

STUDY THE THEORY OF WELFARE STATE IN WEST AND ISLAMIC PERSPECTIVE

Djauhari
Faculty of law Unissula

djauhari@unissula.ac.id

Abstract

Entering the 20th century is the era of the Welfare State. In development between countries with one another turns out different from each other. It can thus happen, because it is influenced by the basic philosophy and community life of each country. At least it can be influenced by the basic philosophy of the capitalist, socialist and Islam. Even in the West is now the Welfare State has shifted its meaning to 'Workfare'. In the Welfare State in which the state is responsible for the well-being for its citizens, then the Workfare, now the responsibility of turning on each individual. Each person will be responsible for addressing the problems faced alone / 'individual empowerment'

Keywords: *Islamic perspective, Theory of Welfare State, West perspective.*

A. INTRODUCTION

The conception of the state has evolved over the centuries, whether caused by philosophy development that starts from speculative thinking as well as the emergence of state practices in the empirical experience of the various nations of the world throughout history. General characteristics of thinking that developed before the 19th century, characterized by the need to develop the freedom of people to deal with the kingdoms dictator who ruled arbitrarily by the kings oppressors.

Within the framework of this kind of thinking, since before the 19th

century, materialized views that consider that the functions of the state should be limited to a bare minimum, so that the freedom of the king to perform arbitrary actions can be resisted. It is even said that 'the least government is the best government'. This argument that is characteristic of what is known as Concept Keeper (Nachwachterstaat) which is considered ideal since before the 19th century.

However, in a further development, that along with the development of the concept of 'the State Guard Night' (Nachwachterstaat), there are also symptoms of capitalism

in the economic field which slowly leads to an imbalance in the distribution of resources shared prosperity. Consequently, poverty is increasingly showing a trend increasingly sharpened, intractable by the state that the minimum functioned. This fact, encourage the emergence of a new awareness of the importance of the involvement of the state in addressing these imbalances and overcome the problem. Countries deemed unable to release its responsibility to improve social welfare. The state needs to intervene in the set so that the sources of prosperity is not controlled by a handful of people.

Along with this, there are also strongly opposing socialism stream individualism and liberalism that regarded as the cause capitalism appear oppress the poor and even created poverty itself. Therefore, under the influence of socialism, emerged a new conception of the state since the beginning of the 20th century as a replacement of 'Nachwachstwerstaat', namely 'Welvaart Staat' / Welfare State.

Today the concept of 'the Welfare State' becomes an interesting problem with the passing of the era of

globalization and the development of the ideology of capitalism and liberalism were fully devolved economic behavior on market mechanisms. Toward the end of the 20th century, with a very impressive, the appreciation of the tendency of state intervention is undergoing fundamental change. If at the beginning of the emergence of the concept of the welfare state is a etatisasi process everywhere, then in the period before the end of this century, we have witnessed the occurrence of deetatisasi symptoms everywhere.

In this paper will address the problem, how the theory of the Welfare State in the West and Islamic perspective.

B. DISCUSSION

1. Theory of Welfare State in Western Perspectives.

Indeed, the concept of a welfare state is no stranger among legal experts, economic and political. However, due to the wide scope of the study of law will be different from the economic and political assessment of what the State Welfare. At least there are some views that differ from one another

about the concept of the Welfare State, as happened in many countries.

Definition of Welfare State in Black's Law Dictionary states: Welfare State is a nation whose government runs various social insurance programs, such as unemployment compensation, pensions, stipends for families, food stamps, and aid for the blind or deaf - also meaning the welfare - state as regulator:

Welfare State a nation in the which the government undertakes various social insurance programs, such as unemployment compensation, old age pensions, family allowances, food stamps, and aid to the blind or deaf - also termed welfare - regulatory state¹.

While the definition of the Welfare State in Collin Colbuid English Dictionary, as quoted by Safri Nugraha mention: the Welfare State is as a system of government that provides social services for free (free of charge) in the case of: health, education, and financial assistance for people who are unable to work

because of old age, unemployment or illness.

Welfare State as' a system in the which the government provides free social services, such as health and education, and Gives money to people when they are Unable to work for example Because they are old, unemployed, or sick².

From two of these definitions can concluded, that the Welfare State is a state government set while performing their duties with regard to the fulfillment of the basic needs of human life (basic needs): housing, education, food, clothing, employment, and social services: finance for pencie , the elderly, sick, and persons with a social disease: blindness, deafness.

From these definitions, it turns out in fact led to a variety of concepts, at least there are some views that differ from one another about the concept of the Welfare State, as happened in many countries. In general, the concept of

1 Bryan A Garner, 1990, *Black's Law Dictionary Seventh Edition*, West Group St Paul, Minn, p.1588

2 Collin Colbuild English Dictionary, 1997, p. 1898, dalam Safri Nugraha, 2004, *Privatisation of State Enterprises In The 20th Century A Step Forwards Or Backwards*, Faculty of Law UI, Jakarta, p. 1

the Welfare State can be grouped as follows:

First, by Ramesh Mishra, Lawrence Friedman and Jan M Boekman, which focuses on the Welfare State in the responsibility of the state for the welfare of citizens towards the fulfillment of basic needs (basic needs), social services, also including economic intervention market. State responsibility for the welfare of its citizens is not just meant as a political and economic rights, but rather a legal aspect. Specifically, Lawrence M Friedman stated that the Welfare State as a responsibility of the state for the welfare of its citizens in a wide range of interventions to reach the market as well as for banks, telecommunication and transportation. With this broad scope, the state's responsibility includes legal and institutional means for the welfare of citizens is the duty of the state.

In this case Ramesh Mishra said the Welfare State is a responsibility of the state for the welfare of citizens which include the intervention of market economy,

employment policies and social welfare services. Including institutions and policies in the field of welfare is to be thought and responsibility of the state.

A Liberal roomates state assumes responsibility for the well-being of the citizens through a range of interventions in the market economy, eg full employment policies and social welfare services. The terms include, both the idea of state responsibility for welfare as well as the institutions and policies through the which the idea is given effect³

Meanwhile Lawrence M Friedman paints in the 20th century the country is generally called a 'welfare state'. Because it is so large welfare state regulates. The intervention of a government in the Welfare State covers various aspects of the economic, financial, security, even with transportation and telecommunications and banking. This situation is typical of the country in the form of the 20th century which is usually called a 'welfare state', or more broadly, the state regulator of welfare. Fundamentally is a country actively intervention against existing

3 Ramesh Mishra, 1984, *Welfare State in Crisis, Social Thought and Social Change*, Wheasheat Books Ltd, Harvester Press, London, p. xi.

governments everywhere. As a very large collection on tax money, and ordered the army in large numbers against the civil service. Channeling billions and billions in the form of welfare payments. In many countries even handle railroad, postcard⁴s.

Jan found M. Boekman, Welfare State is defined as the integration of economic facts and general ideas about justice. In it explain the existence and function of law in all aspects of life. Therefore, so actually legal evidence that is always associated with the welfare state in which justice should be the primary goal.

The welfare state is Generally understood as the integrations of economic facts and general ideas about justice. It also includes the pervasive presence and functioning of law in various aspects of social life. Thus Spake It is evident that

the law is intertwined with the welfare state⁵.

Secondly, according to Ross Cranston, the notion of Welfare State has always been associated with governmental responsibilities related to health, unemployment and housing provide protection for its citizens with minimum standards of income, nutrition, health, housing and education, job security, as political rights and not voluntary. Even aspects of wellbeing is also related to social services in the form of social welfare, taxes and job security.

In some Interpretations the essence of the welfare state he is government-protected minimum standards of income, nutrition, health, housing, and education, assured to every citizen as a political right, no as charity. One of Titmuss's contributions was to additional aspects of the welfare state - that along with the social services are other forms of social services are other forms of social welfare, fiscal welfare and occupational welfare⁶

4 Lawrence M Friedman, *Legal Culture and the Welfare State*, dalam Gunther Teubner, *Dilemma of Law in Welfare State*, Walter de Gruyter, Berlin – New York, 1986, p. 12. Stated that : *Government is ubiquitous. It collects huge post of money, and cmmands as enormous army of civil servants. It distributes billions in the form welfare payments. In many countries, it runs the railroads, the postal service, the telephones, in others it has banks, steel mills and other enterprises in its portofolio.*

5 Jan M. Boekman, *Legal Subjectivity as a Precondition for the Intertwinement of Las and the Welfare Sttate*, in *Ibid.*, p. . 79.

6 Ross Cranston, 1985, *Legal Foundations of the Welfare State*, Weidenfeld and Nicolson, London, p. 4.

Third, by Vilhelm Aubert, Welfare State is sensed as the state's obligation to the welfare of its citizens in fulfilling the basic needs. Welfare State relating to the rights of citizens and the country's ability to meet the claims coming from the right. The aim is to guarantee a minimum level of well-being in terms of health, nutrition, housing, and education. It could see that the scope of welfare just related to the basic necessities of life (basic needs) only.

*It is customary to define the welfare state by reference to Certain rights of the citizen and by the state's ability to meet the claims the which flow from this rights. Their aim is to secure a decent minimum of welfare in terms of health, nutrition, housing, and education*⁷

From the description of some of the above concepts, it can be classified as follows:

1. By Ramesh Mishra, Lawrence M Friedman and M Boekman, Welfare State is the responsibility and obligation of countries which

include: (a). Fulfillment of basic needs (basic needs); (B). Social services; and (c). Intervention market economy.

2. Meanwhile, according to Ross Cranston, Welfare State is more focused as the state's responsibility in the welfare of its citizens in the fulfillment of basic needs and social services.
3. Wilhelm Aubert gave the sense Welfare State just as the obligation of the state to meet the citizens' rights associated with the fulfillment of basic needs. Obligations emerging countries in the event of claims from citizens who demand rights.

In this concept of a welfare state, the state is required to extend its responsibilities to the socio-economic problems faced by the people. This development which provides for the legalization of 'interventionist state' of the 20th century. The state is unnecessary and even had to intervene in a variety of social and economic problems to ensure the realization of the common good in society. The function of the state also includes the

⁷ Vilhelm Aubert, 1986, *The Rule of Law and the Promotional Function of Law in the Welfare State*, in *Dilemmas of Law in Welfare State*, European University Institute : Set. A, Law, p. 32.

activities that were previously beyond the reach of state functions, such as expanding the provision of social services to individuals and families in specific things, such as 'social security', health, social welfare, education, training and housing⁸.

But in its development, it has now been a shift in the meaning of the concept of Welfare and the Welfare State towards Workfare. As stated by Jimly Asshddiqie, Welfare and the Welfare State concept which emphasizes the responsibility of the state to provide assistance to the people, such as social assistance in health, education, poverty, and so forth, shifting toward an obligation and responsibility of the people themselves. Each person will be responsible for dealing with its problems itself, it is called "Workfare" Indications of a shift in meaning 'Welfare State' to 'Workfare' is, by John Naisbitt and Patricia Aburdence say, there has been a tendency to shift from government control to the personal authority , The shift is

evident in the 10 trends, which include⁹:

(1). Of ownership of state enterprises to private ownership / private; (2). Of the national health service to private health care; (3). Of the mechanisms of government policy shift market mechanisms; (4). Of people who receive welfare support to do the work assigned; (5). From the pattern of togetherness to individuals; (6). Government monopoly to the competing companies; (7). From government ownership to private enterprise industry; (8). From ownership to government industrial workers; (9). Of social security and insurance to switch to private investment; (10). Reduction of the tax burden to the tax¹⁰.

The role of the state began to be sued by the question "whether the state should be responsible for the people who can help themselves?"¹¹.

8 Vilheml Aubert, *The Rule of Law and the Promotional Function of Law in the Welfare State*, in *Dilemmas of Law in Welfare State*, European University Institute.

9 Moh. Mahfud MD, 2000, *Demokrasi Dan Konstitusi Di Indonesia, Studi Tentang Interaksi Politik Dan Kehidupan Ketatanegaraan*, Rineka Cipta, Jakarta, p. 11

10 Jimly Asshiddiqie, *Op.cit.*, p., p. 229.

11 *Ibid.*, p. 229-230., as stated by John Naisbitt dan Patricia Aburdence, any interested matter to 'individual empowerment' : 'From public housing to home-ownership, From monolitis national health service to private options, From government regulations to market mechanisms, From welfare to workfare, From collectivism to individualism, From government monopoly to competitive enterprise, From state industries to privatized companies, From state industries to employee ownership, From government Social Security plans to private insurance and invesment, From burderns to tax reductions'.

In a different version, the concept of Welfare State experienced a shift in its implementation, as stated by Ramesh Mishra, the concept of the welfare state among Western industrialized countries today have a serious¹², which is caused by several factors:

- (1) Inflation concomitant stalled economy.
- (2) A large number of unemployed.
- (3) The government's financial crisis.
- (4) The decline in economic resources for social services, then made a policy of reduction of social services in many countries.
- (5) The loss of trust for its citizens to welfare assistance through

social benefits provided by the government.

When observed from the two opinions mentioned above, that a shift in the meaning of the concept of the Welfare State is based on both the economy and employment / unemployment in the country, so that implementation is different from country to country. Opinions John Naissbitt and Patricia Aburdence, that the condition of a country that is capable of in terms of its economy and is ready to provide jobs for its citizens. Ramesh Mishra while the opposite opinion, contrary to the condition of a country that is experiencing economic crisis and the large number of unemployed.

In Workfare, state intervention is done by obliging approach for social assistance recipients strived to be able to enter the labor market. By providing the ability for the poor, Workfare pursuit to regulate and establish itself towards the changes. Including as basic requirements of each beneficiary for the poor of the government to work in the private

12 As stated by Ramesh Misrha : *"The outward signs of trouble are of course all too familiar. First, the onset of "stagflation" and the end of economic growth – not only has the resource base for social expenditure ceased to grow out more omniously, the welfare state is being seen as a barrier to economic recovery. Second, the end of ful-employment and the beginning of 'large-scale unemployment' in some countries. Third, the 'fiscal crisis' of the state. Fourth, a decline in the resources available to the social services followed, recently, by a deliberate policy of cutback in services in a number of countries. Fifth, a general of loss of confidence in the social system of the welfare state. The state's ability to manage the mixed economy, of which the social welfare sector is an integral part, is in serious doubt.*

sector where possible, otherwise in the governmental sector¹³.

2. Theory of the Welfare State in the Perspective of Islam,

Welfare state in Islam is not just a legal basis different from the West who just put sense. Islam also recognizes precisely sense but did not leave a revelation.

Welfare State the concept of Islam is understood as a responsibility of the state of social welfare aspects of physical needs (basic needs of life / basic needs) like material and spiritual terms¹⁴.

As the role of the Prophet Muhammad was sent in the world is a sacred mission affirmed in the Qur'an to be generous as whole beings human beings. Mercy mission

explicitly mentioned in the Koran, including helping one another in order to live happily (*Hayyat Tayyebah*) and welfare (*Falah*¹⁵):

The mission of the Holy Prophet is defined by the Qur'an to be merciful blessing (mercy) for all mankind. Some manifestations of this merciful blessing explicitly are stated in the Qur'an. Reviews these include, among others, the fostering of a 'good life' (*Hayyat Thafyyibah*) and welfare (*Falah*).

Here implies, the main purpose of which is carried in the mission of the Holy Prophet Muhammad is that his people achieve "a peaceful life" (*Hayyat Tayyebah*) and "prosperous" (*Falah*), since the life of the world until later in the hereafter.

'*Hayyat Tayyebah*' is contained in the Qur'an Surah An-Nahl verse 97¹⁶, which means: Those who do pious deeds, both men and women in a state of faith, verily to him will We give a good life and real will We give a reply to them

13 Said by Adam Wolfson, *...workfare an approach that would require able bodied recipients of welfare to enter the labor market. By forcing the poor to be like the rest of us, workfare seeks to manage and even (in the words of Congressman Bill Archer) to "transform" them. All include the basic requirement that for any aid poor people receive from the government, they must work, in the private sphere if possible but in the public sector if not. According to bill, 50 percent of welfare recipients must be working by 2002; even single mothers with children (over the age of one) should be required to work; and families receiving benefits will be cut off after five years.* Adam Wolfson, *Welfare Fixers*, dalam *Social Responsibility In The United States*, Electronic Journal Of The U.S. Information Agency, January, 1997, p. 31.

14 Q.S. 21 (Al-Anbiya') : 107.

15 Umar Chapra, *Islamic Welfare State and its Role in the Economy*, dalam Khursid Ahmad, *Studies in Islamic Economics*, The Islamic Foundation, United Kingdom, 1981, p.144-145.

16 Q.S. 16 (An-Nahl) : 97.

with a reward that is more than what they have done.

Meanwhile *'Falah'* Surat Al Hajj contained in paragraph 77¹⁷, which means: *O ye who believe, bow ye, ye bowed, worship your Lord and do righteousness, so that you get a victory.*

From the above description implies that the mission of the Prophet Muhammad as a prophet and leader of implies in it as the concept of the welfare state in Islam include the legal, political and various state policies in the field of economics that aims for the welfare of citizens in an atmosphere of affection and mutual help help, which should be done by the society organization, institutional and government officials, headed *'baladun thayyibatun warabbun ghafur'*¹⁸: prosperous country under the pleasure of Allah the Most Merciful.

In Islam, the main purpose of Sharia in the welfare of society by quoting the opinion of Imam Ghazali, Umar Chapra states: The

purpose of Sharia is to improve the welfare of the people involved in five cases, including: (1) protect the faith / religion, (2). life, (3) Mind, (4). progeny, and (5). property rights, and including any guarantee of protection of five public service is important and necessary:

Defines the objective of the Sharia to be the promotion of the welfare of people the which lies in safeguarding Reviews their faith, Reviews their life, Reviews their intellect, Reviews their posterity, and their property, and includes whatever Ensure that the safeguard of Reviews These five services of public interest and is desirable¹⁹.

That the teachings of Islam as contained in the Qur'anic injunctions and hadith, the conclusion that the social usefulness in Islam can be divided into three levels: 'necessity', 'fun' and 'repair': by surveying Islamic teachings and injunctions in the Qur'an 'an and Hadith, Came to the conclusion that social utilities in Islam may be divided into a three-level hierarchy:

17 Q.S. 22 (Al-Haji) : 77.

18 Q.S. 34 (Saba') : 15.

19 Umar Chapra, *Op.cit.*, p. 146.

Necessities, Conveniences, and Refinements²⁰.

For the implementation of the mission of proficiency level, Islam outlines steps that include: adjust in terms of reducing suffering, generations of affluent upbringing in an atmosphere of love and help each other, guarantee freedom from moral corruption, hunger, fear and mental distress. Here, the entire organization and institutions, including the state, will reflect the character of the message to be generous, and meet the "well-being" all citizens / people:

Reviews These include, among others, this fostering of "good life" (*Hayyat Tayyebah*) and "welfare" (*Falah*), provision of case and Alleviation of hardship, generation of prosperity, nurturing a climate of love and affection, and ensuring freedom from moral corruption. Hunger, fear, and mental tension. Hence, all organizations and institutions, Including the state, should reflect the character of

merciful blessing, and cater to the 'welfare' of all people²¹.

Broadly speaking, the implementation of social welfare in Islam include the well-being of individuals and the welfare of society consisting of:

(A). enhance the spiritual values of Islam to the individual and the community and (b). fulfillment of basic needs²² includes six things, which by Umar Chapra mentioned:

- (1) Training and education according to talent that I owned;
- (2) Prepared work according to their talents, abilities and competition and community needs;
- (3) Enough food and clothing;

21 M. Umar Chapra, *The Islamic Welfare State*, *Op.cit.*, p. 145.

22 *Ibid.*, p.146. as stated by Umar Chapra : *There can be little dispute that some of the basic material needs of individuals that must be satisfied are : (1) training and education to develop the innate abilities of the individual and to enable him to cater for his well-being independently without becoming a burden on others; (2). A suitable job, profession, or trade in keeping with his aptitude, ability, ambition, and needs of society so that he and society both benefit from his ability and training; (3). Adequate food and clothing; (4). Comfortable housing; (5). A general healthy environmenta combined with appropriate medical facilities, and (6). Adequate transport facilities to enable a worker to commute to his place of work without unreasonable discomfort and to convey his product to appropriate markets at reasonable cost.*

20 Anas Zarka, 1981, *Islamic Economics : An Approach to Human Welfare*, dalam Khurshid Ahmad, *Studies in Islamic Economics*, The Islamic Foundation, United Kingdom,p.13.

- (4) Comfortable home;
- (5) Environmental health in general, combined with a suitable health facilities, and (6). Fulfillment of transport facilities which facilitate workers to work and bring their products to market.

Opinion Afzalur Rahman line with Umar Chapra, that in Islam, social welfare has always been associated with the interests of society and the individual, or in other words they are complementary. In the Islamic system, individual goodness is seen as a public good, and vice versa, if the affluent society, people are well off, and if people are prosperous, society is also prospering. That the Islamic system everyone took responsibility for the welfare of others and social well-being of individuals and become mutually completed²³.

In addition, in terms of responsibility for the state of social welfare in order to maintain law and order in order to provide welfare for every citizen, he said: all the

interests that the objective of an Islamic state starts from the responsibility of the Islamic state is safeguarding the safety and integrity of the country to maintaining law and order to build a state that each individual as much as possible to gain strength and add to the welfare of society as a whole.

The all importance objective of an Islamic state are to safeguard the safeguard and integrity of the state, to maintain law and order to develop the country so that every individual in it may be Able to Realize his full potentialities and Contribute to the well-being of the whole²⁴

Regarding the concept of welfare state or the protection of society as a responsibility of the modern state, as stated by Anwarul Yaqin, the state used the law as a means to organize matters relating to education, ministry of health, protection of community members is weak (the elderly, women and children), eradication of social evils and economic exploitation, clean environment, and a variety of social services to the welfare of its

23 Afzalur Rahman, 1995, *Economic Doctrines of Islam*, terjemahan : Soeroyo, *Doktrin Ekonomi Islam*, Dana Bhakti Wakaf, Yogyakarta, p. 50-51.

24 Fazlur Rahman, *Implementation of the Islamic Concept of State in Pakistan Milieu*, Islamic Studies, 6 September, 1967, p. 205.

citizens. Modern government issued a large amount of money taken from the tax, social benefit and service. This interest is generally governed by the laws that are designed specifically:

The concept of welfare state or 'caring society' takes us fold within a variety of tasks the modern state undertakes to perform. The state uses the law to provide for such matters as education, health services, protection of weakens of society (such as woman, children and the erderly), Eradication of social evils and economic exploitation, a clear environment, and variety of social service for the welfare of its people. Modern government spend huge sums of money on a wide range of fiscal and social benefits and services. Usually Reviews These benefits are regulated by statutes especially designed for the purpose²⁵.

Social welfare approach as contained in the Qur'an and the Sunnah of the Prophet, proven approach to Islam through the approach of the family welfare and public welfare / people²⁶.

25 Anwarul Yaqin, 1997, *Law and Society in Malaysia*, International Law Book Service, Kuala Lumpur, p. 21.

26 *Ibid.*, p. 309. stated : *In its effort to create a caring societ, Islam lays stress on the importences of the family as the basic social unit whose members should be bound by ties of love, help and cooperation and empasises the need to create awarness among people of the need to*

In contrast to Western countries where the implementation of social welfare have a double motivation. For example, social security for the workers of the company. In terms of the benefits it is driven by the interests of the establishment of the company, to protect their investment. It serves as an incentive allowance of workers to increase their productivity. In other words, the benefit it provides a positive effect for the company. In terms of the interests of workers, people will judge that it contains motivational benefits humanity. However, the motivation which at first seemed very dominant, because in reality, the capitalist

extend help to poor and needs. Ample evidence exist in the Quran and the Sunnah of the Prophet to show that Islam uses two approaches : family welfare and general welfare as the basic strategies toward creating a welfare society. The foundation of social welfare in Islam based approach to family welfare and public welfare / public, can be raised:

(1). Q.S. 17 (Al-Isro') : 23 : *And your Lord has decreed that you worship none other than Him and that you be kind to your parents wisely. If one of them or both of them attain old age in thy life shall never say not to them saying "ah/Hus!" and do not repel them but speak to them a noble word.*

(2). Q.S. 2 (Al Baqarah) : 215 : *They ask you about what they should spend. Say, whatever wealth you spend shall be given to their parents, relatives, orphans, the poor and people who are traveling. And whatever good you do, Allah is All-Knowing.*

system has always put the interest of their capital. Even if social security should be provided cost-benefit calculations companies may neglected²⁷.

C. CONCLUSION

From the description of the theory of the Welfare State in the perspective of the West and Islam that have been described above, some conclusions can be drawn:

1. Object element.

Welfare State in West prioritizes the welfare of individuals that includes the material terms (the basic necessities of life / basic needs) and social service.

Meanwhile, the Welfare State Islam, primacy of the welfare of the family and society, which concluded terms of spiritual, material (the basic necessities of life / basic needs), and social service.

2. Subject element.

Subjects Welfare State West, the state and society. State responsible, but can also just as liability for a claim of rights of its citizens. The state should not intervene the market economy.

Meanwhile, in the Islamic State Welfare, state and society. The State is responsible and liable for the welfare of its citizens with the help of the community. Not just liability arising out of any claim of the rights of its citizens. The state can intervene in economic behavior.

3. Elements of Interest.

Welfare State in West is only concerned with the life of the world (material wealth) only, while the Islamic Welfare State concerned a prosperous and peaceful life (*hayyat tayyibah* and *falah*) in the world and the hereafter. State aims '*baladun thayyibatun warabbun ghafur*'.

4. Subject Elements of Law.

Welfare State in West on the view of scientists, as well as heads of state policy lines, while the Islamic Welfare State based on Qur'an, Hadith and Ijma.

²⁷ *Ibid*

BIBLIOGRAPHY :

Books:

Al Qur'anul Karim

Adam Wolfson, *Welfare Fixers*, dalam *Social Responsibility In The United States*, U.S.Society & Values, Electric Journals Of The US Information Agency, Number 20, 1997

Afzalur Rahman, 1995, *Economy Doctrin of Islam*, terjemahan Soerojo, *Doktrin Ekonomi Islam*, Dana Bhakti Wakaf, Yogyakarta, 1995

Bryan A Gamer, *Black's Law Dictionary Seventh Edition*, West Group St Paul, Minn, 1990

Faruq an-Nabahan, M, 2000, *al-Iqtishad al-Islam*, terjemahan, Muhadi Zainuddin, *Sistem Ekonomi Islam, Pilihan Setelah Kegagalan Sistem Kapitalis dan Sosialis*, UII Press, Yogyakarta;

Gunther Teubner, 1986, *Dilemmas of Law in the Welfare State*, Walter de Gruyter & Co., Berlin-New York;

Jimly Assiddiqie, 1994, *Gagasan Kedaulatan Rakyat Dalam Konstitusi Dan Pelaksanaannya Di Indonesia*, Ichtisar Baru Van Hoeve, Jakarta;

Khursid Ahmad, 1981, *Studies in Islamic Economics*, The Islamis Foundation, United Kingdom;

Moh, Mahfud MD, 2000, *Demokrasi dan Konstitusi di Indonesia, Studi Tentang Interaksi Politik dan Kehidupan Ketatanegaraan*, Rineka Cipta, Jakarta;

Ross Cranston, 1985, *Legal Foundation of the Welfare State*, Weidenfeld and Nicolson Ltd., London;

Ramesh Mishra, 1984, *The Welfare State in Crisis : Social Thought and Social Change*, Havester Wheatsef, London;

Safri Nugraha, 2000, *Privatisation of State Enterprises In The 20th Century A Step Forwards Or Backwards?*, University of Indonesia, Faculty of Law, Jakarta;