulmal* and federal authorities to prevent overlaps, addressing cultural and legal sensitivities in a multicultural society, and securing sufficient resources for funding, staffing, and technological infrastructure, particularly for a centralised digital registry. To enhance transparency and accountability, this authority should also maintain a publicly accessible online registry of *bona vacantia* properties,

providing details of their status and administrative actions. Drawing on successful models from the United Kingdom and Singapore, such a registry would not only function as an essential record-keeping tool but also facilitate claims and enquiries by potential heirs or interested parties, thereby complementing the authority's role in active management and legal oversight while fostering public trust and confidence in the system.

6.3.2 Legal and Regulatory Reforms

6.3.2.1 Civil Law Act

The Civil Law Act 1956 applies broadly across Malaysia, while personal and family matters of Muslims, such as inheritance, fall under Sharia law. To support the establishment of a centralised body for managing *bona vacantia* estates, Section 24 of the Act could be amended to reflect this dual framework without disturbing the existing proviso.

The amended section would stipulate that when an intestate estate without heirs accrues to the government, a centralised authority shall administer it. This body must collaborate with the State Islamic Religious Councils (SIRC) to ensure Muslim estates are handled in accordance with Islamic principles, while non-Muslim estates are transferred to the Consolidated Fund for public purposes, as directed by the Yang di-Pertuan Agong.

Currently, Section 24 states that heirless estates pass entirely to the Consolidated Fund, subject to the Yang di-Pertuan Agong's discretion to redirect them on equitable or moral grounds. By amending it to include the role of a centralised body and coordination with SIRC, the law would ensure clearer, more efficient, and Sharia-compliant administration of *bona vacantia* estates.

6.3.2.2 *Distribution Act 1958*

This Act governs the distribution of intestate estates and shall apply to non-Muslims only in West Malaysia; the law governs the distribution of the estate if he or she dies intestate. Section 6(1)(a) (i) of the Act outlines that the allocation of an intestate's assets is contingent upon the surviving family members at the time of their passing. In the absence of immediate heirs, the estate is bequeathed in a designated sequence to other kin. However, according to Subsection 1(j), should there be no qualifying relatives, the government acquires the estate, except for any land. This framework ensures that the property of the deceased is transferred to the closest living relatives or, should there be none, to the government. The subsection stipulates as follows.

“(j) In default of any person taking an absolute interest under the foregoing provisions, the Government shall be entitled to the whole of the estate except insofar as the same consists of land.”

Here is the amended provision incorporating the concept of *bona vacantia*:

(j) In default of any person taking an absolute interest under the foregoing provisions, the Government shall be entitled to the whole of the estate **under the principles of *bona vacantia***. This entitlement shall apply except insofar as the same consists of land specifically governed by other statutory provisions or laws relating to the disposition of ownerless land.

This amendment ensures that the government claims ownership of the entire estate under *bona vacantia* principles when no rightful heir or claimant is identified, while acknowledging any special statutory rules applicable to land.

6.3.2.3 *Bona Vacantia Act*

In the UK, while there is no singular act titled "*Bona vacantia Act*", the principles governing *bona vacantia* are embedded within the Companies Act 2006. This legislation outlines those assets from dissolved companies and unclaimed estates defaulting to the Crown. The *Bona vacantia* Division of the Government Legal

Department administers these assets in England and Wales. Similarly, Singapore does not have a specific act for *bona vacantia* either. Instead, the concept is encompassed within the Intestate Succession Act and the Civil Law Act. These laws dictate that assets from individuals who die without a will and without any surviving entitled kin are claimed by the government. Both jurisdictions operate under a common law framework where *bona vacantia* is a well-established legal doctrine, albeit not named as a standalone act. The absence of a specific act does not diminish the legal effect; the principles are integrated into broader legislative instruments and are fully operational within the respective legal systems.

Developing a comprehensive legal framework to standardise the administration of *bona vacantia* in West Malaysia is vital to eliminate inconsistencies between jurisdictions and ensure a uniform approach for both Muslims and non-Muslims. Such a framework would provide clarity, efficiency, and fairness while addressing confusion, delays, and unequal treatment caused by the current state-based system. A dedicated *Bona vacantia Act*, integrating Islamic and civil law principles, would simplify procedures, safeguard potential heirs' rights, and ensure estates are managed ethically in line with legal and societal values.

The classification of *bona vacantia* property reverting to the state remains unclear due to the overlapping application of Islamic and civil laws. Ambiguities in defining such assets and in the procedures and timelines for their transfer often lead to delays and disputes. A dedicated *Bona vacantia Act* is therefore necessary to establish clear criteria, consistent processes, and greater transparency, while also raising public awareness of the rules governing unclaimed estates.

To align legal reforms with Islamic law, *Baitulmal*'s role in managing unclaimed properties must be strengthened through clearer oversight, standardised responsibilities

across states, and precise definitions of terms such as *bona vacantia* and “ownerless estates”. While states should retain autonomy in their procedures, reforms should include systems for identifying, registering, and recording such properties, supported by a centralised database and guidelines for their ethical use for community benefit.

For non-Muslims, reforms to civil law should clarify the respective roles of federal and state authorities, ensuring effective coordination between agencies such as the Unclaimed Money Division (JANM), Land Offices, and the Department of Director General of Land and Mines (JKPTG). Inheritance laws also need revision to close gaps that cause estates to become ownerless, with simplified procedures, reduced bureaucracy, and quicker dispute resolution mechanisms, such as specialised courts or mediation services.

Overall, a unified framework integrating Islamic and civil principles with clear definitions, responsibilities, and streamlined processes would enhance transparency, protect heirs’ rights, and ensure efficient management of *bona vacantia* estates for both Muslims and non-Muslims in West Malaysia.

Currently, there is no specific *Bona vacantia* Act in West Malaysia that deals comprehensively with the administration of ownerless properties (*bona vacantia*) for both Muslims and non-Muslims. However, by drawing from the best practices in the UK and Singapore, a detailed outline of what such a provision might look like can be developed.

Proposed *Bona vacantia* Act at a Glance

Title and Scope

- **Title:** *Bona vacantia Act*
- **Scope:** Applies to the administration of ownerless properties in West Malaysia, covering both Muslim and non-Muslim estates.

Key Institutions

- **CABVE (Centralised Authority for *Bona vacantia* Estates):**
 - National registry and coordination body.
 - Placed under the Attorney-General's Chambers for legal oversight.
 - Coordinates with JANM, JKPTG, land offices, banks, EPF, and insurers.
 - Oversees but does not directly administer Muslim estates.
- **SIRCS/*Baitulmal*:**
 - Administer Muslim *bona vacantia* estates in compliance with Shariah.
 - CABVE monitors, records, and ensures transparency.

General Principles

- **Definition:** *Bona vacantia* = property of deceased intestate persons with no heirs (movable or immovable).
- **Clarity:** Key terms (estate, heir, rightful owner) defined in statute.
- **Transparency:** Public notices, online registry, annual reports.

Non-Muslim Estates

1. **Identification & Verification**
 - Notification by financial institutions, land offices, JPN.
 - Verification of heirlessness; caveat placed on land.
2. **Vesting & Management**
 - Movable → Federal Consolidated Fund.
 - Immovable → State Authority.
 - Notice period: min. 6 months, extendable for complex cases.
3. **Claims & Appeals**
 - Heirs may file within the statutory period.
 - Post-vesting *ex gratia* allowed per criteria.
 - Disputes → specialised tribunal → judicial review.

Muslim Estates

- Managed by **SIRC/*Baitulmal*** under Shariah.
- Uses: wakaf, orphans' funds, Islamic welfare.
- Public notice and claim process similar to non-Muslims.
- CABVE oversight ensures consistency and reporting.

Safeguards

- **Transparency:** Annual CABVE reports, online registry.
- **Rights Protection:** Late claims possible, clear appeal routes.

- **Accountability:** Regular audits, 5-year statutory review.

This outline integrates the current legal landscape in West Malaysia with best practices from the UK and Singapore, aiming to create a comprehensive, transparent, and fair framework for managing *bona vacantia* properties.

6.3.3 Integration with State Islamic Religious Councils (SIRC)

The integration with State Islamic Religious Councils (SIRC) is a critical step in managing Muslim estates following Islamic law. The process involves developing comprehensive protocols that facilitate cooperation between the new federal body and SIRC. This collaboration aims to ensure that the management of Muslim estates is conducted in a manner that is respectful to Islamic principles and compliant with national regulations.

The timeline for this integration is highly subjective and can vary significantly. While it is estimated to take around 6 to 24 months, there is no definite timeframe. This period will be dedicated to negotiations and the formulation of agreements that outline the roles, responsibilities, and procedures for parties to be governed by the *Bona vacantia Act*, involving the procedures for identifying and registering such properties, maintaining records, establishing mechanisms to determine the amount of estate under *Baitulmal*'s management, and keeping a centralised database of all *bona vacantia*.

Resources such as legal advisors with expertise in Islamic law and inter-agency coordination teams will be utilised to support this integration. These teams will work closely with the federal body and SIRC to direct the complexities of the legal landscape and ensure that all actions are taken within the limits of the law.

However, one of the main challenges in this integration is aligning the different administrative cultures of the federal body and SIRC. Each organisation has its own set

of practices, traditions, and ways of operating, which may not always be compatible. Overcoming these differences requires patience, open-mindedness, and a willingness to find common ground.

Another challenge is ensuring a smooth integration process. This involves not only aligning administrative practices but also building trust between the two entities. It is crucial to establish a foundation of mutual respect and understanding to facilitate effective collaboration. Overall, integration with SIRC is a delicate process that requires careful planning, clear communication, and a commitment to upholding Islamic law while managing Muslim estates effectively.

6.3.4 Implementation of Uniform Procedures and Audits

6.3.4.1 Standardised Procedures

Concerns about the lack of uniformity in the redemption process for *Baitulmal* portions between states underscore the need for standardisation. Developing standardised procedures for identifying, claiming, and managing ownerless properties is essential for streamlining the administrative process. These standardised procedures would ensure consistency and fairness in handling *bona vacantia* properties, thereby reducing the risk of errors and disputes.

Research in various administrative and legal fields supports the need for such standardised procedures. In the context of *bona vacantia* property management, this translates to consistent protocols for identifying and administering ownerless estates, ensuring that all cases are managed similarly. This is also relevant to *bona vacantia* management in West Malaysia, suggesting that standardised processes can enhance legal compliance and operational efficiency.

Based on the comparative analysis discussed, it is recommended that Malaysian authorities implement a vigorous platform mechanism to regulate, manage, and collect data on *bona vacantia*, drawing inspiration from practices in the United Kingdom. This approach would be most effective if accompanied by the introduction of a *Bona vacantia* website, ensuring accessible information and providing a virtual platform for long-lost beneficiaries or relatives to reconnect and claim estates efficiently. In the United Kingdom, the BVD under the Government Legal Department holds such estates for up to 30 years, after which they belong to the Crown.

Therefore, this research suggests that the Malaysian authority could impose certain platforms to regulate and manage the issues and collect the data on *bona vacantia* by following the practice of the United Kingdom. In this regard, the authority could create a similar division or agency to manage the unclaimed estates and publish an online list of such estates for public access. Authorities could introduce interest payments for claims made by beneficiaries within a certain period, as practised in the UK. This is to encourage beneficiaries to cooperate to claim the estates as soon as possible, with slight modifications to avoid interest, such as imposing penalties for beneficiary claims and encouraging timely cooperation. However, this could only be accomplished and deemed justifiable if the governing body implements the *Bona vacantia* Website, which would facilitate access to information and provide a virtual meeting place for long-lost beneficiaries or relatives.

Hence, by adopting uniform administrative processes, they can be streamlined, fairness and consistency can be ensured, and the risk of errors and disputes can be significantly reduced.

6.3.4.2 Ethical Use and Distribution of Bona Vacantia Assets

Finally, consider the ethical implications of distributing *Bona vacantia* assets. Under the proposed framework, provisions would be made to ensure that ownerless assets are used in a manner that benefits society and adheres to the principles of both civil and Islamic law. For example, the funds could be allocated to charitable organisations or used to fund public projects, such as building schools or hospitals.

One such scenario involves intestate estates and distant relatives. When a person dies intestate, meaning without a will and known heirs, their estate may become *bona vacantia*. The government then assumes responsibility for managing these assets. An ethical consideration here is that the law tends to prioritise close relatives, such as spouses and children, rather than distant relatives. To ensure that these distant relatives have an opportunity to claim their rightful share, governments should strive to locate them and provide clear guidelines for claiming assets. Transparency and effective communication are key in this process.

Another scenario pertains to unclaimed funds, a subtype of *bona vacantia*. The Unclaimed Moneys Act 1965 covers several types of unclaimed funds, such as dormant bank accounts, unclaimed insurance proceeds, unclaimed dividends, and unclaimed deposits. The ethical challenge here lies in striking a balance between the need for asset recovery and the protection of individual rights, as some people may be genuinely unaware of their entitlements. To address this, governments should establish efficient processes for identifying rightful owners and returning unclaimed funds, with clear communication channels to prevent loss due to oversight.

Next, the concept of escheatment and government claims also falls under *bona vacantia*. Escheatment allows the government to claim unclaimed property or assets when no eligible heirs exist. While escheatment prevents assets from remaining

ownerless, it should be exercised justly to minimise fraudulent claims and bureaucratic challenges. Governments should strike a balance between public interest and individual rights, with regular audits and transparency ensuring fair distribution.

Finally, the importance of estate planning cannot be overstated. Individuals should create a valid will or *hibah* for Muslims, regardless of the size of their estate, to ensure that assets are distributed according to their wishes. Estate planning is not just about financial assets; it also acknowledges emotional ties and family connections. Encouraging people to create wills and educating them about the implications of intestacy can prevent *bona vacantia* situations.

In conclusion, the ethical use and distribution of *bona vacantia* assets involves a detailed balance between legal requirements, understanding, transparency, and fairness. Estate planning and clear communication play a crucial role in ensuring that assets find their rightful owners and that distant relatives are not left in an indeterminate state. These examples demonstrate how the proposed legal framework could address the current challenges and limitations in the administration of *bona vacantia* in West Malaysia, leading to a more efficient, equitable, and socially responsible system.

6.3.5 Training Implementation and Capacity Building

6.3.5.1 Digital Databases and Artificial Intelligence (AI) Technology.

The introduction of digital databases and Artificial Intelligence (AI) technology represents an innovative step in estate management. The current manual system often struggles to accurately identify and classify diverse assets, causing delays and errors. By contrast, a digitalised framework would allow all movable and immovable assets to be systematically recorded, cross-verified, and updated in real time.

AI can support this process by analysing multiple data sources, such as land registries, bank records, and vehicle registrations, to ensure that no assets are overlooked. It can also provide timely valuation updates, detect discrepancies, and highlight assets requiring special attention. For Muslim estates, this ensures that the process of identifying and managing assets before their reversion to *Baitulmal* is transparent, accurate, and consistent with Islamic principles. Overall, incorporating AI and digital databases enhances transparency, reduces the risk of mismanagement, and aligns Malaysia with international best practices in estate administration.

6.3.5.2 Capacity Building

Investing in capacity building for the centralised authority and other relevant agencies is crucial to ensure they have the necessary resources and expertise to manage ownerless properties effectively. This involves not only providing adequate funding and technological resources but also enhancing the skills and knowledge of the personnel involved. It can include specialised training programmes, workshops, and seminars focused on estate management, legal procedures, and the use of digital tools and AI technology for asset identification and classification. Furthermore, establishing a vigorous support system, including access to legal and technical experts, can help these agencies oversee complex cases more efficiently. By strengthening the capacity of these institutions, the management of *bona vacantia* properties can be made more efficient, transparent, and equitable, ultimately benefiting the community as a whole.

6.3.5.3 Training Programs

Developing comprehensive training programmes is essential for ensuring that government officials, legal practitioners, and all the relevant parties are well-versed in

the new legal framework and procedures for managing *bona vacantia* properties. These programmes should cover various aspects, including the identification and classification of ownerless properties, the legal processes involved in claiming and managing these assets, and the ethical considerations in their management. Additionally, continuous professional development opportunities should be provided to keep these stakeholders updated on any changes in the legal framework or procedures.

6.3.6 Monitoring and Evaluation

6.3.6.1 Regular Audits

Implementing regular audits of the management processes and outcomes is essential for ensuring compliance with the legal framework and identifying areas for improvement. Audits verify that all procedures and actions align with relevant laws and regulations, which is particularly important in managing *bona vacantia* properties where adherence to both Islamic and civil law principles is necessary.

6.3.6.2 Improved Claimant Support Mechanisms

This revised framework introduces improved support mechanisms to help potential heirs direct the process of claiming an estate. A new, user-friendly online portal allows claimants to easily submit and track their cases in real time. By providing a clear process, automated updates, and a dedicated helpline for personalised assistance, the system reduces stress and makes the legal proceedings more accessible.

6.3.6.3 Community Involvement

Engaging the community in identifying and reporting ownerless properties is critical for efficient estate management. This can be achieved through public awareness

initiatives that inform the public about the significance of reporting the *bona vacantia* properties and the steps involved. For instance, local governments could implement campaigns through social media, local newspapers, and community bulletin boards, educating residents on how to report unclaimed properties. Furthermore, incorporating diverse viewpoints and conducting thorough assessments during decision-making processes is vital for developing effective policies. By applying these principles to *bona vacantia* policies, governments can ensure they are inclusive, meet societal needs, and foster greater transparency and accountability in the legal system.

Additionally, community workshops can be organised to provide direct training and information sessions. These workshops can teach the public how to identify potential *bona vacantia* properties and the steps to report them. By actively involving the community, authorities can leverage local knowledge and ensure that no ownerless property goes unnoticed. This collaborative approach not only enhances the efficiency of property management but also fosters a sense of community responsibility and engagement.

6.3.6.4 Feedback Mechanisms

Establishing active feedback mechanisms is crucial for ensuring that stakeholders can provide input on the management of *bona vacantia* properties. This can include creating online platforms where stakeholders can submit their feedback, suggestions, and concerns. For instance, a dedicated website or mobile app could be developed to allow people to report issues, provide suggestions, and track the status of their feedback. Additionally, physical suggestion boxes can be placed in community centres and government offices to collect input from those who may not have access to digital

platforms. Public forums and town hall meetings can also be organised to facilitate open discussions and gather diverse perspectives.

These feedback mechanisms ensure that the voices of all stakeholders are heard and considered in decision-making processes, leading to more transparent and inclusive management of ownerless properties. By implementing these strategies, authorities can improve stakeholder engagement, leading to more effective and equitable management of *bona vacantia* properties. This approach not only enhances transparency and accountability but also builds trust and cooperation between the community and the authorities.

In conclusion, these recommendations are not presented in isolation but are directly informed by the findings of this study as set out in Section 6.2. Since the research objectives have already been systematically addressed through the analysis of existing laws, administrative practices, and comparative models, the present proposals translate those findings into a coherent reform agenda. In this way, the recommendations consolidate the study's objectives into actionable measures, ensuring that the administration of *bona vacantia* in West Malaysia evolves into a transparent, efficient, and ethically grounded framework consistent with both civil and Islamic legal principles.

6.4 IMPACT ON LEGAL PRACTICE IN WEST MALAYSIA

These recommendations highlight the importance of a multi-branched approach to optimising *bona vacantia* administration. Previously, the dual system of estate management, which varied based on the deceased's religion, often led to complexities and delays. With the reform, there is a more unified approach, enhancing efficiency and clarity in overseeing such estates. By addressing issues of efficiency, accessibility,

awareness, cultural sensitivity, transparency, and regional variations, jurisdictions can create a more equitable, efficient, and trustworthy system for managing unclaimed assets. Moreover, by embracing these recommendations based on the best practices in the UK and Singapore, West Malaysia can continue to improve its approaches to *bona vacantia*, ensuring fairness, transparency, and efficiency in the management of unclaimed assets.

The scholarly work supports a comprehensive approach, advocating for a balanced and inclusive strategy to enhance the administration of *bona vacantia* in West Malaysia. This approach benefits individuals seeking rightful inheritance, strengthens public trust in government institutions, and fosters international cooperation in a globalised world.

6.5 LIMITATIONS OF THE STUDY

In conducting this study on the administration of *bona vacantia* in West Malaysia, several limitations have emerged that must be acknowledged. Firstly, the research was constrained by the availability and accessibility of comprehensive data regarding the amount and management of *bona vacantia* assets. For non-Muslim estates, up-to-date figures were not readily available, which potentially limits the accuracy of any conclusions drawn about the current state of *bona vacantia* management. For Muslim estates, the data from State Islamic Religious Councils (SIRC) was also incomplete or inconsistent, affecting the ability to provide a fully accurate and representative analysis.

Additionally, the study faced challenges related to the fragmentation of legal and administrative systems. The dual legal framework in West Malaysia, which separates the administration of Muslim and non-Muslim estates, complicates the process of drawing comparisons and formulating unified recommendations. This fragmentation

affects the generalisability of findings and recommendations across different jurisdictions within the country.

Moreover, the study faced several limitations that impacted its findings. Notably, the researcher encountered significant obstacles in gathering data on *bona vacantia* for Muslims in the UK. Despite efforts to obtain this information, no data could be secured. This limitation, along with challenges in accessing data from the Singapore MUIS, impacted the comprehensiveness of the comparative analysis. These constraints highlight the need for improved data accessibility to enhance future research in this area.

While the State Islamic Religious Councils (SIRC) in West Malaysia have extended commendable cooperation, it is important to note that the researcher has faced challenges in acquiring data regarding the *bona vacantia* amounts for Muslims in Kedah state, which is one of the four states under consideration. Besides, the absence of data on non-Muslim estates remains a significant issue. The lack of established procedures for identifying and managing *bona vacantia* for non-Muslims intensifies this gap. This limitation affects the depth of qualitative insights, potentially skewing the findings towards a more theoretical rather than practical perspective. Consequently, while the study provides valuable insights, the findings must be interpreted with an understanding of these data and engagement constraints.

These limitations affect the interpretation of the findings by introducing potential biases and gaps in data, which may lead to an incomplete understanding of the current issues and challenges in *bona vacantia* management. Consequently, while the recommendations provided are based on the available evidence and best practices from other jurisdictions, they should be viewed as preliminary and subject to further validation through more comprehensive data and stakeholder feedback.

6.6 FUTURE RESEARCH DIRECTIONS AND POLICY AMENDMENTS OF *BONA VACANTIA* IN WEST MALAYSIA

Future research on the administration of *bona vacantia* in West Malaysia should aim to address the limitations identified in this study and expand upon its findings to build a more comprehensive understanding of the subject. A priority area is the collection and analysis of more complete and up-to-date data on *bona vacantia* assets, particularly with respect to non-Muslim estates. This would require closer collaboration with government agencies and State Islamic Religious Councils (SIRCs) to improve data accessibility and consistency, thereby enhancing the accuracy and reliability of future studies.

Another crucial direction is the development of a more unified legal framework to reduce the fragmentation between the administration of Muslim and non-Muslim estates. Comparative analysis with additional jurisdictions such as Australia, Canada, and New Zealand, beyond the United Kingdom and Singapore, could provide valuable insights and identify best practices adaptable to the Malaysian context. A wider comparative scope, encompassing countries with diverse legal systems, would also shed light on alternative approaches and inform potential reforms to address existing inefficiencies.

To overcome challenges in accessing international data, future research could also explore mechanisms for international collaborations or data-sharing agreements. Such initiatives would facilitate more comprehensive comparative studies, allowing for more robust and empirically grounded conclusions.

Equally important is the examination of the socio-economic impact of *bona vacantia* assets and their potential use for public benefit. Empirical research in this area could explore how these resources might be channelled into community development initiatives, such as affordable housing, public parks, and infrastructure projects, or

directed towards enhancing healthcare, education, and support for vulnerable groups. Through case studies and impact assessments, researchers could identify the most effective strategies for deploying *bona vacantia* assets to maximise social value.

The role of technology in estate management also warrants deeper exploration. Databases, blockchain systems, artificial intelligence, and other digital platforms could streamline administrative processes, enhance transparency, and improve efficiency. For example, platforms such as AppFolio and Buildium demonstrate how cloud-based systems can simplify accounting, reporting, and communication, underscoring the potential of digital transformation in this area. Establishing appropriate governance frameworks would further ensure legal compliance, ethical management, and accountability.

In addition, raising public awareness is essential to reducing unclaimed properties and improving estate administration. Future studies could focus on identifying knowledge gaps and designing targeted initiatives such as workshops, online resources, and community outreach to emphasise the importance of estate planning and the risks of dying intestate. Embedding such education in civic programmes would cultivate early awareness and encourage proactive engagement in estate planning, thereby reducing the incidence of *bona vacantia* and facilitating more efficient legal processes.

Finally, policymaking in this area should actively engage legal practitioners by establishing advisory panels comprising estate lawyers and property law experts. These panels could provide ongoing guidance, review draft policies, highlight potential challenges, and propose amendments to strengthen the legal framework. This collaborative approach would ensure that policies remain practical, inclusive, and responsive to evolving social needs. As Joshua Newman observes, addressing real-

world policy issues requires interdisciplinary collaboration; thus, fostering research partnerships across legal, economic, and technological fields will be critical in generating actionable insights.

In conclusion, the administration of *bona vacantia* in West Malaysia carries significant implications for both legal practice and public policy. By addressing current limitations, drawing from international best practices, leveraging technology, and promoting public awareness, future reforms could establish a legal framework that is efficient, equitable, and responsive to societal needs. Such a framework would not only provide clarity and consistency but also ensure that unclaimed assets are productively utilised for the benefit of the community.

6.7 CHAPTER SUMMARY

This chapter examined the concept of *bona vacantia* (ownerless property) in West Malaysia, covering estates without heirs, unclaimed assets, and property from dissolved companies. Rooted in the feudal notion of escheat, *bona vacantia* in Malaysia reverts to the state but is fragmented between Islamic and civil systems. *Baitulmal* manages Muslim estates, while non-Muslim assets fall under other authorities. This dual structure creates inefficiencies, poor coordination, and limited data, especially for non-Muslims.

By comparison, Singapore and the UK adopt centralised, transparent systems. The chapter, therefore, calls for reform through a unified *Bona vacantia Act* integrating Islamic and civil principles, clearer procedures, and collaboration with State Islamic Religious Councils. Recommended measures include digital registries, a public website, audits, training, and AI-based tools, ensuring transparency, efficiency, and fairness in handling ownerless estates.

The chapter concludes by stressing the importance of legal reforms and future research to enhance data accessibility, international collaboration, and the usage of digital technologies in managing *bona vacantia* in West Malaysia.

6.8 CONCLUSION

The study systematically analysed *bona vacantia* administration in Kedah, Kelantan, Wilayah Persekutuan Kuala Lumpur, and Johor, addressing current practices, legal gaps, and comparisons with Singapore and the UK. Findings highlight fragmented laws, inconsistent regional practices, inadequate tracing mechanisms, and limited records of *bona vacantia* assets. Muslim and non-Muslim estates remain divided under separate authorities, weakening consistency and efficiency. Best practices in Singapore and the United Kingdom show the value of a centralised approach, suggesting that Malaysia adopt a harmonised legal framework combining civil and Islamic principles. The proposed framework aims to standardise procedures, enhance transparency, protect heirs' rights, and ensure equitable distribution of estates. By aligning objectives, questions, and findings, the research contributes a structured case for reform, advocating for an integrated *Bona vacantia Act* to ensure equitable and efficient administration of ownerless properties in West Malaysia.

The alignment of research objectives, questions, methodology, theoretical underpinnings, and findings demonstrates the study's coherence and contribution. Each objective was addressed through a structured approach: doctrinal analysis revealed the fragmented legal basis of *bona vacantia* in Malaysia; field research highlighted administrative gaps across federal, state, and *Baitulmal* authorities; comparative analysis with the United Kingdom and Singapore identified best practices in centralisation, transparency, and accessibility; and finally, an integrated doctrinal–

comparative synthesis informed the proposal for a dedicated *Bona vacantia* Act. This systematic alignment underscores how the study not only identified weaknesses but also offered a practical and theoretically grounded reform framework for West Malaysia. Table 6.2 summarises the alignment between the study's objectives, research questions, methodology, theories and findings, highlighting its contributions and laying the groundwork for future legal reforms.



Table 6.2: Alignment of Research Objectives, Questions, Methodology, Theories and Findings

RESEARCH OBJECTIVES	RESEARCH QUESTIONS	RESEARCH METHODOLOGY	HOW THEORIES ENABLE OBJECTIVES' ACHIEVEMENT	RESEARCH FINDINGS
1. Analyse laws & procedures on BV in West Malaysia (Kedah, Kelantan, KL, Johor).	What are the applicable laws and procedures of BV in West Malaysia?	Doctrinal: Content analysis of the constitution, statutes, case law, and Islamic sources.	<i>Islamic:</i> Justice (' <i>Adl</i>), Benevolence (<i>Ihsān</i>). <i>Civil:</i> Doctrine of Escheat.	Laws are fragmented, with regional variation and a lack of a tracing system. Need for a unified & centralised framework integrating civil & Islamic principles.
2. Identify BV estates & legal/procedural constraints for Muslims & non-Muslims (YDPA Fund, State, <i>Baitulmal</i>).	What are the legal & procedural constraints in BV administration by YDPA, the State, and <i>Baitulmal</i> ?	Field Study: Interviews with agencies (<i>Baitulmal</i> , Land Registry, Land Admin).	<i>Islamic:</i> Justice & Benevolence → equitable distribution, social function. <i>Civil:</i> Escheat → state control, public welfare.	Inconsistent practices across states & bodies. Muslim estates → <i>Baitulmal</i> ; Non-Muslim estates → State/YDPA. Data gaps: e.g., Kedah (no records), JKPTG (no BV records).
3. Scrutinise BV models in Singapore & the UK compared to Malaysia.	What are the international models for BV administration?	Comparative Analysis: UK & Singapore Frameworks.	<i>Islamic:</i> Justice & Benevolence. <i>Civil:</i> Escheat → centralised state control.	UK & Singapore = streamlined, centralised, transparent. The benchmark shows Malaysia lags; there is a need for centralised integration of civil & Islamic frameworks.
4. Propose a legal framework for BV in West Malaysia.	What is the best BV legal framework under existing laws & policies?	Mixed Methods: Doctrinal, Field Study, Comparative, Analytical.	<i>Islamic:</i> Justice & Benevolence. <i>Civil:</i> Escheat.	Proposal: <i>Bona vacantia</i> Act. Key features: centralised authority, uniform procedures, public registry, integration of State Islamic Religious Councils, training, audits, claimant support, and community engagement.

REFERENCES

A. Books/e-books/online books

- Abdul Azis Dahlan. (Ed.). (1999). *Ensiklopedi hukum Islam* (2nd ed.). Ihtiar Baru Van Hoeve.
- Abdul Qadeem Zalloom. (1999). *Funds in the Khilafah State (Al-Amwal fi Dowlat Al-Khilafah)*. Al-Khilafah Publications. <https://docslib.org/doc/9542180/the-funds-in-the-khilafah-state>
- Ahmad Adnan Fadhli. (2014). *Asas-asas memahami ilmu faraid*. Pustaka Darussalam Sdn Bhd.
- Blackstone, W. (1979). *Commentaries on the laws of England* (Vol. 2). T. Cadell in the Strand, J. and J. Butterworth and Son. (Original work published 1765–1769). https://archive.org/details/commentaries_of_on_the_laws_of_englandvol2/page/n9/mode/2up
- Doi Abdur Rahman I. (1984). *Sharī'ah: The Islamic law*. Ta Ha Publishers. <https://archive.org/details/sharahislamiclaw0000doia/page/290/mode/2up?q=apostate>
- Gray, J. C. (1886). *The rule against perpetuities*. Little, Brown, and Company.
- Jamal al-Din Muhammad Ibn Mukarram [Ibn Manzur]. (1882). *Lisan al-'Arab*. Bullag Misr al-Matb'ah al-Kubra al-'Amiriyah. <https://archive.org/details/lisanalarab01ibnmuoft/page/985/mode/2up>
- Jasni Sulong., & Zahari Mahad Musa. (2019). *Faraid A–Z*. Dewan Bahasa dan Pustaka.
- Mohammad Hashim Kamali. (2003). *Principles of Islamic jurisprudence*. The Islamic Texts Society. <https://archive.org/details/principlesofisla0000kama>
- Kilcommins, S. (2016). Doctrinal legal method (black-letterism): Assumptions, commitments and shortcomings. In L. Cahillane & J. Schweppe (Eds.), *Legal research methods: Principles and practicalities* (pp. 1–12). University of Limerick. https://researchrepository.ul.ie/articles/chapter/Doctrinal_legal_method_Black_Letterism_assumptions_commitments_and_shortcomings/19830022?file=35240272
- Neuman, W. L. (2014). *Social research methods: Qualitative and quantitative approaches* (7th ed.). Pearson Education Limited. <https://letrunghieutvu.yolasite.com/resources/w-lawrence-neuman-social->

[research-methods_qualitative-and-quantitative-approaches-pearson-education-limited-2013.pdf](https://www.research-methods.com/qualitative-and-quantitative-approaches-pearson-education-limited-2013.pdf)

Ruqaiyyah Maqsood. (2004). *Islam. Teach Yourself Books*.
<https://archive.org/details/islam0000maqs/page/n4/mode/1up>

Sadali Rasban. (2014). *Baitulmal in the fara'id system: Rethink and revise*. HTHT Advisory Services Pte Ltd.

Wahbah Az-Zuhaili. (1997). *Al-fiqh al-Islami wa adillatuhu* (Vol. 8). Dar al Fikr.

Wahbah Az-Zuhaili. (2021). *Fiqh Islam wa adillatuhu: Hak-hak anak; wasiat; wakaf; warisan*. (Vol. 10). Darul Fikir & Gema Insani. <https://tinyurl.com/2dv6fe4h>

Wan Abdul Halim Wan Harun. (2016). *Pengurusan dan pembahagian harta pusaka* (4th ed.). Dewan Bahasa dan Pustaka.

Wan Abdul Halim Wan Harun. (2018). *Mengurus harta pusaka*. Ikon Syabab Resources.

Wan Noraini Mohd Salim. (2012). *Islamic law of succession: A practical guide to the laws of faraid*. Current Law Journal Sdn Bhd.

Zaki Al-Din Sya'ban., & Ahmad Al-Ghandur. (1984). *Ahkam al-wasiyyah wa-al-mirath wa al-wakaf fi al-syari'ah al-Islamiyyah*. Maktabah Al-Falah.

B. Conference/Seminar Papers

Abdullah Muhamad. (2006, August). *Isu dan masalah dalam pengurusan pembahagian pusaka kecil* [Paper presentation]. Seminar Kebangsaan Pengurusan Harta Dalam Islam, Jabatan Syariah, Fakulti Pengajian Islam, UKM & KIPSAS, Bangi, Selangor.

Baharuddin Aziz. (2019, October). *Hal ehwal pentadbiran harta pusaka di Malaysia dan permasalahannya* [Paper presentation]. Kursus Asas Kaedah Pengurusan Harta Keluarga Islam, Institut Kefahaman Islam Malaysia, Kuala Lumpur.

Hairunnizam Wahid., Mohd Fairuz Md Salleh., Azlina Ahmad., Norida Basnan., Azizah Harun., & Ainol Basirah Abdul Wahab. (2018, September). *Perakaunan untuk aset wakaf, zakat dan baitulmal oleh Majlis Agama Islam Negeri di Malaysia: Satu cadangan kerangka kerja syariah (Accounting for wakaf, zakah and baitulmal assets by the State Islamic Religious Council in Malaysia: A proposed shariah framework)* [Paper presentation]. Persidangan Kebangsaan Ekonomi Malaysia PERKEM Ke-13, Fakulti Ekonomi dan Pengurusan, Universiti Kebangsaan Malaysia & Yayasan Tun Ismail Mohamed Ali, Bangi, Selangor.

https://www.researchgate.net/publication/328136397_Perakaunan_untuk_Aset_Wakaf_Zakat_dan_Baitulmal_oleh_Majlis_Agama_Islam_Negeri_di_Malaysia_Satu_Cadangan_Kerangka_Kerja_Syariah

Mohd Farihal Osman., Mahamad Tayib., Nor Hayati Ahmad., & Muhammad Ahmad. (2014, April). *Prospek pengurusan modal mampu meningkatkan prestasi baitulmal di Malaysia* [Conference presentation]. Seminar Waqf Iqlimi 2014, Universiti Sains Islam Malaysia, Nilai, Negeri Sembilan. <https://tinyurl.com/2wyna2fx>

Pistor, K. (2000, June). *The standardization of law and its effect on developing economies* [Paper presentation]. G-24 Discussion Paper Series, United Nations Conference on Trade and Development, Geneva, Switzerland. <https://unctad.org/system/files/official-document/pogdsmdpbg24d4.en.pdf>

Seh Nilamuddin Hassan. (2012, June). *Isu-isu dan permasalahan dalam pembahagian pusaka orang Islam di Malaysia* [Paper presentation]. Jawhar Intellectual Discourse, JAWHAR, Putrajaya.

<https://e-muamalat.islam.gov.my/en/bahan-ilmiah/kertas-ilmiah/372-isu-isu-permasalahan-lam-pembahagian-harta-pusaka-orang-islam-di-alaysia>

Siti Khadijah Abdullah Sanek., Nurul Mazrah Manshor., Irma Kamarudin., & Mohd Zulhalmey Abdullah. (2018, July). *Administration of unclaimed estates (Bona vacantia) for Muslims in Penang* [Paper presentation]. 2nd Islamic Management Development Conference (IMDeC 2018), UiTM Kedah & ISDEV, Merbok, Kedah.

C. Government Links/Policy Documents

Ahmad Kamal Ihsan Anuar. (2018). *Pengenalan kepada sistem pentadbiran tanah di Malaysia dan KTN*. INSTUN. <https://pintu.instun.gov.my/artikel/papar/pengenalan-kepada-sistem-pentadbiran-tanah-di-malaysia-dan-ktn>

Government Legal Department (UK). (2013, November 1). *Bona vacantia and the Crown Solicitor's Office of Northern Ireland*. <https://www.gov.uk/government/publications/bona-vacantia-and-the-crown-solicitors-office-of-northern-ireland>

Government Legal Department (UK). (n.d.). *Bona vacantia*. <https://www.gov.uk/government/organisations/bona-vacantia>

Jabatan Akauntan Negara Malaysia. (2025, May 22). *Hebahan*. <https://egumis.anm.gov.my/>

Jabatan Ketua Pengarah Tanah & Galian Persekutuan. (n.d.). *Estate Distribution Section (BPP)*. JKPTG. <https://www.jkptg.gov.my/en/korporat/profil-bahagian/bahagian-pembahagian-pusaka-bpp>

Jabatan Wakaf, Zakat dan Haji (JAWHAR). (2008). *Manual pengurusan tebus pusaka*. JAWHAR. <https://e-penerbitan.jawhar.gov.my/ManualPengurusan/Sumber-Am/MP-Tebus-Pusaka.pdf>

- Majlis Agama Islam dan Adat Istiadat Melayu Kelantan. (n.d.). *Perkhidmatan pengurusan pusaka*. <https://www1.e-maik.my/v2/perkhidmatan-kami/pengurusan-pusaka/>
- Majlis Agama Islam Negeri Kedah. (n.d.). *Baitulmal*. <https://maik.kedah.gov.my/en/index.php/baitulmal/>
- Majlis Agama Islam Negeri Johor. (n.d.). *Baitulmal*. https://www.maij.gov.my/?page_id=473/
- Majlis Agama Islam Selangor. (n.d.). *Harta pusaka*. <https://mais.gov.my/perkhidmatan-harta-pusaka/>
- Majlis Agama Islam Wilayah Persekutuan. (n.d.). *Faraid & pusaka*. <https://www.maiwp.gov.my/portal-main/article2?id=faraid-pusaka&bg=false>
- Majlis Ugama Islam Singapura (MUIS). (2021). *Annual report 2021: Resolute supporting the community through transition and change*. <https://www.muis.gov.sg/-/media/Files/Corporate-Site/Annual-Reports/Muis-AR2021.ashx>
- Majlis Ugama Islam Singapura (MUIS). (2022). *Annual report 2022: The next lap rethinking and driving positive change for the community*. <https://www.muis.gov.sg/-/media/Files/Corporate-Site/Annual-Reports/Muis-Annual-Report-2022.ashx>
- Majlis Ugama Islam Singapura (MUIS). (2023). *Annual report 2023: Navigating change charting our path in a dynamic environment*. <https://www.muis.gov.sg/-/media/Files/Corporate-Site/Annual-Reports/Muis-Annual-Report-2023.ashx>
- Ministry of Finance Malaysia. (2024, November 13). *RM12.8 bln in unclaimed money still awaiting owners* [Press release]. <https://www.mof.gov.my/portal/en/news/press-citations/rm12-8-bln-in-unclaimed-money-still-awaiting-owners>
- Ministry of Law Singapore. (n.d.). *Claims against bona vacantia estates*. <https://pto.mlaw.gov.sg/deceased-cpf-estate-monies/claims-against-bona-vacantia-estates/>
- Muhd Farhan. (2020, April 20). *Who are the rightful heirs (al-kafi #1704)*. Pejabat Mufti Wilayah Persekutuan. <https://www.muftiwp.gov.my/en/artikel/al-kafi-li-al-fatawi/4451-al-kafi-1704-who-are-the-rightful-heirs>
- MyGOV. (n.d.). *Managing faraid application*. <https://www.malaysia.gov.my/portal/content/27709>
- Pejabat Mufti Wilayah Persekutuan. (1999, August 26). *Fatwa di bawah seksyen 34*. <https://efatwa.muftiwp.gov.my/fatwa/1bf7c1773d2822fe794792cf6144fce1>

The Gazette. (n.d.). *The gazette official public record*. <https://www.thegazette.co.uk>

Uniform Law Commission. (n.d.). *Unclaimed Property Act (revised)*. <https://www.uniformlaws.org/committees/community-home?CommunityKey=4b7c796a-f158-47bc-b5b1-f3f9a6e404fa>

D. Journal Articles

Akmal Hidayah Halim., Nor Azlina Mohd Noor., & Azhani Arshad. (2018). Administration of unclaimed estates in Malaysia: The peculiarities of unclaimed money, undistributed fund and bona vacantia. *The Journal of Social Sciences Research*, 6(Special Issue), 1075–1079. <https://doi.org/10.32861/jssr.spi6.1075.1079>

Akmal Hidayah Halim., Tajul Aris Bin Ahmad Bustami., Wan Noraini Binti Mohd Salim., & Rahmawati Mohd Yusoff. (2019). The administration of Muslims's and non-Muslims's ownerless estate (*bona vacantia*) in West Malaysia: An analysis. *International Journal of Law, Government and Communication*, 4(16), 26–34. <https://doi.org/10.35631/ijlge.416003>

Andi Asdar Yusuf. (2017). Controversy of Islamic law on the distribution of inheritance to the heirs of different religion, *Hunafa: Jurnal Studia Islamika*, 14(2), 377–403. <https://doi.org/10.24239/jsi.v14i2.490.377-403>

Bayu Taufiq Possumah., & Abdul Ghafar Ismail. (2012). Baitul Mal and legal constraint: Public wealth management in Malaysian context. *International Journal of Academic Research in Business and Social Sciences*, 2(11), 27–52. https://www.researchgate.net/publication/235614521_Baitul_Mal_and_Legal_Constraint_Public_Wealth_Management_in_Malaysian_Context

Bibi Nur Adila Zulkafli., & Md Yazid Ahmad. (2016). Kekangan dan penyelesaian kelewatan pengurusan aset pusaka tak alih orang Islam di Malaysia: Constraints and solutions of delayed management of Muslim immovable property management in Malaysia. *Islamiyyat*, 38(1), 53–63. <https://doi.org/10.17576/islamiyyat-2016-3801-06>.

Bower, C. (2013). Inequitable escheat? Reflecting on unclaimed property law and the Supreme Court's interstate escheat framework. *Ohio State Law Journal*, 74(3), 516–557. <https://www.academia.edu/85237320/>.

Calabresi, G., & Melamed, A. D. (1972). Property rules, liability rules, and inalienability: One view of the cathedral. *Harvard Law Review*, 85(6), 1089–1128. <https://doi.org/10.2307/1340059>

Dayang Hummida Abang Abdul Rahman., & Mustafa Omar Mohammed. (2012). The role of baitulmal towards the education of poor Muslims in Sarawak. *Journal of Contemporary Issues and Thought*, 2, 69–81. <https://ejournal.upsi.edu.my/index.php/JCIT/article/view/924>

- Feirul Maliq Intajalle., & Luqman Abdullah. (2014). Pembahagian pusaka Islam dan permasalahannya di Singapura [Distribution of Muslim's estate and issues in Singapore]. *JATI: Journal of Southeast Asian Studies*, 19(1), 81–101. <https://doi.org/10.22452/jati.voll9no1.6>
- Fu, X., Avenyo, E., & Ghauri, P. (2021). Digital platforms and development: A survey of the literature. *Innovation and Development*, 11(2–3), 303–321. <https://doi.org/10.1080/2157930X.2021.1975361>
- Helms, M. M., & Nixon, J. (2010). Exploring SWOT analysis – where are we now?: A review of academic research from the last decade. *Journal of Strategy and Management*, 3(3), 215–251. <https://doi.org/10.1108/17554251011064837>
- Hisham Yaacob., & Hairul Suhaimi Nahar. (2017). Investigating awqaf management, accounting and investment practices in Malaysia: The case of a state religious institution. *Global Journal al Thaqafah (GJAT)*, 7(1), 59–70. <https://doi.org/10.7187/gjat12720170701>
- Ibrahim Musa Unal., & Ahmet Faruk Aysan. (2022). Fintech, digitalization, and blockchain in Islamic finance: Retrospective investigation. *FinTech*, 1(SPI4), 388–398. <https://doi.org/10.3390/fintech1040029>
- Idowu, A., & Elbanna. A. (2020). Digital platforms of work and the crafting of career path: The crowdworkers' perspective. *Information Systems Frontiers*, 24(2), 441–457. <https://link.springer.com/article/10.1007/s10796-020-10036-1#citeas>
- Ismael Saka Ismael., & Abdulmumini Adebayo Oba. (2017). Legal challenges concerning some beneficiaries of estates governed by Islamic law in Nigeria. *IIUM Law Journal*, 25(1), 63–92. <https://doi.org/10.31436/iiumlj.v25i1.306>
- Jain, S. N. (1982). Doctrinal and non-doctrinal legal research. *Journal of the Indian Law Institute*, 24(2/3), 341–361. <http://www.jstor.org/stable/43953840>
- Jasni Sulong. (2008). Kedudukan mazhab Syafi'i dalam amalan pembahagian pusaka dan wasiat Islam di Malaysia. *Jurnal Syariah*, 16(1), 163–183. https://www.academia.edu/24307864/kedudukan_mazhab_syafii_dalam_amalan_pembahagian_pusaka_dan_wasiat_islam_di_malaysia
- Juraish Kamaruddin. (2008). Memperkasa baitulmal menerusi undang-undang Syariah. *Jurnal Pengurusan JAWHAR*, 2(2), 99–140. <https://tinyurl.com/2wph5984>
- Lorinza Hartomo Razy. (2023). Islamic inheritance law in the modern era: Contemporary aspects and applications. *An-Nur: Jurnal Studi Islam*, 15(2), 287–99. <https://doi.org/10.37252/annur.v15i2.568>
- Mastura Ab. Wahab., & Yusof Ismail. (2019). Mas'uliyah and Ihsan as high-performance work values in Islam. *International Journal of Economics*,

Management and Accounting, 27(1), 187-212. <https://journals.iium.edu.my/enmjjournal/index.php/enmj/article/view/660/321>

Md. Habibur Rahman. (2015). Bayt al-mal and its role in economic development: A contemporary study. *Turkish Journal of Islamic Economics*, 2(2), 21–44. <https://tujise.org/issues/volume-2-issue-2/m2>

Md Yazid Ahmad. (2017). Amalan muafakat dan aplikasi takharuj dalam pengagihan pusaka menurut perspektif undang-undang pusaka Islam. *Islamiyyat: International Journal of Islamic Studies*, 39(1), 21–28.

Md Yazid Ahmad., Nurul Husna Mohamed., Ezad Azraai Jamsari., Zamzuri Zakaria., Anwar Fakhri Omar., & Mohd Syakir Mohd Taib. (2017). Baitulmal's potential as trustee for unclaimed moneys of Muslims. *International Journal of Civil Engineering and Technology IJCIET*, 8(12), 593-599. https://www.researchgate.net/publication/322737652_Baitulmal's_potential_as_trustee_for_unclaimed_moneys_of_muslims

Md Yazid Ahmad., Ezad Azraai Jamsari., Badlihasham Mohd Nasir., Aminudin Hehsen., & Wan Zulkifli Wan Hassan. (2017). Flexibility of Takharuj principle in solving the inheritance issues. *International Journal of Civil Engineering and Technology*, 8(11), 867–878. https://www.researchgate.net/publication/321889851_Flexibility_of_takharuj_principle_in_solving_the_inheritance_issues

Md Yazid Ahmad., Ermy Azziaty Rozali., Nurul Ilyana Muhd Adnan., Zamzuri Zakaria., Anwar Fakhri Omar., Ezad Azraai Jamsari., & Nor Adila Mohd Noor. (2020). Inheritance management by baitulmal in Malaysia: Role and challenges. *International Journal of Advanced Research*, 8(10), 1113-1120. <https://doi.org/10.21474/ijar01/11941>

Md Yazid Ahmad., Anwar Fakhri Omar., Muhamad Mu'izz Abdullah., Shofian Ahmad., & Nor Adila Mohd Noor. (2024). The application of Maslahah Mursalah principle in resolving inheritance claims by non-Muslim heirs of converts at baitulmal. *International Journal of Academic Research in Business and Social Science*, 14(8), 3088-3099. <https://www.researchgate.net/publication/383768085>

Merrill, T. W. (1985). The economics of public use. *Cornell Law Review*, 72(1), 61-112. <https://scholarship.law.cornell.edu/clr/vol72/iss1/3/>

Mohammad Muhibbin. (2018). The concept of land ownership in the perspective of Islamic law. *Al-Risalah*, 17(1), 61–74. <https://doi.org/10.30631/alrisalah.v17i01.25>

Mohammad Salleh Abdul Saha., Norazmi Anas., Hamdi Rahman Mohd Yaacob., & Nurul Hidayah Aziz. (2022). The issues, concepts and functions of baitulmal in Selangor Islamic religious council (MAIS) on the reclamation of Muslim

inheritance. *International Journal of Academic Research in Business and Social Sciences*, 12(11), 2213-2221. <https://doi.org/10.6007/ijarbss/v12-11/14835>

- Mohammad Tahir Sabit Haji Mohammada., & Robiah Suratman. (2017). Complexity of intestate estates distribution and escheat law. *International Journal of Law, Government and Communication (IJLGC)*, 2(4), 1–12.
- Mohd Kamarul Khaidzir Saadan., & Mohamad Sabri Haron. (2018). Teori masalah dalam sistem pewarisan harta orang Islam. *Journal of Muwafaqat*, 1(1), 1–17.
- Mohd Khairy Kamarudin., & Nasrul Hisyam Nor Muhamad. (2018). Islamic estate planning and management: Malaysian experience. *International Journal of Management Applications*, 1(1), 8–16. <https://shorturl.at/o9hrQ>
- Mohd Shahril Ahmad Razimi. (2016). Concept of Islamic inheritance law (faraid) in Malaysia: Issues and challenges. *Research Journal of Applied Sciences*, 11(12), 1460–1464. <https://tinyurl.com/32pkj566>
- Mohd Shahril Ahmad Razimi., Abd Rahim Romle., & Muhammad Farid Muhamad Erdris. (2016). Zakat management in Malaysia: A review. *American-Eurasian Journal of Scientific Research*, 11(6), 453–457. [https://www.idosi.org/aejsr/11\(6\)16/6.pdf](https://www.idosi.org/aejsr/11(6)16/6.pdf)
- Mostafa Ali Benzaghta., Abdulaziz Elwalda., Mousa Mohamed Mousa., Ismail Erkan., & Mushfiqur Rahman. (2021). SWOT analysis applications: An integrative literature review. *Journal of Global Business Insights*, 6(1), 55-73. <https://www.doi.org/10.5038/2640-6489.6.1.1148>
- Muhammad Amrullah Nasrul., & Wan Noraini Mohd Salim. (2018). Administration of estates in Malaysia: Determinant of factors behind the delay in the distribution of the deceased's asset. *Journal of Nusantara Studies (JONUS)*, 3(1), 75–86. <https://doi.org/10.24200/jonus.vol3iss1pp75-86>
- Muhammed Habib Dolgun. (2016). Property rights according to the Qur'ān and Sunnah and their economic implications for contemporary societies. *ISRA International Journal of Islamic Finance*, 8(1), 93–121. <https://journal.inceif.edu.my/index.php/ijif/article/download/218/189/374>
- Neely, A., Gregory, M., & Platts, K. (1995). Performance measurement system design: A literature review and research agenda. *International Journal of Operations & Production Management*, 15(4), 80-116.
- Newman, J. (2023). Promoting interdisciplinary research collaboration: A systematic review, a critical literature review, and a pathway forward. *Social Epistemology*, 38(2), 135-151. <https://doi.org/10.1080/02691728.2023.2172694>
- Nik Rahim Nik Wajis., Lukman Abdul Mutalib., Azman Ab. Rahman., Mualimin Mochammad Sahid., Nik Salida Suhaila Nik Saleh., Mohd Hazmi Mohd Rusli., Mahmoud Mohamed Ali., Muneer Ali Abdul Rab., Setiyawan Gunardi., Mariam

- Saidona Tagoranao., Muhammad Aunurrochim Mas'ad Saleh., Lukmanul Hakim Hj Hanafi., & Atiq Syamimi Ahmad. (2018). Harta tidak dituntut: Punca dan kaedah penyelesaiannya. *Malaysian Journal of Syariah and Law*, 6(1), 129–141. https://mjsl.usim.edu.my/index.php/jurnal_mjssl/article/view/100/62
- Nooren, P., van Gorp, N., van Eijk, N., & Ó Fathaigh, R. (2018). Should we regulate digital platforms? a new framework for evaluating policy options. *Policy & Internet*, 10(3), 264–301. <https://doi.org/10.1002/poi3.177>
- Noraini Noordin., & Adibah Shuib. (2014). Cost-effective routes through NFP model - an alternative to manage unclaimed estates. *International Journal of Advances in Engineering Science and Technology IJAEST*, 3(2), 95–104.
- Norazlina Abd Wahab., Selamah Maamor., Suraiya Hashim., Zairy Zainol., & Hakimah Yaacob. (2021). Investigating tendencies of Malaysian Muslims in Islamic estate planning: Insight into its determinants. *The Journal of Muamalat and Islamic Finance Research*, 18(2), 129–143. <https://doi.org/10.33102/jmifr.v18i2.377>
- Nohafizah Arifin., & Khadijah Hussin (2015). Review on Issues and problems of transferring Felda land ownership. *Journal of Management Research*, 7(2), 229-240.
- Nurul 'Izzah Baharudin., & Noor Lizza Mohamed Said (2017). Masalah dan kaedah penyelesaian pewarisan harta pusaka mualaf di Malaysia. *ISLAMIYYAT*, 39(1), 47–56. <https://journalarticle.ukm.my/11926/1/21595-67920-1-PB.pdf>
- Rahmawati Mohd Yusoff., Akmal Hidayah Halim., Wan Amir Azlan., Azhani Arshad., Alizah Ali., Noraini Ismail., Ahmad Faiz Ghazali., & Zuramaznum Sainan. (2021). The administration of *bona vacantia* (ownerless property) in West Malaysia: A comparative analysis. *International Journal of Academic Research in Business and Social Sciences*, 11(5), 586–597. <https://doi.org/10.6007/ijarbss/v11-i5/9824>
- Raihanah Abdullah., Wirdati Mohd Radzi., Fuadah Johari., & Golam Dastagir. (2014). The Islamic legal provisions for women's share in the inheritance system: A reflection on Malaysian society. *Asian Women*, 30(1), 29–52. <https://doi.org/10.14431/aw.2014.03.30.1.29>
- Roshaimizam Suhaimi., & Jasni Sulong. (2014). Konsep A'addah dalam pengurusan pindahmilik harta Pusaka. *ESTEEM Academic Journal*, 10(2), 44–55. <https://mycite.mohe.gov.my/en/files/article/83577>
- Rozaidy Mahadi., Noor Kaziemah Sariman., Raman Noordin., Rasid Mail., & Nur Shahida Ab Fatah. (2018). Corporate governance structure of state Islamic Religious councils in Malaysia. *International Journal of Asian Social Science*, 8(7), 388–395.
- Rusnadewi Abdul Rashid., & Nor Hisyam Ahmad. (2013). Pengurusan harta melalui hibah: Kepentingan dan manfaat dari pelbagai aspek untuk kemajuan ummah

(Hibah wealth management: The important and benefit from various aspects for ummah development). *Jurnal Hadhari: An International Journal*, 5(1), 91–104.

- S. Noor-Kaziemah., M. Rozaidy., Rasid Mail., Nur Shahida Ab Fatah., & Raman Noordin. (2019). Understanding the organisational structure of state Islamic religious council and baitulmal in Malaysia. *Journal of Islamic, Social, Economics and Development (JISED)*, 4(16), 23–35. <https://jised.com/PDF/JISED-2019-16-03-11.pdf>
- Sadali Rasban., Adam Abdullah., & Aznan Hasan. (2020). An analysis of residue net estate distribution to bayt al-mal in Singapore. *ISRA International Journal of Islamic Finance*, 12(1), 49–67. <https://doi.org/10.1108/ijif-04-2019-0055>
- Salim Ibrahim Ali., Zuryati Mohamed Yusoff., & Zainal Amin Ayub. (2017). Legal research of doctrinal and non-doctrinal. *International Journal of Trend in Research and Development*, 4(1), 493–495.
- Saqib Shamim., Shuang Cang., Hongnian Yu., & Yun Li. (2016). Management approaches for industry 4.0: A human resource management perspective. *2016 IEEE Congress on Evolutionary Computation (CEC)*, 5309–5316. <https://doi.org/10.1109/CEC.2016.7748365>.
- Shafinar Ismail., Nurhaslinda Hashim., Rohaiza Kamis., Hazalinda Harun., & Nurul Nadiah Abdul Samad. (2013). Determinants of attitude towards estate planning in Malaysia: An empirical investigation. *Procedia Economics and Finance*, 1–9. <https://tinyurl.com/5n99xu5u>
- Siti Asishah Hassan., Rusnadewi Abdul Rashid., & Zeti Zuryani Mohd Zakuan. (2022). The preservation of property in Maqasid Al-Syariah: With special reference to the appointment and duties of wasi in estate administration. *International Journal of Law, Government and Communication*, 7(29), 318–328. <https://shorturl.at/fgnym>
- Siti Khadijah Abdullah Sanek., & Akmal Hidayah Halim. (2024). Bibliometric examination of “bona vacantia”: Charting patterns and research trends. *Information Management and Business Review*, 16(2), 219–235. [https://doi.org/10.22610/imbr.v16i2\(i\)s.3817](https://doi.org/10.22610/imbr.v16i2(i)s.3817)
- Siti Khadijah Abdullah Sanek., Akmal Hidayah Halim., Wan Noraini Mohd Salim., & Muhammad Amrullah Nasrul. (2024). *Bona vacantia* in West Malaysia: Issues and challenges. *International Journal of Law, Government and Communication IJLGC*, 9(36), 131–142. <https://doi.org/10.35631/ijlgc.936010>
- Siti Mashitoh Mahamood. (2008). Isu-isu berbangkit dalam pengurusan baitulmal di Malaysia: Pemakaian akta wang tak dituntut 1965 (Akta 370) & bidang kuasa baitulmal dalam harta orang Islam. *Jurnal Pengurusan JAWHAR*, 2(1), 99–113.
- Sofiyah Mohd Suhaimin., Md Yazid Ahmad., & Anwar Fakhri Omar. (2022). Prakarsa baitulmal dalam menyantuni tuntutan harta pusaka mualaf oleh waris non-

Muslim menerusi pendekatan Siyāsah Shar‘Iyyah (*Baitulmal* initiatives in dealing with muallaf inheritance claims by non-Muslim heirs according to Siyāsah Shari‘iyyah). *Journal of Contemporary Islamic Law*, 7(2), 66–72. <https://journalarticle.ukm.my/21893/>

Suhaimi Ab Rahman., Rasyikah Md Khalid., Adilah Abd Razak., & Abu Bakar Jaafar. (2018). Pemeraksanaan mahkamah Syariah dalam pentadbiran harta pusaka masyarakat Islam menurut kerangka federalisme di Malaysia. *Akademika*, 88(3), 113–125. <https://journalarticle.ukm.my/13229/1/27433-7839 -1-PB.pdf>

Suhaimi Ab Rahman., Rasyikah Md Khalid., & Abu Bakar Jaafar. (2019). Kajian keberkesanan undang-undang faraid di Malaysia (Studies of the effectiveness Islamic inheritance law in Malaysia). *Akademika*, 89(2), 77–91. <https://journalarticle.ukm.my/19439/>

Sumadi., & Muhammad Tho’in. (2020). Paradigma konsep teori dan praktek baitul mal dalam perspektif sistem ekonomi Islam. *Jurnal Ilmiah Ekonomi Islam*, 6(2), 330-338. <http://dx.doi.org/10.29040/jiei.v6i2.1111>

Susan, E. J., Aparna, J., & Niclas, L. E. (2003). Recent research on team and organizational diversity: SWOT analysis and implications. *Journal of Management*, 29(6), 801-830. https://doi.org/10.1016/S0149-2063_03_00080-1

Tarek Al-Rimawi., & Michael Nadler. (2025). Leveraging smart city technologies for enhanced real estate development: An integrative review. *Smart Cities*, 8(1), 10. <https://doi.org/10.3390/smartcities8010010>

Wan Noraini Mohd Salim. (2016). The effects of apostasy on the entitlement to property upon death: The Malaysian position. *IIUM Law Journal*, 24(2), 359–375. <https://doi.org/10.31436/iiumlj.v24i2.269>

Wan Zahari Wan Yusoff., & Muhammad Azwan Sulaiman. (2021). The issues of unclaimed properties in Malaysia. *JSTARD: Journal of Science and Technology in Engineering*, 3(2), 9-14. <https://publisher.uthm.edu.my/ojs/index.php/jstard/article/view/8740>

Watt, G. (2015). A defence of estates and feudal tenure. *Northern Ireland Legal Quarterly*, 66(3), 243–262. <https://doi.org/10.53386/nllq.v66i3.152>

Ying, Kuek Chee., & Siang, Tay Eng. (2013). Religious conversions and the conflicts between civil and Islamic law of inheritance in Malaysia. *Malayan Law Journal*, 6, lxvi–xcii. <https://tinyurl.com/279uha53>

E. News/Reports

Evans, J. (2014, May 25). Lost: owners of billions in unclaimed assets. *Financial Times*. <https://www.ft.com/content/478a6b18-e1ca-11e3-915b-00144feabdc0>

- McClenaghan, M., Evans, R., & Dyer, H. (2023, November 25). King's estate to transfer £100m into ethical funds after *bona vacantia* revelations. *The Guardian*. <https://www.theguardian.com/uk-news/2023/nov/25/kings-estate-transfer-cash-ethical-funds-bona-vacantia-revelations>
- Mergawati Zulfakar. (2006, January 4). Moorthy's widow to get all benefits. *The Star*. <https://www.thestar.com.my/news/nation/2006/01/04/moorthys-widow-to-get-all-benefits/>
- Nurul Huda. (2023, October 5). MIEP proposed initiatives for responsible estate planning and tackling issues of unclaimed monies. *Business Today*. <https://www.businesstoday.com.my/2023/10/05/miep-proposed-initiatives-for-responsible-estate-planning-and-tackling-issues-of-unclaimed-monies>.
- Peng, Lee Yuk. (2005, April 8). Family of a fireman may get half of estate. *The Star*. <https://www.thestar.com.my/news/nation/2005/04/08/family-of-a-fireman-may-get-half-of-estate>
- Shoffman, M., & Rickard Straus, R. (2015, February 28). Is there a windfall waiting for you? what the heir hunters can teach you about tracking down an unclaimed inheritance. *This Is Money*. <https://www.thisismoney.co.uk/money/bills/article-2965122/Heir-hunters-track-unclaimed-inheritance.html>

F. Theses and Dissertations

- Azhani Arshad. (2015). *Administration of non-contentious estates in West Malaysia: Legal and procedural reforms* [Unpublished Doctoral dissertation]. International Islamic University Malaysia].
- Rahmawati Mohd Yusoff. (2019). *The administration of unclaimed estates in West Malaysia: Formulating a legal framework* [Unpublished Doctoral dissertation]. International Islamic University Malaysia].
- Syamsul Rusydi Somad Abdul Bashit. (2016). *Amalan dan cabaran baitulmal dalam pengurusan harta pusaka di Malaysia* [Unpublished Master's thesis]. Universiti Kebangsaan Malaysia].

G. Transliterated Re-Published Works

- Ibn Rushd. (1996). *Bidayat al-Mujtahid wa Nihayat ai-Muqtasid: The Distinguished Jurist's Primer Vol 2*. (Imran Ahsan Khan Nyazee, Trans.). Garnet Publishing.
- Mahiuddin Abu Zakaria Yahya Ibn Sharif En Nawawi. (1914). *Minhaj et talibin*. (E. C. Howard, Trans.). W. Thacker & Co.
- Mustofa Al-Khin., Mustofa Al-Bugho., & Ali Asy-Syarbaji. (2003). *Kitab fikah mazhab Syafie Vol. 5*. (Solehan Ayub, Trans.). Pustaka Salam Sdn Bhd.

Wahbah Zuhaili., & Muhammad Ali Shabuni. (2011). *Hukum harta pusaka dan ilmu faraid*. (Abdul Rahman Mohd Adil, Trans.). Pustaka Azhar.

H. Websites/Wikipedia/Dictionaries/Encyclopedias

Aaron Hall. (n.d.). *Expanding perspectives for informed decision-making*. Aaron Hall. <https://aaronhall.com/expanding-perspectives-for-informed-decision-making/>

Blessing, E. (2023). *Bona vacantia*. Investopedia. <https://www.investopedia.com/terms/b/bona-vacantia.asp>

Bona vacantia, escheat and company restoration – two conflicting decisions explored. (2016). Burges Salmon. https://www.burges-salmon.com/-/media/files/publications/open-access/bona_vacantia_escheat_and_company_restoration_two_conflicting_decisions_explored.pdf

Clarke Willmott. (2016). *What happens to intellectual property owned by a dissolved company?* Clarke Willmott. <https://www.clarkewillmott.com/insights/zombie-rights-intellectual-property-owned-by-a-dissolved-company/>

Definitions.net. (n.d.). *Bona vacantia*. In *Definitions.net*. <https://www.definitions.net/definition/bona+vacantia>

Dictionary.com. (n.d.). *Bona vacantia*. In *Dictionary.com*. <https://www.dictionary.com/browse/bona-vacantia>

Faster Capital. (n.d.). *What is bona vacantia*. Faster Capital. <https://fastercapital.com/topics/what-is-bona-vacantia.html>

Fleetwood, D. (n.d.). *Judgmental sampling*. QuestionPro. <https://www.questionpro.com/blog/judgmental-sampling/>

Fraser and Fraser. (2022). *Making sense of bona vacantia estates*. Fraser and Fraser. <https://www.fraserandfraser.co.uk/news/making-sense-of-bona-vacantia-estates/>

Ihsan Arabic. (2019). *The meaning of Ihsan*. Ihsan Arabic. <https://www.ihsan-arabic.com/blog/the-meaning-of-ihsan>

Johore Bar Committee. (n.d.). *Non-Muslim inheritance law*. Johore Bar. <https://johorebar.org.my/non-muslim-inheritance-law>

Landaburu, T. (2023). *Ensuring compliance with laws and regulations: A comprehensive guide*. Inc Authority. <https://www.incauthority.com/blog/ensuring-compliance-with-laws-and-regulations-a-comprehensive-guide/>

- Lardner, P. (2023). *How does bona vacantia apply to assets held by foreign companies*. Russell-Cooke. <https://www.russell-cooke.co.uk/news-and-insights/news/how-does-bona-vacantia-apply-to-assets-held-by-foreign-companies>
- Lau, J. (2023). *The role of property management in neighborhood revitalization*. Green Ocean Property Management. <https://greenoceanpropertymanagement.com/the-role-of-property-management-in-neighborhood-revitalization/>
- Malaysian Bar. (2011). *My constitution: About Sabah and Sarawak*. Malaysian Bar. <https://www.malaysianbar.org.my/article/about-us/committees/constitutional-law-committee/my-constitution-about-sabah-and-sarawak>
- Merriam-Webster. (n.d.). *Bona vacantia*. In *Merriam-Webster.com dictionary*. <https://www.merriam-webster.com/legal/bona%20vacantia>
- Merriam-Webster. (n.d.). *Estate*. In *Merriam-Webster.com dictionary*. <https://www.merriam-webster.com/dictionary/estate>
- Neel, A. (2023). *Legal research: Doctrinal and non-doctrinal*. Legal Bites. <https://www.legalbites.in/research-methodology/legal-research-doctrinal-and-non-doctrinal-896702?infinitemscroll=1>
- Patton, M. Q. (2002). *Qualitative research and evaluation methods*. Western Michigan University. <https://files.wmich.edu/s3fs-public/attachments/u350/2018/qual-eval-patton.pdf>
- Poli, S. (2023). *Bona vacantia: Legal concept explained*. Vintti. <https://www.vintti.com/blog/bona-vacantia-legal-concept-explained>
- Selvarani, P. (2011). *When there is a will, there is a way*. Malaysian Bar. <https://www.malaysianbar.org.my/article/news/legal-and-general-news/legal-news/when-there-is-a-will-there-is-a-way>
- Singapore Legal Advice. (2024). *Bona vacantia: Dying with no will or relatives in Singapore*. Singapore Legal Advice. <https://singaporelegaladvice.com/law-articles/bona-vacantia-singapore/>
- Singapore Legal Advice. (2020). *Muslim inheritance law in Singapore*. Singapore Legal Advice. <https://singaporelegaladvice.com/law-articles/muslim-inheritance-law-in-singapore/>
- Stanton, T. (2021). *Escheat and the restructuring of property ownership*. Taylor Wessing. <https://www.taylorwessing.com/en/insights-and-events/insights/2021/09/escheat-and-the-restructuring-of-property-ownership>
- The Free Dictionary. (n.d.). *Bona vacantia*. In *TheFreeDictionary.com*. <https://legal-dictionary.thefreedictionary.com/bona+vacantia>

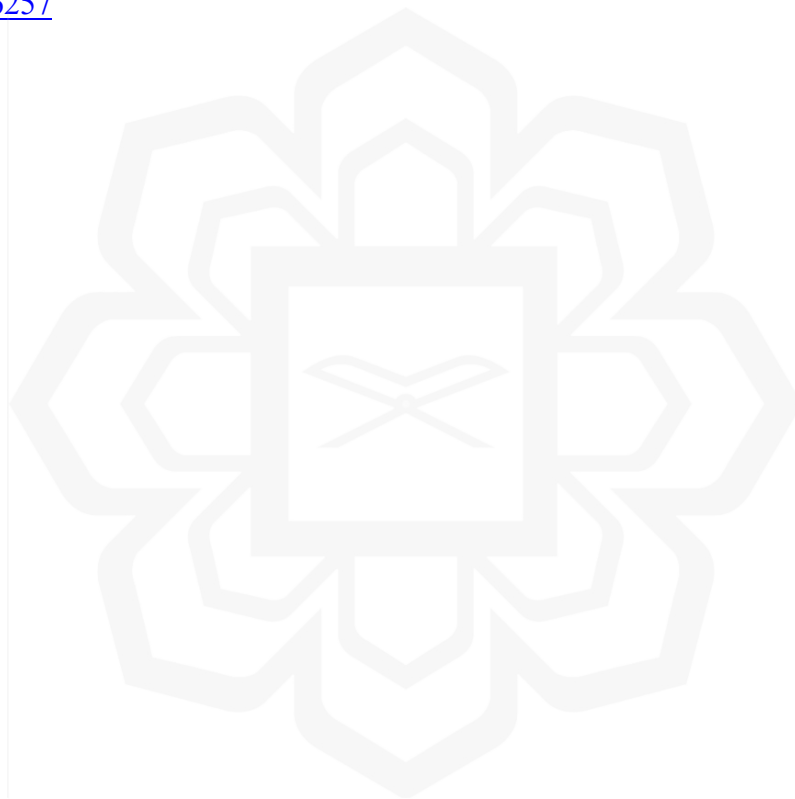
Travel Fish. (n.d.). *Peninsular Malaysia*. Travel Fish.
https://www.travelfish.org/region/malaysia/peninsular_malaysia

White, J., & Bottorff, C. (2022). *What is SWOT analysis?* Forbes.
<https://www.forbes.com/advisor/business/what-is-swot-analysis/>

Wikipedia contributors. (2021, November 21). *Moorthy Maniam*. In *Wikipedia*.
https://ms.wikipedia.org/wiki/Moorthy_Maniam

Wikipedia contributors. (n.d.). *Semenanjung Malaysia*. In *Wikipedia*.
https://ms.wikipedia.org/wiki/Semenanjung_Malaysia

Wikipedia contributors. (2024, May 12). *Unowned property*. In *Wikipedia*.
https://en.wikipedia.org/w/index.php?title=Unowned_property&oldid=1223476257



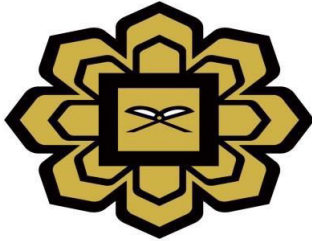
**APPENDIX A
LIST OF RESPONDENTS**

No.	Name and Role/Position	Office & Interview Platform	Date of Interview
1.	Pn. NurSyakirah Bte Ismadi Executive (<i>Baitulmal</i>)	Community Funds Strategic Unit, Islamic Religious Council of Singapore (MUIS) & Email	22/11/2023 & 11/03/2024
2.	Tn. Sheikh Ahmad Zaki Bin Hj Ghazali Ketua Bahagian <i>Baitulmal</i>	Majlis Agama Islam Negeri Kedah (MAIK) & In-person Interview	12/03/2023
3.	Pn. Noor Jamimah Binti Ahmad (Ketua Unit) & Ust. Faiz Ikmal Ahmad Rafie Penolong Pegawai Hal Ehwal Islam	Bahagian Agihan Zakat, Baitulmāl, Majlis Agama Islam Wilayah Persekutuan (MAIWP) & Google Meet (Online)	26/09/2023
4.	Pn. Nur Farahain Abu Bakar Pegawai Pusaka	Unit Pusaka, Bahagian <i>Baitulmal</i> Majlis Agama Islam dan Adat Istiadat Melayu Kelantan (MAIK) & Email	19/10/2023 & 30 /11/2023
5.	Ust. Mohd Azri Esa Penolong Pengarah <i>Baitulmal</i>	Bahagian <i>Baitulmal</i> , Majlis Agama Islam Negeri Johor (MAIJ) & Google Meet (Online)	27/11/2023
6.	Tn. Haji Baharuddin bin Aziz Director of Estates Distribution Section (BPP)	Jabatan Ketua Pengarah Tanah & Galian (Persekutuan), Putrajaya & Email	28/12/2023 & 08/02/2024

7.	Pn. Shafinie Binti Abd Aziz Ketua Penolong Pengarah	Unit Pusaka, Jabatan Ketua Pengarah Tanah & Galian (JKPTG) Perlis & Email	30/06/2024
8.	Tn. Mohamad Zaim Bin Johari Penolong Pengarah	Unit Pusaka, Kuala Kangsar (Perak Timur), Jabatan Ketua Pengarah Tanah & Galian (JKPTG) Perak & Email	26/06/2024
9.	Pn. Nur Fatin Amirah Binti Samsuddin Penolong Pengarah Kanan & Pn. Nurazmiah binti Azri Ketua Penolong Pengarah	Unclaimed Money Managing Division, Accountant General's Department of Malaysia, Kuala Lumpur & Telephone Calls and Email	28/12/2023 & 29/12/2023

APPENDIX B INTERVIEW QUESTIONS

RESPONDENT 1



الجامعة الإسلامية العالمية ماليزيا
 INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
 بَوْتِنَبَرِيَّتِيْ اِسْلَامًا اَنْبَارًا يَجْنِبًا مِلْدِسِيَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (PhD)
Respondent	Puan NurSyakirah Bte Ismadi, Executive (<i>Baitulmal</i>), Community Funds Strategic Unit Islamic Religious Council of Singapore (MUIS) Singapore Islamic Hub 273 Braddell Road Singapore 579702

Senarai Soalan/List of questions

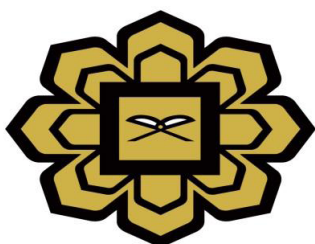
- 1) Apakah istilah yang digunakan oleh pihak *Baitulmal*/MUIS bagi harta yang tidak mempunyai waris? *What is the term used by Baitulmal/MUIS for property that has no heirs?*
- 2) Apakah kategori harta pusaka yang akan diserahkan/diwarisi kepada *Baitulmal*? *What category of inheritance will be handed over/inherited to Baitulmal?*
- 3) Adakah *Baitulmal*/MUIS mempunyai prosedur dan kaedah tebus pusaka tersendiri atau tertakluk kepada mana-mana manual tebus pusaka? *Does Baitulmal/MUIS have its own inheritance redemption procedure and method, or is it subject to any inheritance redemption manual?*
- 4) Sepanjang tempoh 5 tahun terkini, berapakah statistik harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *Baitulmal*? Adakah *Baitulmal* pernah menerima harta daripada dari si mati yang Muallaf? *Over the last 5 years, what are the statistics of properties that have no heirs that have been inherited and are in the process of being handed over to Baitulmal? Has Baitulmal ever received property from the deceased who converted?*

- 5) Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada pihak *Baitulmal* setakat hari ini? *What is the value of movable and immovable property that has been recorded, and if not recorded the estimated value of the property that has been handed over to Baitulmal as of today?*
- 6) Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta yang telah diterima tersebut? *What are the procedures and methods used in governance and then channeling the property that has been received?*
- 7) Bolehkan pihak tuan menerangkan peruntukan undang-undang yang berkaitan yang perlu diguna pakai oleh pihak *Baitulmal*/MUIS dalam urusan tadbir urus harta tersebut? *Could you please explain the relevant legal provisions that need to be applied by Baitulmal/MUIS in the governance of the property?*
- 8) Adakah terdapat tabung khas yang khusus bagi harta tersebut oleh *Baitulmal*? *Is there a special fund specifically for the property by Baitulmal?*
- 9) Adakah harta tersebut boleh digunakan bagi kebajikan orang bukan Islam? *Can the property be used for the welfare of non-Muslims?*
- 10) Pernahkah harta yang telah warisi oleh Pihak *Baitulmal* ditebus kembali oleh pewaris (jika ada, apakah sebabnya)? *Has the property that has been inherited by Baitulmal been redeemed by the heir (if any, what is the reason)?*
- 11) Adakah sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut oleh pihak *Baitulmal* dan/atau or MUIS? *Are there any constraints or difficulties encountered in managing the property by Baitulmal and/or MUIS?*
- 12) Pernahkah kes-kes yang berkaitan harta tersebut yang di bawa ke Mahkamah Sivil/Syariah di dalam Singapura setakat ini, jika ada apakah nama kes tersebut? *Have there been cases related to the property brought to the Civil/Sharia Court in Singapore so far, if so, what is the name of the case?*
- 13) Apakah harapan atau cadangan oleh pihak tuan untuk penambahbaikan atau keberkesanan pentadbiran harta harta yang dibawah bidang kuasa *Baitulmal* di Singapura? *What are your hopes or suggestions for the improvement or effectiveness of property administration under the jurisdiction of Baitulmal in Singapore?*

TERIMA KASIH. THANK YOU

INTERVIEW QUESTIONS

RESPONDENT 2



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّكْتَ يَا رَبِّ الْعَالَمِينَ

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (PhD)
Respondent	Tuan Sheikh Ahmad Zaki Hj Ghazali Ketua Bahagian <i>Baitulmal</i> , Majlis Agama Islam Negeri Kedah (MAIK)

List of questions

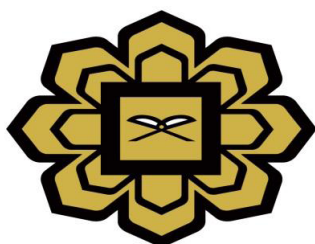
- 1) Apakah istilah yang digunakan oleh pihak *Baitulmal*/MAIK bagi harta yang tidak mempunyai waris?
- 2) Apakah kategori harta pusaka yang akan diserahkan/diwarisi kepada *Baitulmal*/MAIK?
- 3) Adakah *Baitulmal*/MAIK mempunyai prosedur dan kaedah tebus pusaka tersendiri atau tertakluk kepada mana-mana manual tebus pusaka?
- 4) Sepanjang tempoh 10 tahun terkini, berapakah statistik harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *Baitulmal*/MAIK? Adakah *Baitulmal* pernah menerima harta daripada dari si mati yang Muallaf?
- 5) Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada pihak *Baitulmal* setakat hari ini?
- 6) Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta yang telah diterima tersebut ?
- 7) Bolehkan pihak tuan menerangkan peruntukan undang-undang yang berkaitan yang perlu diguna pakai oleh pihak *Baitulmal*/MAIK dalam urusan tadbir urus harta tersebut?

- 8) Adakah terdapat tabung khas yang khusus bagi harta tersebut oleh *Baitulmal*/MAIK?
- 9) Adakah harta tersebut boleh digunakan bagi kebajikan orang bukan Islam?
- 10) Pernahkan harta yang telah warisi oleh Pihak *Baitulmal* ditebus kembali oleh pewaris (jika ada, apakah sebabnya)?
- 11) Adakah sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut oleh pihak *Baitulmal*/MAIK?
- 12) Pernahkah kes-kes yang berkaitan harta tersebut yang di bawa ke Mahkamah Sivil/Syariah di dalam negeri Kedah setakat ini, jika ada apakah nama kes tersebut?
- 13) Adakah sebarang jalinan kerjasama di antara pihak *Baitulmal*/MAIK dan pihak berkuasa negeri/persekutuan telah/sedang diambil dalam melicinkan tadbir urus harta tersebut?
- 14) Apakah harapan atau cadangan oleh pihak tuan untuk penambahbaikan atau keberkesanan pentadbiran harta harta yang dibawah bidang kuasa *Baitulmal* di Malaysia.

SEKIAN, TERIMA KASIH.

INTERVIEW QUESTIONS

RESPONDENT 3



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّكْتُ بِسَلَامٍ اَنْبَارًا بَعْجًا مَلِدِيَّتَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (PhD)
Respondent	Pn Noor Jamimah Binti Ahmad (Ketua Unit) Ust. Faiz Ikmal bin Ahmad Rafie (Penolong Pegawai Hal Ehwal Islam), Bahagian Agihan Zakat, Baitulmāl, Majlis Agama Islam Wilayah Persekutuan (MAIWP)

List of questions

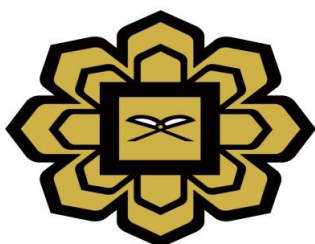
- 1) Apakah istilah yang digunakan oleh pihak *Baitulmal*/MAIWP bagi harta yang tidak mempunyai waris?
- 2) Apakah kategori harta pusaka yang akan diserahkan/diwarisi kepada *Baitulmal*/MAIWP?
- 3) Adakah *Baitulmal*/MAIWP mempunyai prosedur dan kaedah tebus pusaka tersendiri atau tertakluk kepada mana-mana manual tebus pusaka?
- 4) Sepanjang tempoh 10 tahun terkini, berapakah statistik harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *Baitulmal*/MAIWP? Adakah *Baitulmal* pernah menerima harta daripada dari si mati yang Muallaf?
- 5) Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada pihak *Baitulmal* setakat hari ini?
- 6) Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta yang telah diterima tersebut ?

- 7) Bolehkan pihak tuan menerangkan peruntukan undang-undang yang berkaitan yang perlu diguna pakai oleh pihak *Baitulmal*/MAIWP dalam urusan tadbir urus harta tersebut?
- 8) Adakah terdapat tabung khas yang khusus bagi harta tersebut oleh *Baitulmal*/MAIWP?
- 9) Adakah harta tersebut boleh digunakan bagi kebajikan orang bukan Islam?
- 10) Pernahkan harta yang telah warisi oleh Pihak *Baitulmal* ditebus kembali oleh pewaris (jika ada, apakah sebabnya)?
- 11) Adakah sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut oleh pihak *Baitulmal*/MAIWP?
- 12) Pernahkah kes-kes yang berkaitan harta tersebut yang di bawa ke Mahkamah Sivil/Syariah di dalam negeri WPKL setakat ini, jika ada apakah nama kes tersebut?
- 13) Adakah sebarang jalinan kerjasama di antara pihak *baitulmal*/MAIWP dan pihak berkuasa negeri/persekutuan telah/sedang diambil dalam melicinkan tadbir urus harta tersebut?
- 14) Apakah harapan atau cadangan oleh pihak tuan untuk penambahbaikan atau keberkesanan pentadbiran harta harta yang dibawah bidang kuasa *Baitulmal* di Malaysia.

SEKIAN, TERIMA KASIH.

INTERVIEW QUESTIONS

RESPONDENT 4



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّيْتِي إِسْلَامًا أَبَارًا بَعْجًا مَلِيْسِيَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (PhD)
Respondent	Pn Nur Farahain Abu Bakar Pegawai Pusaka, Unit Pusaka, Bahagian <i>Baitulmal</i> , Majlis Agama Islam dan Adat Istiadat Melayu Kelantan (MAIK)

List of questions

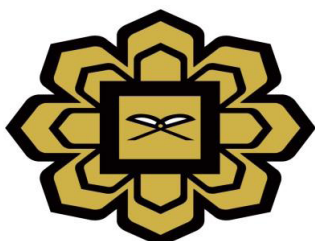
- 1) Apakah istilah yang digunakan oleh pihak *baitulmal*/MAIK bagi harta yang tidak mempunyai waris?
- 2) Apakah kategori harta pusaka yang akan diserahkan/diwarisi kepada *baitulmal*?
- 3) Adakah *Baitulmal*/MAIK mempunyai prosedur dan kaedah tebus pusaka tersendiri atau tertakluk kepada mana-mana manual tebus pusaka?
- 4) Sepanjang tempoh 10 tahun terkini, berapakah statistik harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *baitulmal*? Adakah *Baitulmal* pernah menerima harta daripada dari si mati yang Muallaf?
- 5) Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada pihak *Baitulmal* setakat hari ini?
- 6) Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta yang telah diterima tersebut ?

- 7) Bolehkan pihak tuan menerangkan peruntukan undang-undang yang berkaitan yang perlu diguna pakai oleh pihak *Baitulmal*/Maik dalam urusan tadbir urus harta tersebut?
- 8) Adakah terdapat tabung khas yang khusus bagi harta tersebut oleh *baitulmal*?
- 9) Adakah harta tersebut boleh digunakan bagi kebajikan orang bukan Islam?
- 10) Pernahkan harta yang telah warisi oleh Pihak *Baitulmal* ditebus kembali oleh pewaris (jika ada, apakah sebabnya)?
- 11) Adakah sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut oleh pihak *baitulmal*?MAIK?
- 12) Pernahkah kes-kes yang berkaitan harta tersebut yang di bawa ke Mahkamah Sivil/Syariah di dalam negeri Kedah setakat ini, jika ada apakah nama kes tersebut?
- 13) Adakah sebarang jalinan kerjasama di antara pihak *baitulmal*/MAIK dan pihak berkuasa negeri/persekutuan telah/sedang diambil dalam melicinkan tadbir urus harta tersebut?
- 14) Apakah harapan atau cadangan oleh pihak tuan untuk penambahbaikan atau keberkesanan pentadbiran harta harta yang dibawah bidang kuasa *baitulmal* di Malaysia.

SEKIAN, TERIMA KASIH.

INTERVIEW QUESTIONS

RESPONDENT 5



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّيْتِي إِسْلَامًا، إِنْبَارًا، بَعْجًا، مِلْدِيَّتِيَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (PhD)
Respondent	Ustaz Mohd Azri Esa, Penolong Pengarah <i>Baitulmal</i>, Bahagian <i>Baitulmal</i>, Majlis Agama Islam Negeri Johor (MAIJ)

List of questions

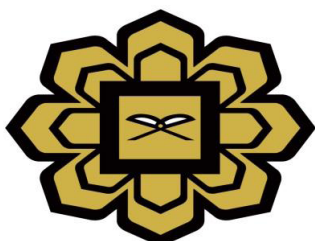
- 1) Apakah istilah yang digunakan oleh pihak *Baitulmal*/MAIJ bagi harta yang tidak mempunyai waris?
- 2) Apakah kategori harta pusaka yang akan diserahkan/diwarisi kepada *Baitulmal*/MAIJ?
- 3) Adakah *Baitulmal*/MAIJ mempunyai prosedur dan kaedah tebus pusaka tersendiri atau tertakluk kepada mana-mana manual tebus pusaka?
- 4) Sepanjang tempoh 10 tahun terkini, berapakah statistik harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *Baitulmal*/MAIJ? Adakah *Baitulmal* pernah menerima harta daripada si mati yang Muallaf?
- 5) Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada pihak *Baitulmal* setakat hari ini?
- 6) Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta yang telah diterima tersebut?

- 7) Bolehkan pihak tuan menerangkan peruntukan undang-undang yang berkaitan yang perlu diguna pakai oleh pihak *Baitulmal*/MAIJ dalam urusan tadbir urus harta tersebut?
- 8) Adakah terdapat tabung khas yang khusus bagi harta tersebut oleh *Baitulmal*/MAIJ?
- 9) Adakah harta tersebut boleh digunakan bagi kebajikan orang bukan Islam?
- 10) Pernahkan harta yang telah warisi oleh Pihak *Baitulmal* ditebus kembali oleh pewaris (jika ada, apakah sebabnya)?
- 11) Adakah sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut oleh pihak *Baitulmal*/MAIJ?
- 12) Pernahkah kes-kes yang berkaitan harta tersebut yang di bawa ke Mahkamah Sivil/Syariah di dalam negeri Johor setakat ini, jika ada apakah nama kes tersebut?
- 13) Adakah sebarang jalinan kerjasama di antara pihak *Baitulmal*/MAIJ dan pihak berkuasa negeri/persekutuan telah/sedang diambil dalam melicinkan tadbir urus harta tersebut?
- 14) Apakah harapan atau cadangan oleh pihak tuan untuk penambahbaikan atau keberkesanan pentadbiran harta harta yang dibawah bidang kuasa *Baitulmal* di Malaysia.

SEKIAN, TERIMA KASIH.

INTERVIEW QUESTIONS

RESPONDENT 6



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّيْتِنِي إِسْلَامًا، إِنْبَارًا، بِنَجْنِيَا مِلْدِينِيَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (Ph.D.)
Respondent	Tuan Haji Baharuddin bin Aziz, Pengarah Bahagian Pembahagian Pusaka, Jabatan Ketua Pengarah Tanah & Galian (JKPTG)

List of Questions

1. Apakah kategori harta pusaka bagi Muslim dan bukan Muslim di bawah bidang kuasa BPP?
2. Apakah istilah yang digunakan oleh pihak Bahagian Pembahagian Pusaka (BPP) bagi harta yang tidak mempunyai waris (*Bona vacantia*)?
3. Sepanjang tempoh 10 tahun terkini, berapakah statistik kes bagi harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *baitulmal* (harta alih dan tak alih bagi orang Islam), kerajaan negeri (harta tak alih bukan Islam) dan *federal consolidated fund* (harta alih bukan Islam) bagi kes *bona vacantia* (BV)?
4. Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada *baitulmal*, pihak kerajaan negeri atau persekutuan setakat hari ini?
5. Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta tersebut? Adakah peruntukan undang-undang yang berkaitan tadbir urus harta tersebut?
6. Bahagian Pembahagian Pusaka, Jabatan Ketua Pengarah Tanah & Galian Persekutuan hanya menguruskan permohonan harta pusaka kecil yang melibatkan harta tak alih sahaja seperti rumah dan tanah atau harta tak alih bersama harta alih seperti wang simpanan dan kenderaan yang nilai

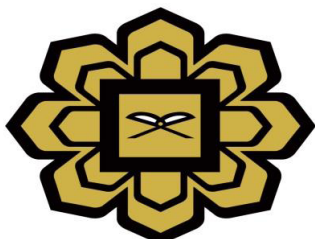
keseluruhannya di bawah RM 2 juta. Sekiranya simati hanya meninggalkan harta alih sahaja seperti wang simpanan dan kenderaan, maka permohonan hendaklah dibuat di Amanah Raya Berhad (ARB) yang mempunyai bidangkuasa tersebut. Apakah usaha dan inisiatif yang diambil Unit Pembahagian Pusaka Kecil untuk mengurangkan kekeliruan mengenai pentadbiran harta pusaka kalangan masyarakat?

7. Adakah JKPTG mempunyai sistem atau kaedah dalam mengenal pasti harta yang dikategorikan sebagai *bona vacantia* dalam tempoh tertentu selepas kematian si mati? Jika ada, apakah pandangan tuan/puan mengenai keberkesanan sistem dan kaedah yang diguna pakai sedia ada untuk penentuan harta *bona vacantia*?
8. Berapakah anggaran tempoh masa bagi urusan pentadbiran harta *bona vacantia*?
9. Adakah wujud sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut?
10. Pandangan tuan/puan terhadap penubuhan suatu badan/jabatan khusus untuk pengurusan/ pentadbiran harta pusaka (BV).
11. Bagaimana pula pandangan tuan/puan bagi cadangan untuk mewujudkan pusat data setempat bagi mengatasi masalah mengenal pasti harta *bona vacantia* yang tidak ditadbir dalam tempoh tertentu (contohnya 6 bulan) selepas kematian si mati.
12. Apakah implikasi dari perlaksanaan cadangan mewujudkan suatu badan/jabatan khusus untuk pengurusan/ pentadbiran harta pusaka (BV) dan cadangan untuk mewujudkan pusat data setempat umpamanya dari sudut undang-undang?
13. Adakah cadangan-cadangan lain untuk penambahbaikan atau keberkesanan pentadbiran harta *bona vacantia* di Malaysia dari sudut bidang kuasa, penentuan dan pentadbiran harta tersebut?

SEKIAN, TERIMA KASIH

INTERVIEW QUESTIONS

RESPONDENT 7



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّيْتِنِي إِسْلَامًا، إِنْبَارًا، بِنَجْنِيَا مُلْدِينِيَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (Ph.D.)
Respondent	Pn. Shafinie Binti Abd Aziz Ketua Penolong Pengarah Unit Pusaka, Jabatan Ketua Pengarah Tanah & Galian (JKPTG) Perlis

List of Questions

1. Apakah kategori harta pusaka bagi Muslim dan bukan Muslim di bawah bidang kuasa BPP?
2. Apakah istilah yang digunakan oleh pihak Bahagian Pembahagian Pusaka (BPP) bagi harta yang tidak mempunyai waris (*Bona vacantia*)?
3. Sepanjang tempoh 10 tahun terkini, berapakah statistik kes bagi harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *baitulmal* (harta alih dan tak alih bagi orang Islam), kerajaan negeri (harta tak alih bukan Islam) dan *federal consolidated fund* (harta alih bukan Islam) bagi kes *bona vacantia* (BV)?
4. Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada *baitulmal*, pihak kerajaan negeri atau persekutuan setakat hari ini?
5. Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta tersebut? Adakah peruntukan undang-undang yang berkaitan tadbir urus harta tersebut?
6. Bahagian Pembahagian Pusaka, Jabatan Ketua Pengarah Tanah & Galian Persekutuan hanya menguruskan permohonan harta pusaka kecil yang melibatkan harta tak alih sahaja seperti rumah dan tanah atau harta tak alih

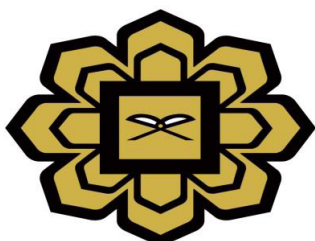
bersama harta alih seperti wang simpanan dan kenderaan yang nilai keseluruhannya di bawah RM 2 juta. Sekiranya simati hanya meninggalkan harta alih sahaja seperti wang simpanan dan kenderaan, maka permohonan hendaklah dibuat di Amanah Raya Berhad (ARB) yang mempunyai bidangkuasa tersebut. Apakah usaha dan inisiatif yang diambil Unit Pembahagian Pusaka Kecil untuk mengurangkan kekeliruan mengenai pentadbiran harta pusaka kalangan masyarakat?

7. Adakah JKPTG mempunyai sistem atau kaedah dalam mengenal pasti harta yang dikategorikan sebagai *bona vacantia* dalam tempoh tertentu selepas kematian si mati? Jika ada, apakah pandangan tuan/puan mengenai keberkesanan sistem dan kaedah yang diguna pakai sedia ada untuk penentuan harta *bona vacantia*?
8. Berapakah anggaran tempoh masa bagi urusan pentadbiran harta *bona vacantia*?
9. Adakah wujud sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut?
10. Pandangan tuan/puan terhadap penubuhan suatu badan/jabatan khusus untuk pengurusan/ pentadbiran harta pusaka (BV).
11. Bagaimana pula pandangan tuan/puan bagi cadangan untuk mewujudkan pusat data setempat bagi mengatasi masalah mengenal pasti harta *bona vacantia* yang tidak ditadbir dalam tempoh tertentu (contohnya 6 bulan) selepas kematian si mati.
12. Apakah implikasi dari perlaksanaan cadangan mewujudkan suatu badan/jabatan khusus untuk pengurusan/ pentadbiran harta pusaka (BV) dan cadangan untuk mewujudkan pusat data setempat umpamanya dari sudut undang-undang?
13. Adakah cadangan-cadangan lain untuk penambahbaikan atau keberkesanan pentadbiran harta *bona vacantia* di Malaysia dari sudut bidang kuasa, penentuan dan pentadbiran harta tersebut?

SEKIAN, TERIMA KASIH

INTERVIEW QUESTIONS

RESPONDENT 8



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
وَتَبَرَّيْتِي إِسْلَامًا، إِنْبَارًا يَجْنِبُ مِلَّةَيْنَا

Fieldwork study by	Siti Khadijah binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (Ph.D.)
Respondent	Tn. Mohamad Zaim Bin Johari Penolong Pengarah, Unit Pusaka, Kuala Kangsar (Perak Timur), Jabatan Ketua Pengarah Tanah & Galian (JKPTG) Perak

List of Questions

1. Apakah kategori harta pusaka bagi Muslim dan bukan Muslim di bawah bidang kuasa BPP?
2. Apakah istilah yang digunakan oleh pihak Bahagian Pembahagian Pusaka (BPP) bagi harta yang tidak mempunyai waris (*Bona vacantia*)?
3. Sepanjang tempoh 10 tahun terkini, berapakah statistik kes bagi harta yang tidak mempunyai waris yang telah diwarisi dan sedang dalam urusan untuk diserahkan kepada *baitulmal* (harta alih dan tak alih bagi orang Islam), kerajaan negeri (harta tak alih bukan Islam) dan *federal consolidated fund* (harta alih bukan Islam) bagi kes *bona vacantia* (BV)?
4. Berapakah nilai harta alih dan tidak alih yang telah direkodkan, dan jika tidak direkodkan anggaran nilai harta tersebut yang telah diserahkan kepada *baitulmal*, pihak kerajaan negeri atau persekutuan setakat hari ini?
5. Apakah prosedur dan kaedah yang digunapakai dalam tadbir urus dan seterusnya menyalurkan harta tersebut? Adakah peruntukan undang-undang yang berkaitan tadbir urus harta tersebut?
6. Bahagian Pembahagian Pusaka, Jabatan Ketua Pengarah Tanah & Galian Persekutuan hanya menguruskan permohonan harta pusaka kecil yang melibatkan harta tak alih sahaja seperti rumah dan tanah atau harta tak alih bersama harta alih seperti wang simpanan dan kenderaan yang nilai

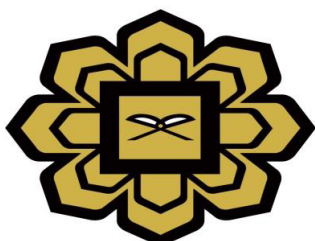
keseluruhannya di bawah RM 2 juta. Sekiranya simati hanya meninggalkan harta alih sahaja seperti wang simpanan dan kenderaan, maka permohonan hendaklah dibuat di Amanah Raya Berhad (ARB) yang mempunyai bidangkuasa tersebut. Apakah usaha dan inisiatif yang diambil Unit Pembahagian Pusaka Kecil untuk mengurangkan kekeliruan mengenai pentadbiran harta pusaka kalangan masyarakat?

7. Adakah JKPTG mempunyai sistem atau kaedah dalam mengenal pasti harta yang dikategorikan sebagai *bona vacantia* dalam tempoh tertentu selepas kematian si mati? Jika ada, apakah pandangan tuan/puan mengenai keberkesanan sistem dan kaedah yang diguna pakai sedia ada untuk penentuan harta *bona vacantia*?
8. Berapakah anggaran tempoh masa bagi urusan pentadbiran harta *bona vacantia*?
9. Adakah wujud sebarang kekangan atau kesulitan yang dihadapi dalam mentadbir urus harta tersebut?
10. Pandangan tuan/puan terhadap penubuhan suatu badan/jabatan khusus untuk pengurusan/ pentadbiran harta pusaka (BV).
11. Bagaimana pula pandangan tuan/puan bagi cadangan untuk mewujudkan pusat data setempat bagi mengatasi masalah mengenal pasti harta *bona vacantia* yang tidak ditadbir dalam tempoh tertentu (contohnya 6 bulan) selepas kematian si mati.
12. Apakah implikasi dari perlaksanaan cadangan mewujudkan suatu badan/jabatan khusus untuk pengurusan/ pentadbiran harta pusaka (BV) dan cadangan untuk mewujudkan pusat data setempat umpamanya dari sudut undang-undang?
13. Adakah cadangan-cadangan lain untuk penambahbaikan atau keberkesanan pentadbiran harta *bona vacantia* di Malaysia dari sudut bidang kuasa, penentuan dan pentadbiran harta tersebut?

SEKIAN, TERIMA KASIH

INTERVIEW QUESTIONS

RESPONDENT 9



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
 بَوْتِنَبَرِيَّتِي اِسْلَامًا اِنْبَارًا بَعْدَنَا مِلْدِيْنَا

Fieldwork study by	Siti Khadijah Binti Abdullah Sanek
Area of research	Property Law
Level of study	Postgraduate student (Ph.D)
Respondent	Pn. Nur Fatin Amirah Binti Samsuddin, Penolong Pengarah Kanan & Pn. Nurazmiah binti Azri Ketua Penolong Pengarah Unclaimed Money Managing Division, Accountant General's Department of Malaysia, Kuala Lumpur

List of questions:

No.	Soalan	Question
1	Apakah itu wang tidak dituntut (WTD)? Apakah spesifikasi dan jenis wang yang boleh dikategorikan sebagai wang tidak dituntut (WTD)?	<i>What is unclaimed money (WTD)? What are the specifications and types of money that can be categorised as unclaimed money (WTD)?</i>
2	Apakah istilah yang diguna pakai bagi wang yang tidak mempunyai waris (<i>Bona vacantia</i>) dan undang-undang yang berkaitan dengannya?	<i>What is the term used for money without heirs (<i>Bona vacantia</i>) and the related laws?</i>
3	Terdapat banyak akaun yang dipegang oleh Pendaftar Wang Tak Dituntut di bawah Akta Wang Tak Dituntut 1965 (Akta 370) iaitu Consolidated Fund, Consolidated Trust Account and Consolidated Revenue Account. Terdapat juga Consolidated Fund bagi harta <i>bona vacantia</i> di bawah Akta Undang-Undang Sivill 1956 (Akta 67).	<i>There are numerous accounts held by the Registrar of the Unclaimed Moneys under the Unclaimed Moneys Act 1965 (Act 370) which are Consolidated Fund, Consolidated Trust Account and Consolidated Revenue Account. There is also a Consolidated Fund in respect of bona vacantia under the Civil Law Act</i>

	Bolehkah tuan jelaskan perbezaan di antara semua jenis akaun tersebut?	<i>1956 (Act 67). Can you explain the differences between them?</i>
4	Berapakah statistik wang tidak dituntut (WTD) dalam tempoh 10 tahun sebelum ini sehingga sekarang? Berapa pula jumlah wang di dalam Consolidated Fund yang diklasifikasi sebagai <i>bona vacantia</i> ?	<i>What are the statistics of unclaimed money (WTD) in the past 10 years until now? How much money in the Consolidated Fund that is classified as bona vacantia?</i>
5	Berapa lamakah Pendaftar Wang Tak Dituntut akan memegang wang tidak dituntut (WTD)? Berkaitan dengan wang <i>bona vacantia</i> , apakah kaedah dan sistem yang digunakan oleh Pendaftar Wang Tak Dituntut mengesan wang tersebut merupakan <i>Bona vacantia</i> ?	<i>How long does the Registrar of Unclaimed Money hold unclaimed money (WTD)? Regarding Bona vacantia Money, what methods and systems are employed by the Registrar of Unclaimed Moneys to identify funds as Bona vacantia?</i>
6	Bagaimanakah cara agar wang itu boleh disalurkan untuk kemudahan umum terutama harta <i>bona vacantia</i> ? Boleh tuan terangkan kaedah atau prosedur yang digunakan, jika ada.	<i>How can the money be channelled to public interests and facilities, especially in terms of bona vacantia property? Can you explain the method or procedure used, if any?</i>
7	Adakah Pendaftar Wang Tak Dituntut mempunyai kaedah atau sistem untuk membezakan duit kepunyaan mereka yang hidup atau sudah mati? Mohon jelaskan jika ada.	<i>Does the Registrar of Unclaimed Moneys have a method or system to differentiate between the moneys of someone who is still alive or dead estates? Please explain if any.</i>
8	Electronic Government Unclaimed Money Information System (eGUMIS) telahpun dilaksanakan. Bagaimanakah ia akan berfungsi dalam mengenalpasti harta <i>Bona vacantia</i> ?	<i>Electronic Government Unclaimed Money Information System (eGUMIS) is being implemented already. How it assists in tracing Bona vacantia?</i>
9	Cadangan untuk keberkesanan badan Pendaftar Wang Tak Dituntut dari sudut: <ul style="list-style-type: none"> • Bidangkuasa. • Prosedur-prosedur; dan • Pindaan-pindaan terhadap undang-undang atau statut 	<i>Proposal for the effectiveness of the Registrar of Unclaimed Moneys body in terms of:</i> <ul style="list-style-type: none"> • <i>Jurisdiction,</i> • <i>Procedures; and</i> • <i>Amendments to existing laws or statutes</i>

THANK YOU

SEKIAN, TERIMA KASIH

APPENDIX C INFORMED CONSENT FORMS

RESPONDENT 1

BORANG PERSETUJUAN MAKLUM

INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, NurSyakirah, IC NO./Passport NO: SXXXX738H :

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/ *satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
<i>NurSyakirah</i>	NurSyakirah	13 March 2024

INFORMED CONSENT FORM

RESPONDENT 2

BORANG PERSETUJUAN MAKLUM


INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, _____, IC NO./Passport NO: _____:

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	SYEIKH AHMAD ZAKI BIN HAJI GHAZALI, BCK. Ketua Bahagian Baitulmal Majlis Agama Islam Negeri Kedah Darul Aman	18/4/23.

INFORMED CONSENT FORM

RESPONDENT 3

BORANG PERSETUJUAN MAKLUM

INFORMED CONSENT FORM

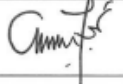
Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Noor Jamimah binti Ahmad

Saya/ I, _____, IC NO./Passport NO: _____:

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	NOOR JAMIMAH BINTI AHMAD Ketua Unit Sumber Am Bahagian Agihan Zakat Majlis Agama Islam Wilayah Persekutuan	26 Sept. 2023

BORANG PERSETUJUAN MAKLUM


INFORMED CONSENT FORM

Tajuk Kajian/Research Title: .

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, FAIZ IKMAL BIN AHMAD RAFIE IC NO./Passport NO: 910919-14-6125;

- telah menerima satu Salinan Helalan Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	FAIZ IKMAL BIN AHMAD RAFIE Penolong Pegawai Hal Ehwal Islam Bahagian Agihan Zakat Majlis Agama Islam Wilayah Persekutuan	26/9/2023

INFORMED CONSENT FORM

RESPONDENT 4

BORANG PERSETUJUAN MAKLUM


INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, NUR FARAHAIN
ABU BAKAR, IC NO./Passport NO: 950121-03-5322 :

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	NUR FARAHAIN BINTI ABU BAKAR	21/12/2023

NUR FARAHAIN BINTI ABU BAKAR
PEGAWAI PUSAKA
MAJLIS AGAMA ISLAM DAN ADAT
ISTIADAT MELAYU KELANTAN

INFORMED CONSENT FORM

RESPONDENT 5

BORANG PERSETUJUAN MAKLUM

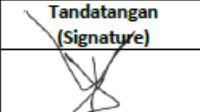
INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, MOHD AZRI BIN ESA, IC NO./Passport NO: 870225015211 :

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	MOHD AZRI BIN ESA	8 Jan 2024

Mohd Azri Bin Esa
Penolong Pengarah Baitulmal
Majlis Agama Islam Negeri Johor

INFORMED CONSENT FORM

RESPONDENT 6

BORANG PERSETUJUAN MAKLUM


INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, Baharuddin bin Aziz, IC NO./Passport NO: 681108025071 :

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	BAHARUDDIN BIN AZIZ	11/9/24

BAHARUDDIN BIN AZIZ
Pegawai
Bahagian Pembahagian Pusaka
Jabatan Ketua Pencerah Tanah dan Galian Persekutuan

INFORMED CONSENT FORM

RESPONDENT 7

BORANG PERSETUJUAN MAKLUM

INFORMED CONSENT FORM


Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

SHAFINIE BINTI ABD AZIZ

Saya/ I, _____, IC NO./Passport NO: 791024 - 11 - 5464 :

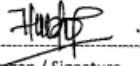
- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of Information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	SHAFINIE BINTI ABD AZIZ Ketua Penolong Pengarah Pejabat Pembahagian Puaaka Negeri Perlis	

**Jabatan Ketua Pengarah Tanah dan Galian
Persekutuan, Perlis**

HASLINDA Bt. MAHAMAD DAUD

Saksi (sekiranya ada)/Witness (if any)



Tandatangan / Signature

170819-07-5046

No. Kad Pengenalan / IC Number

Tarikh/Date

Penyelidik / Researcher

Tandatangan / Signature

No. Kad Pengenalan / IC Number

Tarikh/Date



INFORMED CONSENT FORM

RESPONDENT 8

BORANG PERSETUJUAN MAKLUM


INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, MOHAMAD ZAIM BIN JOHARI, IC NO./Passport NO: 890101-26-5313 :

- telah menerima satu Salinan Helaian Makluman Subjek / *have received a copy of information Sheet*
- telah membaca dan memahami syarat penyertaan kajian ini/ *have read and understand the participation requirement of this research*
- memahami ciri-ciri dan skop kajian ini/ *understand the characteristics and scope of this research*
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/*satisfied with the answers given to my questions regarding this research*
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ *voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested*
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ *can withdraw myself from this research at any time without giving any reason;*
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / *other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.*

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	MOHAMAD ZAIM BIN JOHARI	03/09/2024

MOHAMAD ZAIM BIN JOHARI
Penolong Pengarah N41
Pejabat Pembahagian Pusaka Kuala Kangsar

INFORMED CONSENT FORM

RESPONDENT 9


BORANG PERSETUJUAN MAKLUM INFORMED CONSENT FORM

Tajuk Kajian/Research Title:

"Formulating Legal Framework for the Administration of Bona Vacantia (Ownerless Estates) in West Malaysia".

Saya/ I, NUR FATIN ANIKAH SAMSUDDIN, IC NO./Passport NO: 9011291-14-5728:

- telah menerima satu Salinan Helaian Makluman Subjek / have received a copy of Information Sheet
- telah membaca dan memahami syarat penyertaan kajian ini/ have read and understand the participation requirement of this research
- memahami ciri-ciri dan skop kajian ini/ understand the characteristics and scope of this research
- berpuas hati dengan jawapan kepada kemusykilan saya tentang kajian ini/satisfied with the answers given to my questions regarding this research
- secara sukarela bersetuju menyertai kajian ini, dan akan mengikuti segala tatacara serta memberi maklumat yang diperlukan kepada penyelidik seperti yang dikehendaki/ voluntarily agree to participate in this research, will follow the procedures and give the information to the researcher as requested
- boleh menarik diri daripada kajian ini pada bila-bila masa tanpa memberi sebarang sebab/ can withdraw myself from this research at any time without giving any reason;
- selain daripada kecederaan yang disebabkan oleh kelalaian dan kecuaiian penyelidik, saya dengan ini melepaskan dan menggugurkan Universiti Islam Antarabangsa Malaysia (UIAM) dan semua penyelidik daripada semua liabiliti berhubung dengan, wujud dari atau berkaitan dengan penyertaan saya. Saya bersetuju untuk menjadikan mereka tidak bertanggungjawab terhadap apa-apa kemudaratan atau kerugian yang mungkin saya tanggung disebabkan oleh penyertaan saya / other than the injuries caused by the carelessness and negligence of the researchers, I release UIAM and all researchers from all liabilities related to, exist from or related to my participation. I agree not to make them responsible for any harm and loss that I may bear due to my participation.

Tandatangan (Signature)	Nama (Name)	Tarikh (Date)
	NUR FATIN ANIKAH SAMSUDDIN	29.12.2023

NURAZMIAH BINTI AZRI C.A.M
Ketua Penolong Pengarah

Saksi (sekiranya ada)/Witness (if any)


Tandatangan / Signature

970902-14-5728
No. Kad Pengenalan / IC Number

29 December 2023
Tarikh/Date

Penyelidik / Researcher

Tandatangan / Signature

No. Kad Pengenalan / IC Number

Tarikh/Date