

ABSTRACT

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As a diversion program of state-owned assets into private property, privatization of state-owned enterprises in Indonesia is the government's economic policies which are highly controversial because it allegedly could potentially harm the country in the long time. Law No. 19 Year 2003 on BUMN (BUMN Act) contains settings which are related to privatization include the intent, purpose, procedures, criteria or state that can not be privatized, and organizes relevant technical regulations. This study examines how the regulations of BUMN privatization in the law and how the privatization law concept of ownership perspective and the perspective of the economic role of the state in the doctrine of Islamic economy. Furthermore, it will be assessed whether the similarities and differences between the laws of perspective privatization BUMN and the doctrine of Islamic economy. This qualitative study was digging through library of legal materials of state law, books of privatization of BUMN, and the concept of ownership and the role of the state in the doctrine of Islamic economy.

Not all BUMN to be privatized, according to both state law and the doctrine of economic Islam. It's just different its specification. BUMN that can be privatized under state law is Persero of BUMN that meet the criteria in Article 76 of the BUMN regulations, while BUMN that cannot be privatized is BUMN that are prohibited by state law in Article 77.

Doctrine of islamic economy break the ownership into three types, namely state ownership, public ownership and private ownership. State must act as a manager to ensure the needs of the society, especially the asset that should be public ownership. Public ownership means belonging to the whole of the society. Guided for the rule of fiqhiyah, that the legal status of the industry follows what is produced. Thus, BUMN that produces the goods belonging to the public domain or entire of the society should not be privatized because it is owned by a handful of shareholders. This includes mining companies and public facilities. In the context of mining, the two sources of law equally prohibits the privatization. The privatization of the mining or natural resources are not allowed in Article 76 of Law of BUMN. This is to protect the fairness of the distribution of ownership of assets belonging to the people that should be run by the country. And also the privatization of strategic assets dominate the life of the people are also not allowed. In Islam, for this last category is included in the public facility into public ownership. Consequently, this corporate sector should not be privatized.