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Realizing Welfare State and Social Justice: A Perspective on Islamic Law

Article	Abstract
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INTRODUCTION

Indonesia as the world's first largest Muslim country is a unique country, because although it is majority Muslim, it is not a literary Islamic nation. Islam is able to grow and adapt to the dynamics of a plural local political culture. Indonesia is not a country of certain religion, but it accepts the existence of religion as a supporter of the national and state system. Therefore, Indonesia is known as a religious nation. History records that since Indonesia was still the forerunner of the nation-

state until the realization of an authentic form of Indonesia, Indonesian Muslims have played a significant role in all spheres of social, political, legal and economic life.¹

The state of Indonesia based on its constitution, Article 33 Paragraph (1) of the 1945 Constitution states that: The economy is structured as a joint effort based on the principle of family. This provision protects the meaning that the economic system developed in Indonesia is not based on free competition and individualistic principles. This provision also confirms that Indonesia has the ideology of the welfare state.

The provisions of Article 33 were maintained until the end of the 1945 Constitution Amendment process four times from 1999 to 2002. The result of the amendment of the 1945 Constitution to the provisions of Article 33 is actually better refined from Article 33 before the amendment, namely from 3 Paragraphs to 5 Paragraphs and puts Chapter XIV into the “National Economy and Social Welfare”. The goal is to connect systemically between the concept of economic-based justice and efforts to ensure the prosperity of the people.²

The provisions of Article 33 of the 1945 Constitution are the main concept that distinguishes between the country of Indonesia and countries in Western Europe, such as the United States, Denmark, Finland, Ireland, Luxembourg, France, the Netherlands, Switzerland, Austria, and Belgium. Because in general the country does not put the concept of economic-based welfare in its constitution and usually only lists aspects of political independence. In contrast, the countries of the former Soviet Union, Vietnam, Germany, Czechoslovakia, PRC, Bulgaria, Syria, Iran, and Indonesia contain their economic arrangements in their constitutions.³

Indeed, there are two models of state ideology, namely the liberal state and the welfare state. In a state of liberal, ideology only regulates the issue of political order that is public rather than private, this model then gives birth to the ideology of the capitalist state and leads to the state being released in an economic arrangement. On the contrary, the ideology of welfare demands the role of the state in regulating the economy and putting the state in a position to regulate public and private affairs while ultimately giving birth to the model of a socialist state.

Along the course of history, the system of capitalism defeated the system of welfare. Today capitalism has become a universal view of the life of countries. So the idea of liberalization in the political and economic fields and even law has become a belief as if only by practicing the liberal system of world prosperity can be created.⁴

This concrete form of the universality of capitalism can be found when the world experiences a monetary crisis that causes a political crisis, the panacea is only one, namely involving financial donor institutions, such as the World Bank, imf, and liberalization in various sectors of free markets, free trade, encouraging foreign investors as much as possible, the state debt continues to

¹ Martin van Bruinessen, “Indonesien Am Ende Des 20,” in *Islamic State or State Islam? Fifty Years of State-Islam Relations in Indonesia* (Hamburg: Abera-Verlag, 1996), 96.

² Agus Riwanto, “Gugat Amandemen UUD 1945,” *Seputar Indonesia*, February 6, 2007.

³ Jimly Ashiddiqie, *Hukum Tata Negara Dan Pilar-Pilar Demokrasi*. (Jakarta: Konpress, 2005), 123–41.”publisher”:”Konpress”,”publisher-place”:”Jakarta”,”title”:”Hukum Tata Negara dan Pilar-Pilar Demokrasi.”,”author”:[{“family”:”Ashiddiqie”,”given”:”Jimly”}],”issued”:{“date-parts”:[[“2005”]]},”locator”:”123-141”,”label”:”page”}],”schema”:”https://github.com/citation-style-language/schema/raw/master/csl-citation.json”}

⁴ Muh Abdul Halim, “Mengkaji Peran Negara Dalam Pembangunan Kesejahteraan Sosial Di Indonesia,” *Jurnal Equilibrium* 3 (2006): 4–5.

be increased to support national development, and even finally forced to do: privatization of SOEs, deregulation of the market economy system. As a result, the state submits to market law and the state is no longer involved in the country's economy.

This capitalist economic system also affects the shift in legal justice, the law is also dragged into the territory of capitalist economic philosophy, namely liberal. The law is also liberal and only favors justice that is positivistic and individualistic.

The concept of rule of law and constitutional which is a derivative of liberal law requires with the charge of saving freedom and human freedom. The struggle to maintain human freedom and independence has led to a new significant problem, namely the world of “legal procedures”. Eventually substantive law shifted to the law of procedure. The legal justice of the procedure defeated substantive justice. In many countries it is influenced by the global economic capitalism system, including Indonesia whose the law is also liberal.⁵

Indeed, the ideology of the welfare state is commensurate with the concept of Islam which offers the concept of the need for the active role of the state in distributing justice and welfare of the people and does not rely on markets and free competition. The state version of Islamic law also balances protection between individuals and communities. So Islam offers in addition to respecting the property rights of individuals as well as the property rights of society. According to Ibn Khaldun this concept is called the “Dynamic Model of Islam”.

In the concept of the Islamic version of the welfare state adheres to the balance of the role of the state and individuals in realizing welfare. In the ideology of the Islamic version of the welfare state, individuals are not released freely so as to become liberals and the state still plays a role in controlling its social functions to distribute economic justice. It needs ideas to offer Islam in realizing the model of the welfare state. This teaching of Islam can be an alternative solution in countering the capitalist economic system (compassionate capitalism) and realizing justice in distributing economic welfare.

It takes a legal political strategy (policy) to fight capitalism not to annihilate, because ideology will live all the time, other than conquering it so that the ideology of the liberal state that gave birth to a capitalist economy is more humane.⁶ Based on the above ideas, the question which may arise are why there is a conflict between the concept of the welfare state and the liberal state (capitalism state) in creating social justice and how does Islamic discourse offer the concept of *Maqashid asy-Shari'ah* in creating social justice.

RESEARCH METHODS

The method used in this article is socio-legal law research, which is by combining the perspectives of interdisciplinary social sciences or social science diversity.⁷ The approach used in the writing of this article is a philosophical approach by finding the principles of the purpose of

⁵ Satjipto Rahardjo, “Rekonstruksi Pemikiran Hukum Di Era Reformasi” (National Seminar PDIH Undip, Semarang, 2000).

⁶ Edi Suharto, *Globalisasi, Kapitalisme Dan Negara Kesejahteraan : Mengkaji Peran Negara Dalam Pembangunan Kesejahteraan Sosial Di Indonesia* (blog), accessed May 6, 2022, <https://www.kompasiana.com/redroses/550b10be813311f813b1e476/globalisasi-kapitalisme-dan-negara-kesejahteraan>.

⁷ Jan Michiel Otto, *Some Introductory Remarks on Law, Governance and Development* (Leiden: Van Vollenhoven Institute, Faculty of Law, Lieden University, 2007), 14–15.

Islamic law (*Maqasid asy-Sharia*) in the form of implementing five principles of Islamic Sharia goals, namely maintaining, property, descendants, souls, and reason. An effort to be a solution in bridging the conflict between concept of the welfare state and the liberal state.

ANALYSIS AND DISCUSSION

Conflicting Concept of Welfare State and Liberals

Capitalism as a new system developed in the 16th century and was perfected and maximized by Adam Smith in the 17th century. Capitalism is a term used to name the economic system that has dominated the Western world since the collapse of feudalism. The so-called capitalist is the relationship between the parties who have personal rights to the means of production that are non-personal (property, the results of the exploration of the earth, industrial tools). It is referred to as capital or capital. Workers are free, but they have capital and they only sell their labor services to their employers. Under capitalism decisions concerning production are made by private businesses and directed at personal gain.⁸

Adam Smith advocated dismantling the state bureaucracy and leaving economic decisions to freely regulating market forces. Personal gain and general well-being can be synergized by the impersonal forces of market competition. Since the 19th century after the French revolution, Adam Smith's ideas began to be carried out by designing a laissez-faire system of political liberalism consisting of the principles of free trade, balanced spending budgets, strong finances, but assistance to the minimalist poor. In short, it begins to distance the role of the state from the economic process and deify the market as the main regulator of economic activity.

In the context of capitalism, Marshall argued that citizens have a collective obligation to fight for the welfare of others through institutions called the state. The imperfection of the market in providing social services to which citizens are entitled has led to injustice. Market injustice must be reduced by the state to ensure social stability and reduce the negative effects of capitalism. The welfare state system as compensation must be paid by the ruling and working classes to create social stability and maintain capitalist society. The social services provided are essentially material expressions of citizens' rights in response to the consequent consequences of capitalism.⁹

Now capitalism along with the dominance of the United States in the global economy and mastery of its economic networks as well as the mastery of information networks, the capitalist economic system has been run by nations around the world has even become a world trend. Even globalization which is also associated with the global economic system, namely capitalism, will further marginalize the country as stated by Martin Wolf, "Doomsayers predict that globalization will weaken national governments".¹⁰

To understand the concept of neoliberalism rather completely can be traced only to the history of the birth of neoliberalism. The international financial crisis can be divided into several stages, namely the first generation crisis in the form of the Latin American crisis of the 1980s, the second crisis in the form of the Mexican crisis in the 1990s, the third crisis in the form of the Asian crisis in 1997/1998, and now the sub-prime mortgage crisis in the US.

⁸ Dawam Rahardjo, *Kapitalisme, Dulu Dan Sekarang* (Jakarta: LP3ES, 1987), 88.

⁹ Suharto.

¹⁰ Martin Wolf, "Will the Nation-State Survive Globalization?," *Foreign Affairs* 80, no. 1 (February 2001): 178–90.

Within the framework of austerity the program was made a deal called the Washington Consensus to address the Latin American economic crisis of the 1980s that caused by the inability to pay the Debt of the Mexican government in 1982. Dani Roderick (1996) formulated elements of the Washington Consensus in 10 items, namely (1) fiscal discipline, (2) redirection of public expenditure priorities towards health, education and infrastructure, (3) tax reform, including the broadening of tax base and cutting marginal tax rates, (4) Unified and competitive exchange rates, (5) secure property rights, (6) deregulation, (7) trade liberalization, (8) privatization, (9) elimination of barriers to direct foreign investment, and (10) financial liberalization¹¹.

According to Awali Rizky and Nasyith Majidi (2008) the Washington consensus requires the necessity of (1) fiscal tightening policies, (2) privatization policies, especially state-owned enterprises, and (3) policies of market liberalization programs so that foreign capital can enter unimpeded. The points of the Washington Consensus are suspected as the basis of neoliberal economics which is the latest form of the school of capitalism. The latest school of capitalism emphasizes the freedom of the market to easily enter the market of each country in order to develop investments, market goods, or exploit other countries' natural resources without obstacles.

The Concept of Social Justice in Islam

In arranging social relations between peoples in the form of transactions of Islamic economic value has an economic concept derived from the basic values of the Qur'an and al-Hadith, Ijmak and Qiyas. This economic concept is known as the Shari'ah economy which has at least a number of goals, namely:

First, the concept of economic well-being as a manifestation of Islamic morality can be read from several legal norms in a number of verses al-Qur'an, among others: (QS. Al-Baqarah verses 2 & 168, Al-Maidah verses 87-88, Al-Jumu'ah verse 10). Second, the concept of the need to have a society with an established social order based on awareness and prosperity and justice, can be seen in a number of verses (Qs. Al-Hujuraat verse 13, Al-Maidah verse 8, Asy-Syu'araa verse 183). Third, the need for a balanced and equitable distribution of income and wealth (QS. Al-An'am verse 165, An-Nahl verse 71, Az-Zukhruf verse 32). Fourth, there is a guarantee of individual freedom that is restricted solely to achieving common prosperity (QS. Ar-Ra'du verse 36, Luqman verse 22).

The norms in the Qur'an are actually commensurate with the concept of the "Dynamic Model of Islam" or model of Islamic dynamics developed by Ibn Khaldun. Where this concept prioritizes the eight principles of an ideal Islamic society based on cooperation and social solidarity, namely:

- (1). The government will run well if it runs based on the principles of Islamic sharia objectives.
- (2). The principles and teachings of Shariah will not work without government.
- (3). The people are the owners of the concerns of the state so that the government must be based on the mandate of the people.
- (4). Wealth is an important instrument of the course of an egalitarian society.
- (5). Development is the key to success in building society.
- (6). Justice is the key to development goals

¹¹ Nizam Jim Wiryawan, "Washington Consensus Dan Alternatif Pembangunan," *Media Indonesia*, May 28, 2009.

- (7). Allah SWT will test the government in carrying out justice in construction.
- (8). The government's main responsibility is to conduct equitable public services.¹²

Society in a government according to its nature is a human being who prefers to live together. That is why instinctively living humans always need others and cooperate in achieving the goal of prosperity. So community solidarity supported by helping each other is the path of Sharia-based Islamic economy.

The consistency of Islam in the need to uphold economic justice in the form of equalization and proper distribution in all societies regardless of a particular social class is at the core of the Teachings of the Qur'an in economics. As stated by Ali Syariati who states that, 2/3a verses of the Qur'an contain the obligation to uphold the value of justice and avoid kezhaliman or zhulm, itsm and dhalal.¹³

Therefore, the concept of socio-economic justice and economic Islamic perspective, sourced from the earnestness of the values of spirituality, social solidarity and friendship between mankind regardless of origin. The explicit teachings of Islam through the Qur'an teach the virtues of prayer and justice.

The ideal concept of civil Islamic society is to express the spirituality and justice. The two are inseparable and become one. Integrating the two into social life is part of the Islamic spirituality and is worth worshiping in Islam. So social resources must be sought to realize this universal justice and spirituality to realize the main tujuan of Islamic sharia (*maqasshid asy-sharia*) namely the fulfillment of the primary needs of clothing, food and boards and health.¹⁴ That is why on the basis of the principle of brotherhood and justice that the government in the Islamic concept is asked to be able to be as a guarantor of the distribution of resources from Islam, such as *zakat*, *infaak*, *shodaqoh*, *kharaj tax*, *jizya*, and export-import excise.¹⁵

The Disadvantages of Capitalism in Indonesia

Negative consequences of the reality of the change of the traditional economic system to the economic system of global capitalism:

First, the economic system is subject to the free market and the birth of liberal competition (free fight liberalism) and more importantly the existence of relitas releasing the state from economic arrangements that are only left to the market.

This liberal competition-based economic system will if applied in Indonesia certainly contrast with the principles stipulated in Article 33 of the 1945 Constitution post-trial which basically the economic system is compiled on the basis of kinship and strengthening the role of the state in regulating the economy. If Indonesia adheres to a capitalist economy, the country's economic system will not only be friendly to the liberalization of the global economy, but will also encourage the spread of propaganda on the US agenda. As a result, Indonesia has been co-opted and controlled

¹² Hayatullah Laluddin, "Conception of Society and Its Characteristics from an Islamic Perspective," *International Journal of Islamic Thought* 6 (December 2014): 12–25.

¹³ Majid Khadduri, *The Islamic Conception of Justice* (USA: Johns Hopkins University Press, 1984), 10.

¹⁴ al-Syatibi, *Al-Muwafaqat* (Kairo: Salafiyyah, 1923), 256.

¹⁵ Agustianto, "Keadilan Ekonomi Islam," accessed May 6, 2022, http://ppa.ub.ac.id/index.php?option=com_content&view=article&id=3&Itemid=57.

by the United States. According to an official U.S. government document titled “U.S. National Security Strategy” published on September 17, 2002, the U.S. does not consider free trade as an economic goal, but rather as a strategic component and their safety and security:

The primary drivers of economic growth are trade and investment. Even if government help increases, trade must still provide the majority of funds for development. Both domestic and international capital are available. A successful approach must also attempt to expand the flows. Our national security strategy prioritizes free markets and free trade.

Thus the practice of liberalizing free trade not only poses economic risks, but also threatens the resilience and national defense of countries as a whole.

This practice of free trade in various aspects of life, especially the economy, had a significant impact on the challenges of applying the concept of the welfare state in the 1945 Constitution. As Jimly Asshiddiqie points out, the development toward liberalization, both in the political and economic spheres, which is happening today and is likely to continue in the future, is essentially a claim of existence that goes against the principles of the welfare state.¹⁶

Second, changes in the global capitalist economic system also influenced the legal paradigm into liberal law, both principles and doctrines. Because in fact there are a number of variables that can affect law and social change, namely: globalization, socio-cultural, political, economic, judicial, the development of science and technology and the rule of law.¹⁷ The philosophy of liberalism that underpins modern law centers on individual independence and individual protection. Liberal values and individual independence are paradigms in the modern legal system.

The philosophy of legal liberalism contains 2 (two) meanings: (a) a liberal legal system is designed primarily to provide protection against individual independence. It is an important task of the legal system to elaborate and explain the philosophy into the building of the law. So all substance, doctrine, principles and other equipment are applied to secure the paradigm of liberal values. (2) The liberal legal system is not designed to think about and provide broad justice to society. Therefore the legal system is not held to provide justice to society, but rather to protect the independence of the individual.¹⁸

With a national legal system based on the philosophy of liberalism, law enforcement tends to protect the interests and freedoms of individuals and a certain group rather than protect the interests of many people. The huku system favors individual independence over truth and justice. The enforcement of such a law inevitably resulted in the emergence of two dichotomous interest groups as stated by Ralf Dahrendorf : “The difference in degree of domination may be often is, very great. basically, however, there remains two class system.... That is, those who participate in the authority structure through domination and those who do not through subjection”.¹⁹

On the issue of the alignment of this law in this particular class, Satjipto Rahardjo stated: “Because the law is the mirroring of political, social, economic, and cultural relations and realizing the conditions for the establishment of those relationships, it is increasingly realized, that the law

¹⁶ “Politik Hukum Negara Kesejahteraan Indonesia,” in *Bunga Rampai Pemikiran Hukum Di Indonesia* (Yogyakarta: FH UII Press, 2009).

¹⁷ R.B Soemanto, “Faktor-Faktor Berpengaruh Pada Hukum Dan Perubahan Sosial” (Course Material Hukum dan Perubahan Sosial Program Doktor Ilmu Hukum UNS, April 25, 2010).

¹⁸ Satjipto Rahardjo, “Hukum Kita Liberal, Apa Yang Dapat Kita Lakukan ?,” *Harian Kompas*, Desember 2000.

¹⁹ George Ritzer and Douglas J Goodman, *Teori Sosiologi Modern* (Jakarta: Prenanda Media Group, 1997).

contains the characteristics of the class (the class character of law); The legal system is a mechanism that directly or indirectly serves the interests of the economic class and the dominant political class.”²⁰ It is because laws and regulations are the crystallization of the values of certain values in accordance with political preferences that develop when they are made.

Thus it can be understood that the group that can master the aspirations in lawmaking institutions is the dominant in pouring the values and ideas of the law in a product of legislation. Because the global capitalist economic system encourages the modernization of social and political systems, it will give birth to a rigid and positiveistic legal bureaucracy, thus upholding substantive justice.²¹ Economic liberalization has manifestly given birth to a liberal legal madzhab that favors a certain economic class of political control elite groups, so modern law is no longer able to realize the existence of law, namely protecting, protecting, providing a sense of justice and realizing the general welfare. Modern law condemns Mac Galanter's phrases to be orderly, universal, written, individualistic, uniform and liberal more reflective of the state of power (*machstaat*) than the state of law (*rechstaat*).

The Conception of *Maqashid Asy-Sharia* and Social Justice

The difference between the economic concepts of capitalism and Islamic economics is found in the individual principles they espouse. While capitalism strongly supports business freedom and the spirit of competition between individuals, it fails to take into account the accumulation of wealth, its development through usury and capital accumulation, as well as the problem of spending that ignores social values. “Homo-homini lupus” is a more precise principle (humans are wolves to other humans). Attention to the interests of others is only done by paying attention to the addition of benefits (marginal profit and utility), as explained in the concept (pareto optimum improvement) pareto optimum improvement.

Similarly, the concept of socialism has a common understanding, namely prioritizing social interests and welfare over the interests and welfare of the individual. It is just that there is a striking difference, because in achieving it, socialism blames the rich (capitalists) and wants to try to impoverish the rich group by depriving individuals of property rights, especially on the means of production. Islam has never advocated antagonizing wealth and the rich. Even Islam itself recommends that everyone become rich as part of the happiness that must be achieved in the world. Islamic economics chooses the path of justice in achieving social welfare. That the social welfare achieved must be built on the foundation of justice. Islamic economics, like Islam, has a moderate attitude (*wasthiyyah*).

Islamic social and economic justice is in a middle and balanced position (equilibrium) between capital and business, production and consumption, and income issues. There are at least four things that are common characteristics of Islamic economics that distinguish it from the economic concept of capitalism, namely:

1. Prohibition of usury. (QS 2:275-280).
2. Ziswaf implementation. (QS 9:103)

²⁰ Satjipto Rahardjo, *Hukum, Masyarakat Dan Pembangunan* (Bandung: Alumni, 1981), 47–55.

²¹ Satjipto Rahardjo, “Menghukum,” *Harian Kompas*, June 3, 1999.

3. Production and Consumption of halal goods. (QS 2:168)
4. Not extravagant and luxurious. (QS 25:67)

These are the four things that neither capitalism nor socialism have. On the other hand, Islamic economics has affirmed its purpose within the framework of *maqashid al-shari'ah* which includes the guarding of religion, property, ancestry, soul, and reason. These five things must be preserved in a person's life. The economic system is based on the values of the Qur'an and Sunnah, Islamic Economics is also part of the problem of *muamalah*, therefore the provision applies that all *muamalah* activities are basically permissible (*mubah*), unless there is Sharia that prohibits it. The opposite of the problem of worship. So, any development in Islamic economy can be carried out as widely as possible as long as it does not violate the established sharia.

According to the islamic economic concept, the implementation of social and economic justice is based on a sense of friendship (*ukhuwah*), mutual love (*mahabbah*), mutual support (*takaful*), and help (*ta'awun*), both between the rich and the poor. and between the ruler and the people.²²

One of the strategic offers in the future in creating a just social and economic system in Indonesia is to encourage the concept of economic justice this version of Islam coloring in Indonesia's economic policy making. Of course, with the hope that Indonesia does not dissolve in the pull of the capitalist economic system that is pro-individual freedom and freedom of competition (free fight liberalism) without moral control.

The presence of Law Number 21 of 2008 concerning Islamic Banking which is the principle, purpose, and function to regulate the principles of Shariah used, as well as adhere to economic democracy and the principle of prudence. With the aim of supporting the implementation of national development that improves justice, togetherness, and equitable welfare of the people. Become very important. The difference between Islamic banking and conventional banking lies in the interest system and profit sharing. The main difference lies in the type of profit taken by the bank and the transactions made. If conventional banks base profits and interest taking, then Sharia banks take advantage of wages (*ujrah* or fees). Whether in the form of service services (fee-based income), mark-up or profit margin or profit sharing (loss and profit sharing). Therefore, Islamic banks are called Islamic banks (Islamic banking), interest-free banks and banks without *riba*.²³

The principles of Shari'ah economy and business in the explanation of Article 49 letter (i) of Law Number 7 of 1989 and Law Number 3 of 2006 and Law Number 50 of 2009 concerning Religious Justice, state that, "Sharia Economy" is an act or business activity carried out according to sharia principles, which include: 1.Bank Syariah; 2.Sharia Insurance; 3.Sharia Reinsurance; 4.Sharia Mutual Funds; 5.Sharia Bonds; 6.Sharia Securities; 7.Sharia Medium Term Securities; 8.Sharia Securities; 9.Sharia Financing; 10.Sharia Pawnshop; 11.Sharia Pension Fund; 12.Sharia business; 13.Sharia Microfinance Institutions. This is all expected to be one alternative solution to counter the liberal economic system.

Another strategy for designing a just economy in accordance with the intent and purpose of the Islamic version of the welfare state concept is to strengthen the role of the state by developing

²² Agustianto, "Keadilan Ekonomi Islam."

²³ Priyo Handoko, "Hukum Ekonomi Syari'ah," Kompasiana, n.d., <http://hukum.kompasiana.com/2013/07/16/hukum-ekonomi-syariah-bagian-v-574076.html>.

distributive economic justice, or the perception of justice in relation to the magnitude of the results of distribution and exchange of resources received by society and an individual who is different from other people or groups. In this concept the differences of individuals and societies require that the basic structure of society be arranged in such a way that differences in the prospects of obtaining basic needs such as well-being, income, are more favorable to the most disadvantaged people. Then this concept of social justice in Islam must be fought for two purposes:

First, by presenting social, economic, and political structures that empower the weak in order to improve social conditions that are inequality. Second, every regulation must be a model for setting policies to overcome injustices faced by the weak. In terms of macroeconomics, the first step that must be done is to reform state institutions that should take the form of effective governance towards excellent and clean governance. Efficiency is an understanding that refers to a way to achieve great prosperity. When goods and services are distributed for the benefit of society as a whole, well-being is considered to have reached the highest level.²⁴

In Islam the idea of building a clean government (good governance) has not been codified in law, but the behavior of the prophet's leadership that reflects the nature of *shiddiq* (honest), *istiqamah* (firm in the establishment), *fathanah* (intelligence: ratio, taste and divinity), trust (accountability) are characteristics commensurate with the encouragement of good governance in the definition of modern political bureaucracy.²⁵

CONCLUSION

Based on the description above it can be concluded that there are two models of the concept of statehood, namely the welfare state and liberal state or capitalism state. In the concept of the welfare state it is necessary for the role of the state in regulating social justice and individual justice that will give birth to a socialist economy, but in the concept of a liberal state the state does not play a role in regulating social justice and private individual justice. In this situation then it will give birth to a capitalist economic system. Islam offers the concept of social justice through the interpretation of the basic principles of the objectives of Islamic Sharia (*Maqashid as-Sharia*) which is different from the concept of a capitalist state which mainly related to the realization of the principles of the individual it adheres to. The concept of a capitalist state highly upholds freedom of effort in the spirit of competition between individuals without taking issue seriously on the accumulation of wealth, its development in usury and the accumulation of capital, and stripping away social values. The concept of Islamic social justice is instead in the middle and balancing the position (equilibrium) between capital and business, production and consumption, and income issues.

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²⁴ Chatamarrasyid Ais, "Pendekatan Ekonomi Terhadap Hukum" (Professor Speech in the Acceptance Permanent Professors at the Faculty of Law Universitas Yarsi, Jakarta, October 4, 2003).

²⁵ Andi Fasil Bakti, "Good Governance Dalam Islam, Gagasan Dan Pengalaman," in *Islam Negara Dan Civil Society, Gerakan Dan Pemikiran Islam Kontemporer* (Jakarta: Paramadina, 2005), 77–83.

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