

RIGHT TO USE OF MILITARY DORMITORY FOR PERSONAL BUSINESS ACCORDING TO *MILK AD-DAULAH* THEORY: A Study in Kuta Alam TNI Dormitory Banda Aceh

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Abstract

This article aims to examine the management system and use of the TNI Dormitory for personal business at the Kuta Alam Dormitory in Banda Aceh based on the concept of milk al-daulah. The approach the author uses is juridical-empirical research. The results of the research show that the management of state-owned official residences is strictly regulated in Government Regulation Number 40 of 1994 and amendments through Government Regulation Number 31 of 2005, which limits their use to state officials, civil servants and workers who work in government agencies as long as they are still active. Use of a country house for personal or commercial purposes without valid permission may be unlawful. However, businesses run by families of TNI soldiers with permission from the Head of the Dormitory and approval from the Military Command are considered legal, as long as they do not change the physical shape of the dormitory and do not interfere with TNI duties. From an Islamic legal perspective, TNI dormitories are milk al-daulah or state property which must be managed for the public benefit and must not be misused for personal gain. The use of TNI dormitories for private businesses managed by the families of TNI soldiers can provide positive benefits for the surrounding community, but must always comply with applicable legal provisions so as not to violate the principles of fair management of state property and milk al-daulah. This research provides an understanding of the importance of managing state assets in accordance with positive law and Islamic legal principles to achieve the public benefit.

Keywords: Assets of State, Islamic Economic Law, Military Dormitory, Personal Business, and *Milk Al-Daulah*



INTRODUCTION

Milk al-daulah, or state ownership, is the idea that the legitimate government in a given territory has the power and strength to govern the society because the state is tied to assets that are confirmed and legitimised by sharia for the benefit of the society.¹ Although some state assets are used for operational purposes of the government apparatus, *milk al-daulah* conceptualises the government's ability to control, regulate, use, and optimise the use of state assets for the benefit of the people in the area of authority. State assets are considered as public assets.²

In *fihiyyah*, some examples of forms of property owned by the state and managed for the public interest include material property, such as *ghanimah*, land tax (*kharaj*), *jizyah*, and others.³ State property also includes public ownership in the form of natural resources, and control over these goods which are assets owned by the state and used for the common good, such as water, roads, rivers, grass, and so on and cannot be controlled personally and its management is only carried out by the state.⁴

There are state-owned assets whose control and use are individually owned by certain people, but only the benefits can be taken by certain people while in office or authority to carry out state duties. Assets in this category such as facilities for state officials provided by the state to facilitate the performance of their duties in the public interest. Facilities for soldiers that are very important are provided such as dormitories, houses, private vehicles and other facilities to facilitate soldiers to carry out their main duties and functions as defenders of the state, if in Indonesia this authority is carried out by the Indonesian National Army (TNI).⁵

¹ Abdurrahman Al-Juzairi, *Fikih Empat Mazhab*, trans. Nabhadi Idris, 4th ed. (Jakarta: Al-Kautsar Library, 2017).

² Ali Akbar, 'The Concept of Ownership in Islam By : Ali Akbar', *Journal of Ushuluddin* XVIII, no. 2 (2012): 124-40.

³ Hasbi Ash-Shiddiqie, *Introduction to Muamalah Jurisprudence* (Jakarta: Sinar Bintang, 2021).

⁴ Budi Juliandi and Muhammad Khairuddin Khairuddin, 'The Distribution of State Property from Ibn Taimiyah's Perspective', *Tasyri' : Journal of Islamic Law* 3, no. 1 (2024): 107-22, <https://doi.org/10.53038/tsyr.v3i1.86>.

⁵ Syamsiah Muhsin, Achmad Abu Bakar, and Halimah Basri, 'The Concept of Property Ownership as Part of Economic Human Rights from a Qur'anic Perspective', *Al-Azhar Journal of Islamic Economics* 4, no. 2 (2022): 84-96, <https://doi.org/10.37146/ajie.v4i2.170>.

The authority of the TNI is significantly regulated in Law No. 34 of 2004 concerning the Indonesian National Army in Article 7, which states that the TNI has the main task of maintaining the sovereignty of the state, protecting the territory of the Republic of Indonesia in accordance with Pancasila and the 1945 Constitution, and protecting the entire nation and the entire territory of Indonesia from all forms of threats or disturbances aimed at it. This law regulates the organisation, operations and facilities of the TNI, including the provision of dormitories for soldiers.⁶

Regarding the Construction of State Houses, based on Ministerial Regulation Number 3 Year 2011. State-owned buildings that function as residences, family development centres, and support the implementation of official duties, military, and civil servants are collectively referred to as "State Houses" within the Ministry of Defence and the TNI. The determination of the status of State Houses is a decision that divides groups of State Houses into two categories: Class I, which consists of free-standing buildings, and Class II, which consists of flats with or without land.⁷

For the utilisation of state-owned land and buildings on it such as houses, dormitories and various other buildings, it must be clear so as not to deviate from the applicable legal provisions. This also applies to TNI assets, both for land, buildings, and others. The government, in this case the TNI commander and other cross-agencies, has established regulations and jurisdictions regarding the legality, existence and utilisation of TNI-owned assets including immovable property such as dormitories and other buildings inhabited by active and retired soldiers and posthumous families

Government Regulation Number 39 of 2010 concerning the Administration of Soldiers of the Indonesian National Army in Article 41 Paragraph (1) letter d which reads: "*Soldiers receive soldier care, which includes one of them is housing/dormitory/mess*".⁸

In accordance with Article 1 number 12 of Law Number 1 of 2011 concerning Housing and Settlement Areas, a State House is defined as a residence owned by the state that serves for various purposes, including for

⁶ R Gupta, 'No Title القوقعة', *CWL Publishing Enterprises, Inc, Madison* 2004, no. May (2004): 352.

⁷ Ministry of Defence Regulation No. 3 of 2011 on the Development of State Houses, accessed on 26 December 2023.

⁸ Government Regulation No. 39/2010 on the Administration of Soldiers of the Indonesian National Army, accessed on 02 January 2024.

the residence of officials and their families, and to facilitate the performance of their duties. The application procedure for the TNI unit's official house includes a field review of the official house to be occupied, as well as the fulfilment of several required files, namely KU1 (Family Card of Military Members). After that, an occupant permit letter is made which is approved by Kesdam. Although the transfer of rights is legal according to laws and regulations, it cannot be carried out at the State Palace of the Indonesian National Army, although PP No. 31 of 2005 regulates the transfer, this transfer cannot be carried out without the occupant's permission.⁹

In practice, there are several cases of ownership of TNI dormitories that are not clear and valid according to Islamic law, this can lead to legal problems that can harm the parties involved. In the management of TNI dormitories, sharia principles must be considered which include justice, openness, transparency and accountability. This aims to ensure that the management of the dormitory is carried out properly and does not harm the parties involved. Utilisation of TNI dormitories that are not in accordance with sharia principles, such as not paying attention to the public interest and only concerned with the interests of certain individuals or groups.¹⁰

The use of TNI dormitories for personal business interests can also damage the integrity of the TNI institution. Therefore, the management and use of TNI dormitories must pay attention to sharia principles, this aims to ensure that the management of TNI dormitories is carried out properly and is in accordance with sharia principles and can increase the trust and integrity of TNI institutions in the eyes of the public. There are several important aspects in the management and utilisation of TNI dormitory assets as a personal business, namely the businessman must conduct an inventory of assets owned by the dormitory, including buildings, land, and other facilities. This data is important to know what assets can be optimised. Write down your company's goals, strategies, market research, financial forecasts and plans on how to realise them. To ensure the company operates legally, both in terms of military

⁹ Law Number 1 Year 2011 on what is meant by State House is Rumah Dinas, accessed on 02 January 2024.

¹⁰ Chairul Fahmi and Wira Afrina, 'ANALYSIS OF LEGAL ASPECTS ON DEBT TRANSFER FROM CONVENTIONAL BANK TO SHARIA BANK POST THE APPLICATION OF QANUN ACEH NO. 11 OF 2018', *Al-Mudharabah: Journal of Islamic Economics and Finance* 4, no. 1 (23 July 2023): 28-39, <https://www.journal.ar-raniry.ac.id/index.php/mudharabah/article/view/3047>.

and civilian laws. Then, provide training to TNI personnel who will be involved in the business to improve managerial and operational skills, if needed, recruit professionals from outside who have special expertise in the field of business to be run. One of the businesses developed is such as establishing a cooperative that provides daily needs for personnel and families in the dormitory.

Based on the results of interviews with Ismail as the Head of the Kuta Alam TNI Dormitory, it is that by regulation it is not allowed to have a personal business in the dormitory, so far there is no article that allows or does not allow the personal business, it is only a policy with the condition that it does not change the building or the original physical form of the Kuta Alam TNI dormitory, stated in the regulations of the institution itself, namely the TNI, this policy is not permanent, if one day the commander is not pleased then all existing personal businesses must be closed.¹¹

Based on the results of interviews from one of the businesses owned by the wife of a TNI soldier who lives in this dormitory, she has been running a business for about 7 years, there are no certain requirements or regulations that must be met to open a business in the dormitory, this is only a policy by not changing the building or the original physical form of the TNI dormitory, as well as reporting to the head of the dormitory with the permission of the military command and mentioning the type of business to be sold.¹²

The management and use of personal businesses on TNI dormitories faces various obstacles: obtaining a business licence within military premises can be a complex process requiring approvals from various authorities, and the management of businesses within the military is often hampered by strict regulations and bureaucratic procedures that can hinder smooth operations. This includes internal TNI regulations as well as government regulations regarding the use of military facilities for commercial activities. Business management involving state assets must be conducted with high transparency and accountability to avoid misuse. The lack of clear and firm regulations regarding personal business within the military can lead to legal and

¹¹ Interview with Ismail, Head of Kuta Alam Dormitory, on 02 June 2024, in Kuta Alam, Kec. Kuta Alam

¹² Interview with Yustina, Business Actor of Kuta Alam Dormitory, on 03 June 2024, at Kuta Alam Dormitory, Kuta Alam Sub-district.

administrative uncertainty. Therefore, the TNI, the government, and the private sector must work together to improve the conditions for the management and utilisation of personal companies in TNI barracks so that this problem can be resolved.

RESEARCH METHODS

The method of researching this article *is that* the author uses a descriptive type of ... with an empirical juridical approach that focuses on examining the aspects of normative and empirical law regarding application . implementation of normative legal provisions as *it is* paid for loyalty *to* certain legal events that occur in the world. To achieve a goal and solve a problem by searching, writing, formulating and analysing data found in the field.¹³ In this research the author reviews the regulations set and legal actions against the management and use of the Indonesian National Army dormitory which is used for personal business. This research is based on primary data collected through in-depth interviews with relevant parties. The sources consulted in this research are business actors, the head of the Kuta Alama TNI dormitory, and the dormitory manager. Secondary sources in this research are books, theses, journals, and articles.

RESULTS AND DISCUSSION

A. Theory of Milk

A word meaning "control over an object," the Arabic word al-milk is the origin of the English word "ownership". Any other relationship between a person and their property that gives them special authority to act under sharia law is ownership.¹⁴

According to Al-Munjid fi al-Lughati wa al-I'lam dictionary, one definition of al-milk is "control over," which can mean "having full control over" or "being fully responsible for" one's property.¹⁵ Another way in which Raghīb al-Asfahani defines al-milk is as the distribution of assets in accordance

¹³ Abdulkadir Muhammad, *Law and Legal Research*, (Bandung: Citra Aditya Bakti, 2004), p.134.

¹⁴ Nasrun Haroen, *Fiqh Muamalah*, (Jakarta: Gaya Media Pratama, 2007), pp. 31

¹⁵ Muhammad Fadhil, 'Faculty of Shari'ah and Law, State Islamic University 2020 AD / 1441 H 2020 AD / 1441 H', 2020.

with the rules and regulations of society. Thus, according to the law, property is a pure form of consumer goods.¹⁶

The word *al-daulah* in the dictionary *al-Munjid fi al-luqhati wa al-I'lam* which means government and state.¹⁷ According to the term *al-daulah* is an organisation that is in a territorial area that has sovereign power and is recognised by its people, its political existence and sovereignty are recognised internationally.¹⁸

The value of Milk al-Daulah, whether individually owned or owned by the community as a whole, is proportional to the responsibility of the state towards its citizens, whether they are Muslims or not.¹⁹ In fiqh, ownership is defined as all wealth, both above and below ground, that is within the sovereign territory of a state. In essence, state ownership is the right to public property, and the government has the authority and responsibility to manage it.

All property that is not specifically designated as public property (*al-milkiyyat al-'ammah*), which is usually overseen collectively by the community, is considered state property. In accordance with applicable legal provisions, the government may formally decide to transfer state-owned property to individual property (*al-milkiyyat al-fardhiyyah*). Despite the government's best efforts, public property cannot be transferred to private ownership. This is due to the fact that the government is essentially responsible for managing and implementing the mandate of the people, and also has full authority over state property.²⁰

The foundation related to the validity of *milk al-daulah* in Islam refers to the argument of the Qur'an surah Al-Baqarah verse 284:

¹⁶ Abdullah Abdul Hussein at-Tariqi, *Islamic Economics, Basic Principles and Objectives*, (Transl: M. Irfan Sofwani), (Yogyakarta, Magistra Insania Press, 2004), p. 56. 56.

¹⁷ Mahmud Yunus, *Arabic-Indonesian Dictionary*, (Jakarta: PT Hidakarya Agung, 2007), p.132

¹⁸ Phoenix Library Team, *Big Indonesian Dictionary*, (West Jakarta: Phonenix Media Library, 2012), pp. 593

¹⁹ Faculty of Sharia et al., "By Community Organisations Viewed According to the Concept of Milk Al-Daulah," 2017.

²⁰ Husnul Mirzal, Muhammad Wicaksono Hasdyani Putra, and Shally Nur Rasyida, 'Land Acquisition in the Job Creation Law in the Perspective of Islamic Ownership Theory (an Analysis with the Concept of Istimlak and Milk al-Daulah)', *Ijtihad: Journal of Islamic Law and Economics* 15, no. 1 (2021): 17-34, <https://doi.org/10.21111/ijtihad.v15i1.5609>.

لِلَّهِ مَا فِي السَّمٰوٰتِ وَمَا فِى الْاَرْضِ ۗ وَاِنَّمَا فِىْ اَنْفُسِكُمْ تُخٰفُوْهُ يُحٰسِبِكُمْ بِهٖ اللّٰهُ ۗ فَيَغْفِرُ لِمَنْ
وَيُعَذِّبُ مَنْ يَّشَآءُ ۗ عَلٰى كُلِّ شَيْءٍ قَدِيْرٌ

Meaning: To Allah belongs all that is in the heavens and the earth, and if you give birth to what is in your hearts or conceal it, Allah will reckon with you for what you have done. So Allah forgives whom He wills, and Allah is all-powerful over all things.

Allah SWT explains in this verse that He establishes the hearts of those who believe and that He is in control of everything in the universe.²¹ Allah bestows wealth to all living beings in the cosmos. Facilities are a gift from Allah SWT that help humans live in this world and serve as a means of worshipping Allah SWT. All money, both in this world and in the hereafter, essentially belongs to Allah SWT; humans are only given the responsibility to use this wealth for the benefit of all as caliphs on Earth. As in the words of Allah SWT, namely Al-Qur'an surah Al-Baqarah verse 30:

وَإِذْ قَالَ رَبُّكَ لِلْمَلٰٓئِكَةِ اِنِّىْ جَاعِلٌ فِى الْاَرْضِ خَلِيْفَةً ۗ قَالُوْۤا فِىْهَا مَنْ يُّفْسِدُ فِىْهَا وَيَسْفِكُ
الدِّمَآءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ ۗ قَالِىْٓ اَعْلَمُ مَا لَا

Meaning: And (Remember) when your Lord said to the angels, "I want to make a caliph on earth." They said, "Do you intend to make therein one who will destroy and shed blood, while we praise you and sanctify your name?" He said, "I know what you do not know."

"I will make a caliph on earth as My successor, who will enforce My laws justly among My creatures, i.e. punish according to My requirements," said Ibn Jarir while interpreting the above verse as follows, "I will punish Adam and anyone who follows in his footsteps in carrying out the demands of Allah's revelation correctly".²² Meanwhile, Muhammad Nasib Ar-Rifa'i

²¹ Hamka, *Tafsir Al-Azhar*, volume 9 Cet V, (Singapore: Pustaka Nasional Pte Ltd, 2003), p.7002.

²² Ibn Kathir, *Tafsir Ibn Kathir*, H. Salim Bahreisy and H. Said Bahreisy (pent), volume 1, Cet 2, Surabaya, PT Bina Ilmu, 1993, pp. 81

revealed that "I want to make on earth a caliph" means a people who will take turns replacing other people throughout the ages.²³

Despite the differences between the two views expressed above, it is clear that the term "khalifah" refers to those who ascend the throne to act and do things on behalf of others. According to Al-Raghib Al-Isfahani, succession occurs when the original ceases to exist (for example, due to death), when the original is unable to continue its functions, or when the original is honoured.²⁴

Common ownership is based on the traditions or sayings of the Prophet Muhammad, which are in addition to the verses of the Quran. One such tradition, narrated by Ibn Majah, is:

عَنْ ابْنِ عَبَّاسٍ، قَالَ: قَالَ رَسُولُ اللَّهِ عَلَيْهِ وَسَلَّمَ: الْمُسْلِمُونَ شُرَكَاءُ فِي ثَلَاثٍ: فِي الْمَاءِ وَالْكَأَةِ وَالنَّارِ، وَثَمَنُهُ حَرَامٌ. قَالَ أَبُو سَعِيدٍ: يَعْنِي: الْمَاءُ الْجَارِي. رَوَاهُ ابْنُ مَاجَهٍ

Meaning: Ibn 'Abbas RA reported that the Messenger of Allah (SAW) said, "Muslims have equal rights in three things, (namely) water, clay and fire, trading in them is forbidden". Abu said that what is meant by water is running water. (Ibn Majah).²⁵

Due to their status as goods needed by the general public, the hadith explains that water, pasture and fire cannot be privately owned. You cannot utilise these goods for personal use because by their very nature they are detrimental to the public good. Pasture, water, and fire are not included because of the goods themselves but because of their position and benefit to the public good.

The fuqaha offer different interpretations of the boundaries of Islamic ownership, but they all lead to the same thing. There are many well-known definitions of ownership, but one of the most popular is that it is a unique relationship between an individual and an item (good) that cannot be entered

²³ Muhammad Nasib Al-Rifa'i, *Tafsir al-'Ali al Qadir li Ikhtisar Tafsir Ibn Kathir*, (Riyadh: maktabah Ma'arif, 1410 AH), pp. 104-105

²⁴ Rashad Rashad, 'The Concept of Caliph in the Qur'an (A Study of Verse 30 of Surat al-Baqarah and Verse 26 of Surat Shaad)', *Al-Mu'ashirah Scientific Journal* 19, no. 1 (2022): 20, <https://doi.org/10.22373/jim.v19i1.12308>.

²⁵ Muhammad Nashiruddin Al-Abani, *Sahih Sunan Ibn Majah*, Volume 2, (Jakarta: Pustaka Azzam, 2007), pp. 433

by others and the owner has unlimited authority to use it, subject to any legal restrictions.²⁶

Scholars from the Malikiyah school of thought argue that private individuals or organisations cannot use publicly-owned land for their own benefit; rather, such uses, such as setting up a shop by the roadside, require official authorisation from the state. Others will suffer as a result of this, as the road will narrow, traffic will be worse (more accidents will occur), and the road will appear less orderly due to the chaos that will ensue.²⁷

The caliph has the authority to manage the state's wealth, which Shaykh Taqiyuddin an-Nabhani defines as belonging to all Muslims and has been decreed by Allah as their right, through the treasures of the Baitul Mal. There are three components of ownership, as stated by Shaykh Taqiyuddin an-Nabhani:²⁸

- a. Individual Ownership is the permission from Shariah for a person to utilise and obtain compensation from goods, either through utilisation such as rent or consumption such as purchase.
- b. Under sharia law, communities can use vital resources such as water, air, roads, mosques, and commodities such as gold, oil, etc. together. This includes natural resources and things that affect the livelihood of many people.
- c. All Muslims have the right to own property administered by the caliph; this includes ghanimah, fa'i, khums, heirless property, and state-held land.²⁹

A Muslim thinker, al-Kailani, defined state or public ownership in a modern study as ownership whose useful value is related to all the duties of the state towards its citizens, including non-Muslim groups.³⁰ All wealth, both

²⁶ Chairul Fahmi, 'THE CONCEPT OF IJMAK MENUR FAZLUR RAHMAN: A Critical Study of Imam Ash-Shafi'i's Theory of Ijmak', *Shari'ah Media: A Forum for the Study of Islamic Law and Social Institutions* 15, no. 2 (29 October 2017): 245-56, <https://doi.org/10.22373/jms.v15i2.1778>.

²⁷ Nasrun Haroen, *Fiqh Muamalah*, (Jakarta: PT. Gaya Media Pratama, 2007), pp. 21.

²⁸ Amir Salim Salim, Anggun Purnamasari, and Widi Nugraha, 'Taqiyuddin An-Nabhani's Economic Thought on Ownership According to Islamic, Capitalist and Socialist Economics', *Ekonomika Sharia: Journal of Sharia Economic Thought and Development* 8, no. 2 (2023): 337-46, <https://doi.org/10.36908/esha.v8i2.627>.

²⁹ Salim, Purnamasari, and Nugraha.

³⁰ Salim, Purnamasari, and Nugraha.

above and below ground, within the boundaries of the state, is included. The value of something in an area to all residents without exception is intrinsic to the concept of state ownership as public ownership. One clear example from the time of the Prophet is the concept of protected land, which refers to areas guarded by the ruler to ensure the general needs of Muslims.³¹

In Islam, although the economy can be managed privately, the state has an important role in controlling, supervising and regulating some sectors of the economy that can have an impact on society, such as the armed forces sector and the collection of zakat. The state's intervention is expected to produce greater benefits, but if the management has the potential to harm society, the state needs to intervene to reduce losses and ensure justice for all parties.

B. A Positive Legal View of the Management and Use of Service Houses (State-Owned)

In Indonesian positive law, the management and use of official houses that belong to the state are regulated by various laws and regulations. The official residence is a facility provided by the state for state apparatus, such as civil servants (PNS), state officials, and other workers who work in government agencies. Do not be irresponsible with this official residence because it is a state asset and you must obey all applicable laws and regulations when using it.

Government Regulation No. 40/1994, as a follow-up to the implementation of Law No. 4/1992 on Housing and Settlements, became the basis for the establishment of official houses. The official residence is defined as "a building owned by the state that functions as a residence or dwelling and a means of family development as well as supporting the implementation of the duties of Officials and/or Civil Servants" in Article 1 point 1 of Government Regulation Number 40 of 1994. The right to occupy the official residence ends immediately when the official retires or dies. Therefore, the official house must be returned to the TNI institution by retired or family members of TNI soldiers to then be handed over to TNI soldiers who are still on active duty.

³¹Wilda Nadhiratul Safira, Universitas Islam, dan Negeri Ar-raniry Banda, 'INTERNAL CONTROL ON TNI ASSETS REVIEWED BY MILK AL-DAULAH: STUDY AT ASRAMA KUTA' 8, no. 1 (2024): 346-70.

Based on Government Regulation of the Republic of Indonesia Number 31 of 2005 which amends Government Regulation Number 40 of 1994, "to determine the class of official houses, the status of official houses is determined as class I official houses, class II official houses, and class III official houses." This regulation regulates the status of official houses: Article 12 paragraph 1.

- a. Group I State House is a State House that is used for holders of certain positions and because of the nature of their positions must reside in the house, and the right of occupancy is limited as long as the official concerned still holds that particular position;
- b. Group II State House is a State House that has an inseparable relationship with an agency and is only provided to be inhabited by State Employees and when they have quit or retired the house is returned to the State;
- c. Group III State Houses are State Houses that are not included in Group I and Group II that can be sold to their residents;

Article 3 paragraphs (1) and (2) regulate the implementation of Government Regulation Number 27 of 2014 concerning Management of State/Regional Property. Functionality, legal clarity, transparency, efficiency, accountability, and certainty of value are the basic concepts of state and regional property management. Local governments must also think about matters such as planning requirements, funding, procurement, use, utilisation, and others.³²

The regulation stipulates that each manager of State or Regional Property must perform his duties by mastering all reports. Paragraph nine of Article One defines "utilisation" as any action taken by a user of goods in order to manage and expand the enterprise of State or Regional Property in accordance with the responsibilities of the agency concerned. The term "utilisation" is defined in Article 1 paragraph 10 as the use of state or regional property that is not used to carry out the responsibilities of a ministry, agency, or local government unit, or in increasing the use of state or regional property without changing its ownership status.

³² Government Regulation Number 27 of 2014 concerning Management of State / Regional Property, Article 3 paragraphs (1) and (2).

As long as the individuals involved maintain their status as Civil Servants and Government Officials/State Officers, the State House facility is designed to offer them additional benefits beyond their basic entitlement to salary and other benefits. The return of the State House to the individual's agency occurs upon the expiry of their status as Civil Servants, Government Officials or State Officers. Occupancy of State Houses is expressly restricted to officials and civil servants, as stated in the definitions and explanations. To be allowed, the official or civil servant in question must have an Occupancy Permit and Occupancy Permit issued by an authorised official at the relevant agency.³³

C. Actions and Legal Remedies Against Personal Business in the Physical Building of TNI Dormitory Kuta Alam Banda Aceh

A personal business is a type of business run by a private individual, where the business owner directly manages, controls and is responsible for the business operations and decisions. Usually, personal businesses have a smaller scale and focus on more limited needs or markets.³⁴ The personal business in the physical building of the Kuta Alam TNI dormitory in Banda Aceh is carried out by business actors who are families of retired TNI officers with the aim of making personal profits, but at the same time also to provide convenience and benefits for dormitory residents and the surrounding community who need quick access to meet consumption needs or daily needs.

As a result of an interview with Ismail, the head of Kuta Alam TNI dormitory, there have been no major problems with private businesses from the local community so far. However, some people stated that road congestion is caused by the lack of adequate parking space. The problem of congestion caused by the lack of parking space is often an obstacle for personal business owners, especially in densely populated areas, the local community also stated that it is very helpful for those who do not have time to prepare other basic needs. The use of personal businesses has no impact on budgets or the allocation of military resources. Usually, personal businesses use their own capital, but there are also those that enter the cooperative office (primkopat)

³³ Hasya Ilma Adhana, 'Law Enforcement Against the Order of State Houses within the Ministry of Finance', *Journal of Master of Law Programme, Faculty of Law, University of Indonesia* Volume 1, no. Number 1 (2020): 241-63.

³⁴ Eko Purwanto, *BUSINESS INTRODUCTION in the Era of Industrial Revolution 4.0* Eko Purwanto, 2020.

of the army cooperative which is managed by the cooperative and the profits return to the cooperative itself³⁵

Basically, TNI dormitories are facilities provided by the state to support the tasks and functions of the TNI, and their use must be limited to the needs of the institution. Therefore, if the dormitory building is used for personal purposes or used as a place for personal business (such as rented out for personal interests or other commercial businesses), then this clearly violates the legal provisions governing the use of state property. However, the party that has the authority to grant permission to use TNI dormitories for personal business is through the head of the dormitory with the permission of the military command (logistics command) by mentioning the type of business to be sold on condition that it does not change the physical form of the dormitory. Businesses that are allowed to operate in TNI dormitories include food stalls, coffee shops, grocery stores, and other services. While those that are not allowed include karaoke bars or places that have a negative impact on the surrounding people. If you violate the rules that have been set, the legal risks related to criminal offences are the responsibility of each individual. The sanction is to be expelled from the dormitory and will be processed legally, for example drug trafficking masked as a grocery business, but so far there have been no cases of legal use of TNI dormitories.³⁶

The legality of personal business in the physical building of the TNI dormitory, there are several legal provisions governing the management and use of state assets. Based on Law Number 17 of 2003 concerning State Finance and Government Regulation Number 27 of 2014, all uses of state property, including TNI dormitory buildings, must follow the principles of transparency, accountability and efficiency. Therefore, if there is a business that is run illegally or without clear permission, legal action can be taken ranging from contract termination, administrative sanctions to criminal offences for parties involved in the misuse of state facilities.³⁷

In addition, supervision from authorised parties, such as the Regional Military Command (Kodam) or the Supreme Audit Agency (BPK), is needed

³⁵ Interview with Ismail, Head of Kuta Alam Dormitory, on 02 June 2024, in Kuta Alam, Kec. Kuta Alam

³⁶ *Ibid.*

³⁷ Chairul Fahmi and Syarifah Riyani, 'ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT', *Wahana Akademika: Journal of Islamic and Social Studies* 11, no. 1 (2024): 89–104, <https://doi.org/10.21580/wa.v11i1.20007>.

to ensure that state-owned buildings and assets not used for private interests that contradict existing regulations. This supervision is also important to prevent potential corruption or abuse of authority that could harm the state.

D. Perspective of *Milk Al-Daulah* on the Management and Use of TNI Dormitory Kuta Alam Banda Aceh

State-owned land, or "milk al-Daulah," is controlled and utilised for the public good. According to fiqh muamalah, the state owns a wide range of assets, including roads, lakes, rivers, irrigation systems, markets, and pastures. These assets are utilised for the benefit of everyone, so the people and the state can make use of them in accordance with applicable laws and regulations.³⁸

No one should jeopardise the property rights or welfare of others as a result of the management or use of land by the state. For the good of society, the government may dictate how state-owned property should be managed. No member of the user community has the authority to take arbitrary action against land, destroy it, convert it to private property, or sell or transfer ownership. It is essential that state-owned land is managed lawfully, without favouring any one group or individual, and in compliance with all relevant laws.³⁹

According to Islamic law, land and goods owned by the state are common property or milk al-daulah. The government or state in this case is considered a public representative who has the right to supervise and manage these assets for the public interest. The management and use of TNI dormitories must be carried out in accordance with state law and the principles of Islamic law.⁴⁰

With regard to the management and use of TNI dormitories as a private business, managed by the wives or families of TNI retirees, carried out for personal gain. This action contradicts the principle of managing state-owned property (such as TNI dormitories) regulated by Law No. 17/2003 on State Finance and Government Regulation No. 27/2014 on the Management of State/Local Property, which should be used for the benefit of the state, not for

³⁸ Ar-raniry State Islamic University and Banda Aceh, 'KEDINASAN PERSPECTIVE MILK AL DAULAH (A Research in TNI Dormitory Keraton Banda Aceh)', 2023.

³⁹ Nasrun Haroen, *Fiqh Muamalah*, (Jakarta: PT. Gaya Media Pratama, 2007) p.79.

⁴⁰ Chairul Fahmi, 'Revitalising the Implementation of Sharia Law in Aceh (A Study of Law No.11 Year 2006)', *TSAQAFAH* 8, no. 2 (30 November 2012): 295-310, <https://doi.org/10.21111/tsaqafah.v8i2.27>.

personal or commercial purposes. The use of state facilities for private business without valid authorisation has the potential to be an abuse of authority and can harm the state. However, in this case, the party managing the business has obtained permission through the Head of Dormitory with the approval of the Kodam.

In this case, the government as the authorised party, has the right to manage and regulate the use of the TNI Dormitory, ensuring that its use does not violate existing regulations and is in accordance with legitimate objectives, both in terms of national law and principles in Islamic law. Meanwhile, according to the Malikiyah school of thought, state land that is privately owned cannot be utilised for private purposes, but must be for the public interest and with the permission of the government.

The reality that occurs in the TNI Dormitory environment shows that the management and use of TNI Dormitory for private business has a positive impact on the surrounding community, especially those living in the TNI Dormitory environment. The business makes it easier for people to buy their daily needs at a closer distance. In addition, this business is managed by the families of TNI soldiers, not by the soldiers themselves, so it does not interfere with the activities or duties of soldiers in carrying out their obligations.

CONCLUSIONS

Based on the results of the research, it can be concluded that the management and use of state-owned official houses are expressly regulated in Indonesian positive law, such as in Government Regulation Number 40 of 1994 and its amendment through Government Regulation Number 31 of 2005. State houses are given to state officials, civil servants, or other workers who work in government agencies, and their use is limited only as long as the person concerned is still actively working. This provision aims to ensure that state houses are only used in accordance with official interests and are not used for personal or commercial purposes without valid authorisation.

The use of state facilities for commercial purposes without clear permission has the potential to violate the law. However, if the business is licensed through the head of the dormitory with the approval of the Kodam, the business is considered legal as long as it does not change the physical form of the dormitory and does not interfere with TNI activities. However, if misuse occurs, such as distribution of prohibited goods, the parties involved may be

subject to legal sanctions, including contract termination or further legal proceedings.

In the perspective of Islamic law, TNI dormitories are included in the category of *milk al-daulah*, which is state property that must be managed for public benefit and not for private interests. The management and use of state facilities, including dormitories, must be carried out legally and in accordance with applicable regulations. In this case, the government has the right to manage and regulate the use of state assets so that they are not misused. The use of TNI dormitories for private businesses managed by the families of TNI soldiers has a positive impact on the surrounding community, but must still comply with existing legal provisions to ensure that it does not violate the principles of fair management of state property and *milk al-daulah*.

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