
Realizing a Welfare State Based on Prophetic Islamic Law

Ahmad Miftah Farid

Faculty of Law, Universitas Muhammadiyah Surakarta, Email: amf209@ums.ac.id

Hanifah Febriani

Faculty of Law, Universitas Muhammadiyah Surakarta, Email: hf1858@ums.ac.id

Indra Firmansyah

Universitas Muhammadiyah Yogyakarta, Email: bungindrafirmansyah@gmail.com

Abstract

This study aims to formulate the concept of a welfare state based on prophetic Islamic law. The concept of the welfare state upholds human rights, while man as a creature of God Almighty must be able to understand its essence by transcending metaphysical thinking and engaging himself into prophetic law. The research method used is juridical-normative with a conceptual approach and documentary studies. The legal material used is in the form of the 1945 Constitution and analyzed using qualitative methods. The concept of the welfare state upholds human rights, but the view of the welfare state known to the majority of the world's population comes from European countries that are secular or separate the state from religion. However, the prophetic Islamic view invites man to think metaphysically to understand the existence of God's truth and justice in the universe. This idea is not only to create a human-centered welfare state (homocentric) but also to restore human law following the divine law (Theocentric).

Keywords: *Human Rights, Islamic Prophetic Law, Welfare State*

Abstrak

Penelitian ini bertujuan untuk merumuskan konsep negara kesejahteraan berdasarkan hukum Islam profetik. Konsep negara kesejahteraan menjunjung tinggi hak asasi manusia, sedangkan manusia sebagai makhluk Tuhan Yang Maha Esa harus mampu memahami hakikatnya dengan melampaui pemikiran metafisik dan melibatkan diri dalam hukum profetik. Metode penelitian yang digunakan adalah yuridis-normatif dengan pendekatan konseptual dan studi dokumenter. Bahan hukum yang digunakan berupa UUD 1945 dan dianalisis menggunakan metode kualitatif. Konsep negara kesejahteraan menjunjung tinggi hak asasi manusia, namun pandangan tentang negara kesejahteraan yang diketahui mayoritas penduduk dunia berasal dari negara-negara Eropa yang bersifat sekuler atau memisahkan negara dari agama. Namun pandangan Islam profetik mengajak manusia

berpikir metafisik untuk memahami keberadaan kebenaran dan keadilan Tuhan di alam semesta. Gagasan ini tidak hanya bertujuan untuk mewujudkan negara kesejahteraan yang berpusat pada manusia (homosentris) namun juga mengembalikan hukum manusia sesuai dengan hukum ketuhanan (Theosentris).

Kata Kunci: Hak Asasi Manusia, Hukum Nabi Islam, Negara Kesejahteraan

INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (UUD 1945) through Article 1 paragraph (3) confirms that "Indonesia is a country of laws." One aspect that is upheld by the rule of law is upholding human rights. The aspect of human rights is crucial and has always been used as an ideal basis in forming a legal state, be it the *Rechtstaat* legal state in Continental European countries, or the Rule of Law legal state adopted by Anglo-Saxon countries.

In the world of law, there is not only the term or theory of the rule of law (*Rechtstaat* and Rule of Law), but there is also a term called the welfare state. In fact, the emergence of the welfare state theory does not fully contain a specific definition, but rather is a response to market failure and state failure in building prosperity for its people.¹ State failure, especially in capitalist countries such as those on the European Continent or the United States, has given rise to many protests because they are considered to be too partial to capital owners or banks that monopolize the state, thus hampering the economic development of society.

The nature of the capitalist system has given birth to several human characters that are counterproductive, for example rejecting the values of faith, Shari'a and noble morals, taking interest, economic factors being dominated by each individual, large bank investors having excessive power over economic policy. as well as state politics, the majority of production goods are produced through usurious transactions and excessive advertising, capitalism is synonymous with monopoly because of the tendency of investors to control everything and eliminate all competition with them.²

The mission of the founding of the Republic of Indonesia is essentially to improve the welfare of all Indonesian people without discrimination. This means that the Indonesian state is explicitly trying to create a welfare state. It is hoped that national development goals will not only be oriented towards economic and infrastructure growth, but also increasing social welfare, fulfilling various basic social and economic needs of all citizens in order to achieve a minimum standard of living.³

The 1945 Constitution requires the state to guarantee the welfare of its people and guarantee social welfare in specific parts, especially Chapter XIV, concerning the National Economy and Social Welfare. However, discussions regarding the important role of the state in this perspective have always been a matter of long debate. A number of experts argue that the state's involvement in the implementation of these two things is direct

¹ Oman Sukmana, "Konsep Dan Desain Negara Kesejahteraan (Welfare State)," *Jurnal Sospol FISIP UM MALANG* 2, no. 1 (2016): 102–20.

² Ariza Fuadi, "Negara Kesejahteraan (Welfare State) Dalam Pandangan Islam Dan Kapitalisme," *Jurnal Ekonomi Syari'ah Indonesia* Vol. V, no. 1 (2015): 13–32.

³ Elviandri Elviandri, Khudzaifah Dimiyati, and Absori Absori, "Quo Vadis Negara Kesejahteraan: Meneguhkan Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia," *Mimbar Hukum* 31, no. 2 (June 3, 2019): 252, <https://doi.org/10.22146/jmh.32986>.

(interventionist), but there are also those who argue that the state plays a dominant role without having to take over all of these roles.⁴

Starting from the general concept of a welfare state, it is appropriate to develop a concept of a welfare state that upholds human rights, combined with prophetic Islamic law. The aim of this research is to formulate a new concept of a Welfare State based on Prophetic Islam.

RESEARCH METHOD

This research was conducted using a juridical - normative research method, through a conceptual approach and documentary study.⁵ This approach is needed to analyze and formulate the concept of a welfare state based on prophetic Islamic law and upholding human rights. The sources of legal materials used are primary legal materials which refer to the 1945 Constitution and secondary legal materials consisting of literature and journal articles. These legal materials were then obtained through literature study and analyzed using qualitative methods.

DISCUSSION

Welfare State Concept

The terminology Welfare State was first used in English in 1941 to strike a balance between state power and individual freedom. Welfare State or literally called "welfare state" is an ideal idea of how a state organizes a system of power and carries out its duties in order to serve citizens towards a harmonious and prosperous life order.⁶ Countries that overly glorify the capitalist system tend to have the potential to direct state power or politics towards injustice towards small communities with weak economies.

Creating a welfare state has become the ambition of a number of newly independent countries, especially in Asia after World War II. A number of countries, such as South Korea, Taiwan and Singapore, can be categorized as successful in realizing their welfare states.⁷ In Indonesia, in this case the 1945 Constitution mandates the state to fulfill the prosperity of the people and organize social welfare in a special section, namely Chapter XIV concerning the National Economy and Social Welfare.

The definition of a welfare state is actually very broad and varied. On the one hand, the definition of a welfare state is the state's involvement in providing full employment for the people. Work is a source of people's income. If the state can provide full employment, people's poverty will be reduced and the people will be prosperous. Etymologically, the term welfare state can be interpreted as a country that provides guarantees in the form of extensive social security benefits such as state health services, pensions or old age benefits, sickness and unemployment benefits, and so on.⁸ According to Christopher Pierson, the

⁴ Bisariyadi Bisariyadi, "Pergulatan Paham Negara Kesejahteraan (Welfare State) Dan Negara Regulasi (Regulatory State) Dalam Perkara Konstitusional," *Jurnal Hukum Ius Quia Iustum* 23, no. 4 (2016): 531–51.

⁵ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum: Normatif Dan Empiris*, 5th ed. (Yogyakarta: Pustaka Pelajar, 2019), 183.

⁶ Fuadi, "Negara Kesejahteraan (Welfare State) Dalam Pandangan Islam Dan Kapitalisme," 14.

⁷ Darmawan Triwibowo and Sugeng Bahagijo, *Mimpi Negara Kesejahteraan* (Jakarta: LP3ES, 2006), 17.

⁸ Christopher Laurence Pass, Bryan Lowes, and Leslie Davies, "Kamus Lengkap Ekonomi," ed. Tumpal Rumaepa and Posman Halolo (Jakarta: Pustaka Erlangga, 1994), 258.

word welfare must contain at least three subclassifications, namely:⁹

- (1) *Social welfare*, which refers to the collective acceptance of welfare;
- (2) *Economic welfare*, which refers to security guarantees through the market or formal economy; And
- (3) *State welfare*, which refers to guaranteed social welfare services through state agents.

A welfare state is briefly defined as a country in which the state government is considered responsible for ensuring a minimum standard of living welfare for every citizen. The welfare state refers to the role of the government which is responsible for managing and organizing the economy. Thus, the state is expected to be able to carry out its responsibility to ensure the availability of basic welfare services at a certain level for its citizens.¹⁰ In Indonesia, the role of the state is seen in the 1945 Constitution, Article 33 paragraph (3), which states that, "The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." On the other hand, in order to protect human rights to obtain welfare, it is also regulated in Law Number 39 of 1999 concerning Human Rights, especially in Part Seven concerning the Right to Welfare, Articles 36 to Article 42.

This concept is recognized as a form of state involvement in realizing people's welfare after the emergence of empirical evidence regarding market failure in capitalist societies and state failure in socialist societies.¹¹ Therefore, even though it prioritizes the role of the state in serving society, the welfare state is basically not a form of state domination, but the role of the state here is a manifestation of citizens' confidence in the rights they have towards the state, in accordance with democratic principles. Citizens give a mandate to the state to carry out its obligations in fulfilling the rights of citizens.

Concept of Prophetic Law

The prophetic concept begins with a spiritual assessment method, with the most basic ideas being (a) the primacy or urgency of science; (b) the priority of seeking knowledge or priority, as well as the need for seeking knowledge; (c) Human preferences are always curious; (d) the view of the Prophet (prophet) as a prophet or sent by humans as a messenger from God; and (e) the view of God as absolute reality. These views should be the main basis for the existence of prophetic knowledge¹²

According to the prophetic paradigm, there is no separation between God and other entities, and humans are the reality of faith in God's existence. Thus, humans are the result of understanding the reality of God. Likewise, knowledge about humans in the true sense means knowledge about absolute reality or God (transcendental).¹³ Self-awareness is essential because it is a bridge to knowledge of absolute reality. Humans must realize that the physical or external part of themselves is creation (Makhluk) and the internal part is the spirit (Al-Haq) and heart (Qalbu).¹⁴ Humans placing themselves in the deepest reality of Makhluqan is a way of knowing reality as a whole. Those who have the ability to transcend

⁹ Christopher Pierson, *Welfare State: The New Political Economy of Welfare* (Pennsylvania: The Pennsylvania State University Press, 2007), 131.

¹⁰ Fuadi, "Negara Kesejahteraan (Welfare State) Dalam Pandangan Islam Dan Kapitalisme," 17.

¹¹ Fuadi, 18.

¹² Elitya Rosita Dewi et al., "Konsep Kepemimpinan Profetik," *Al-Muaddib: Jurnal Ilmu-Ilmu Sosial Dan Keislaman* 5, no. 1 (2020): 147–59, <https://doi.org/http://dx.doi.org/10.31604/muaddib.v5i1.147-159>.

¹³ Bobby Briando, "Prophetic Law : Membangun Hukum Berkeadilan Dengan Kedamaian," *Jurnal Legislasi Indonesia* 14, no. 03 (2017): 313–24, <https://doi.org/https://doi.org/10.54629/jli.v14i3.123>.

¹⁴ Briando.

themselves (transcendence) reach a point in the middle of their lives, after crossing the physical body aspect, where He (God) becomes their final savior. Therefore, the most reasonable approach to this prophetic method is Islamic values.

The Combined Concept of the Welfare State and Islamic Law

The concept of a welfare state also does not escape Islamic law regulations. Islam as Rahmatan Lil 'Alamin as taught by Rasulullah ﷺ, the concept of a welfare state had already been implemented in Medina. The Islamic perspective which is oriented towards the welfare of society cannot be understood without a community that is organized and regulated in accordance with Islamic teachings. The Qur'an itself clearly regulates in QS Al-Ma'idah verse 48, that mankind has been given rules for the welfare of humans themselves.¹⁵ Rasulullah ﷺ also emphasized the need for authority and rules in a civil society.

Islam views a state as an instrument in realizing the main goals of a state. It is through sovereignty that the goals of a country can be realized. However, Islam views that sovereignty is not absolute. Whatever situation and in whatever form this sovereignty is essentially an absolute right belonging to Allah Tabaraka Wa Ta'ala. The orientation of sovereignty in a country must be in the corridor of the aqidah of monotheism, not only according to the will of the people at large. This sovereignty is manifested in the rules of Allah (Divine Law) which are stated in the Qur'an and through His Messenger and implemented in the Sunnah of the Prophet ﷺ as part of the prophetic mission.¹⁶

Islam as a religion of monotheism has comprehensively emphasized moral values, so that a state based on Islamic values cannot be separated from ethics in society as a responsive form that the Islamic Welfare State creates a moral-religious spirit and welfare of citizens.¹⁷ Islamic political and legal thinkers must emphasize the moral meaning in Islam in every need to make regulations or legislation in a country in order to create an Islamic state order. However, this does not mean that the Islamic state is a police state that forces a person's way of life or lifestyle with its power to certain rules. Islam exists as an intermediary that regulates relations not only with Hablum min-Allah, but also with Hablum minannas.

Furthermore, fulfilling basic human needs in a halal manner is an inseparable part of fulfilling spiritual needs, apart from fulfilling material needs. Therefore, apart from providing instructions for the spiritual life of mankind through His Messengers, Allah Subhanahu Wa Ta'ala also provides natural resources for the material life of mankind. There are two fundamental principles in resources, namely: Resources are given by Allah Subhanahu Wa Ta'ala to every human being and are not differentiated into certain races or classes. These resources are directed towards the welfare of humanity in general, at least in the form of efforts to eliminate poverty and fulfill the basic material needs of all humans¹⁸

The welfare state is essentially an "extension" of the rule of law. Its function is none other than to protect human rights. Human rights are rights that exist and are inherent in human beings or dignity, because they are human beings. These rights exist within humans

¹⁵ Tafsir Q.S. Al-Ma'idah (5): 48, Untuk tiap-tiap umat diantara kamu, Kami berikan aturan dan jalan yang terang. Sekiranya Allah menghendaki, niscaya kamu dijadikan-Nya satu umat (saja), tetapi Allah hendak menguji kamu terhadap pemberian-Nya kepadamu, maka berlomba-lombalah berbuat kebajikan..... Kementerian Agama Republik Indonesia, "Syaamil Al-Qur'an, Miracle The Reference" (Bandung: Sygma Publishing, 2010), 229.

¹⁶ Fuadi, "Negara Kesejahteraan (Welfare State) Dalam Pandangan Islam Dan Kapitalisme," 20.

¹⁷ Agus Riwanto and Sukarni Suryaningsih, "Realizing Welfare State and Social Justice: A Perspective on Islamic Law," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 1 (June 30, 2022): 41–51, <https://doi.org/10.24090/volkgeist.v5i1.6430>.

¹⁸ Fuadi, "Negara Kesejahteraan (Welfare State) Dalam Pandangan Islam Dan Kapitalisme," 21.

and cannot be separated from them. These rights are not obtained or bestowed from a state or government authority, but are owned by humans from birth. Precisely because of their position as humans, humans have human or fundamental rights that cannot be separated from themselves. If these rights are separated from humans, their human value or dignity will fall, be degraded or even insulted. Thus, he is not respected as a human anymore.¹⁹

Just laws must guarantee the enforcement of human rights. The legal concept that guarantees human rights can be realized when humans understand their essence as creatures created by God Almighty, as well as their awareness in understanding that humans are God's messengers in the world, to uphold justice based on God's laws. Laws that violate human rights or abuse human rights are unacceptable. Law and human rights remain a harmonious unity that must achieve its goal, namely creating a prosperous society.²⁰

CONCLUSION

Based on the results of the study above, the author can draw the conclusion that in essence, a welfare state can be realized on the basis of prophetic Islamic religious values because basically Islam is the religion of Rahmatan Lil 'Alamin, which regulates all aspects of life from worship to peace. practice. In an Islamic perspective, realizing a welfare state must not conflict with the values of the aqidah of monotheism as taught by Allah Subhanahu Wa Ta'ala through the Prophet ﷺ. The prophetic concept taught in Islam prioritizes divine values that are in accordance with the soul of the Indonesian nation. If the concept of a welfare state based on the Koran and Sunnah can be realized, protection of human rights will automatically be realized.

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¹⁹ Martinus Sardi, "Manusia Membuat Hukum Bagi Dirinya Sendiri: Refleksi Filosofis Atas Hukum Yang Berperspektif Hak Asasi Manusia," *Dalam: Menafsir Ulang Strategi Kebudayaan*, 2012, 9.

²⁰ Sardi, 11.

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