

# The formulation of welfare state: the perspective of *Maqāṣid* *al-Sharī'ah*

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## Abstract

This paper examines empirical facts of market failure and government failure to improve people's welfare; capitalism and neo-liberalism do not provide a space for states to implement policies for social justice. With regard to the failure of the welfare state to bring the citizen to fair welfare, this paper offers the formulation of a welfare state based on *Maqāṣid Al-Sharī'ah*. This study employs *Maqāṣid*

*Al-Sharī'ah* developed by Imam Al-Juwaini, Izzu al-Din bin 'Abd al-Salam, Abu Ishaq al-Shatibi and Al-Tahir Ibn 'Ashur as the methodological framework. It formulates welfare state of *maqāṣid al-sharī'ah*, which is built through the fulfillment of the three levels of individual needs (citizens) (*al-Ḍarūrīyah*, *al-ḥājīyyah* and *al-taḥsīnīyah*; primary, secondary and supplementary rights), public needs (equal distribution; *al-ḥājah al-'ammah*), protection or assurance (*al-ismah*), and law enforcement (*al-ḥurrah* (order), equality (*al-musāwah*), freedom (*al-ḥurīyah*), magnanimity (*al-samḥah*)). The morality-spirituality-religiosity and transcendence principles develop the formulation. The *maqāṣid al-sharī'ah* should be the "soul" of every policies and rules or laws. The development of the formulation of welfare state based on *Maqāṣid al-Sharī'ah* will build Islamic man/religious man (citizen), who is prosperous spiritually and materially.

Artikel ini mengkaji kenyataan empiris mengenai kegagalan pasar (*market failure*) dan kegagalan negara (*government failure*) dalam meningkatkan kesejahteraan rakyat, kapitalisme dan neo-liberalisme tidak memberikan tempat bagi negara untuk melakukan kebijakan demi keadilan sosial. Berdasarkan kegagalan negara kesejahteraan menghantarkan warga negara menuju kesejahteraan yang berkeadilan maka tulisan ini menawarkan formulasi negara kesejahteraan berdasarkan *Maqāṣid al-Sharī'ah*. Kajian ini mempergunakan *Maqāṣid al-Sharī'ah* sebagai kerangka metodologis yang dikembangkan oleh Imam Al-Juwaini, Izzu al-Din bin 'Abd al-Salam, Abu Ishaq al-Shatibi dan Al-Tahir Ibn 'Ashur. Kajian ini memformulasikan negara kesejahteraan berdasarkan *maqāṣid al-sharī'ah* yang dibangun melalui pemenuhan kebutuhan individu (warga negara) berdasarkan tingkatannya; *al-Ḍarūrīyah*, *al-ḥājīyyah* dan *al-taḥsīnīyah* (hak primer, sekunder dan suplementer), kebutuhan publik, (*al-ḥūjah al-'ammah*) terealisasi pendistribusian yang merata, adanya proteksi atau jaminan (*al-iṣmah*) dan tegaknya hukum melalui, *al-ḥurrah* (ketertiban), *equality* (*al-musāwah*) kesetaraan, *freedom* (*al-ḥurīyah*) kebebasan, *magnanimity* (*al-samḥah*) toleransi. Formulasi tersebut dibangun dengan landasan mor-

al-spiritual - religius dan transendental. Menjadikannya “roh” pada setiap kebutuhan dalam membuat kebijakan, peraturan-peraturan atau perundang-undangan. Dengan terwujudnya formulasi negara kesejahteraan berdasarkan *Maqāṣid al-Sharī'ah* akan melahirkan *islamic man*/manusia religius/karakter (warga negara) yang beriman atau pribadi yang memiliki karakter, sejahtera secara batin (spiritual) dan lahir (material).

**Keywords:** *Neo-liberalism; Maqāṣid al-sharī'ah; Welfare state; Justice*

## Introduction

The idea of welfare state has become discursive practice since the mid-20th century (1970s). Contemporary studies of the modern welfare state have attracted historians, political scientists, and other social scientists.<sup>1</sup> The welfare state is regarded as the most appropriate answer to the form of state involvement in the promotion of people's welfare. The emergence of empirical facts about market failures and government failures to improve people's welfare boost this belief.<sup>2</sup>

Mishra argues that the globalization has limited the capacity of the state to promote social protection.<sup>3</sup> Even Francis Fukuyama points out the reduction of the roles and strategic functions of states, which may aggravate poverty and social gap and cause social conflict and civil war.<sup>4</sup>

The transformation of the capitalistic paradigm undergoes an extreme leap toward neoliberalism. Neoliberalism increasingly leaves no room for

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<sup>1</sup> John Myles dan Jill Quadagno, “Political Theories of the Welfare State”, *Social Service Review*, Volume 76, No. 1, 75th Anniversary Issue (2002), 34-57.

<sup>2</sup> William R. Keech, “Market Failure and Government Failure. Paper submitted for presentation to Public Choice World Congress”, Public Version 1.0–2-27-12, (2012), 5.

<sup>3</sup> Mishra Ramesh, *Globalization and the Welfare State*, London: McMillan, 2000.

<sup>4</sup> Fukuyama, Francis (eds), *Memperkuat Negara: Tata Pemerintahan dan Tata Dunia Abad 21*, Jakarta: Gramedia, 2005, xix.

the state, even for policies intended for social justice. Subsidies, basic public service guarantees, and other social security are considered inefficiencies. Education, health, and basic human rights have become traded commodities. Neoliberalism has made the capitalist economic system and free trade system as tools to do market crime. John Perkin calls these practices a crime of the Corporatocracy or a network aimed at gaining profits by means of corruption, collusion and nepotism from the third world countries and it works like a mafia.<sup>5</sup>

Neo-liberalism believes that market led economic growth can increase people's welfare. Welfare must not be understood as state benefits but as an effort to improve the economy by allowing the market to realize its miracles. The concept of a welfare state is often regarded as a 'toxic antidote' strategy of the capitalist system, i.e. the negative impact of a free market economy system; hence, the welfare state is often referred to as 'compassionate capitalism'.<sup>6</sup> The facts show that many countries implementing welfare state have high poverty rates than the countries that do not apply it. The Letter of Intent agreement of IMF (International Monetary Fund) has been like a scripture offering the concept of palliative economics.<sup>7</sup> Its verses comprise of liberalization, privatization and deregulation, which tend to be a serious threat to nation states in the world. It has become guidance on the preparation and implementation

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<sup>5</sup> John Perkins, *Confession of an Economic Hit Man*, n.p.: Plum, 2005, 12-13.

<sup>6</sup> Edi Soeharto, a paper *Arti Strategis Pembangunan Kesejahteraan Sosial dan Peran Profesi Pekerjaan Sosial dalam Mengoptimalkan Pembangunan Daerah*, 2005, 1-5. Downloaded from <http://www.policy.hu/suharto/naskah%20PDF/BengkuluPKSPeksosPemda.pdf> on 19 Maret 2017.

<sup>7</sup> Erik Reinert identifies the economy as a medicine that does not heal but only a painkiller. It does not cure the disease (lack of strong local industry in developing countries), but only mitigates the impact of global free trade (in the form of financial aid for poor countries). According to Reinert, Palliative economics replaces development economics that was established in the 1950-1970s, or new-development economics in the 1990s. Erik S. Reinert, *How Rich Countries Got Rich... and Why Poor Countries Stay Poor*, London, Constable, 2008, 26-27.

of socio-economic policies.

Global economic imbalances, poverty and unemployment accompanied by crime have swept the world. The concepts and programs of the welfare state have been considered unsuccessful in bringing about justice, peace, and common prosperity in life. This evaluation of failure stems from the capitalism concept, which views welfare merely from a material point of view.

Three different views and arguments about the urgency of the role of the state cause the failure of the state to prosper its people. *First*, the state has a very important role, particularly in social justice and the distribution of public goods. The state instead of individuals should dominate the distribution for the equal benefit of society. Reinert,<sup>8</sup> Bourdieu dan Walzer<sup>9</sup> argue that the state is an important factor in the national economy and has a particular nature, which is different from the model of colonial economy. The experience under colonialism becomes a valuable lesson in formulating economic policies that can prosper society.

*Second*, the role of the state must be disarmed. Hayek,<sup>10</sup> Friedman, and Stiglitz,<sup>11</sup> argue that the state should not interfere with individual freedoms, especially in the economic sectors. At this stage, economic policy adopts a policy outlined by US-led international policy mixed with its

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<sup>8</sup> Erik S. Reinert, *How Rich Countries...*26-27.

<sup>9</sup> Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality*, Oxford, Blackwell, 1983, 19.

<sup>10</sup> Friedrich A. Hayek, *The Constitution of Liberty*, London: Routledge and Kegan Paul, 1960, 121.

<sup>11</sup> The libertarian view actually refers to the classical liberal view of Herbert Spencer and Adam Smith and rejects the modern liberal view of John Maynard Keynes. In both classical and libertarian liberals, as in Friedrich Hayek and Robert Nozick, the role of the state in economic life must be as minimal as possible. Generally libertarians struggle for market freedom and demand state restrictions in regulating social life. The libertarians even reject the application of a redistributive tax scheme to implement the concept of equality in liberal theory. See Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, Oxford: Oxford University Press, 1990, 95.

authoritarian nature and practice. It seems as if “the state interferes” in managing the economy but for the interest of private, group and regime.

Habermas,<sup>12</sup> Giddens,<sup>13</sup> and Rawls’s<sup>14</sup> thoughts reflect the *third* opinion. They think that globalization does not always give positive consequences for democracy (liberal) but they also potentially threaten citizens. Globalization and social justice with positive and negative effects are acceptable as long as it does not neglect individual freedoms guaranteed by human rights. The ambiguity of democracy and free market, however, often trapped in the third argument. The latter can devour the first one but it is stuck between the rhetoric of social economy and social justice as well as the demands of the fulfillment of the IMF Letter of Intent agreement. The state should be firm to choose whether the state should play a role in the fulfillment of social justice by prospering its people. The rhetoric and campaign jargon and political speech of the state often imprison the management of natural resources and state property. They will never be a practical policy, because the Washington Consensus project supported by three main pillars: fiscal austerity, privatization, and market liberalization have chained one foot of the state<sup>15</sup>. All of these factors combined with the strength of the oligarchy in political and economic life will continue to hinder the project of social justice and social welfare, particularly in Indonesia.

As long as the material side measures well-being, which encompasses

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<sup>12</sup> Jürgen Habermas, *Between Facts and Norms: Contributions To A Discourse Theory of Law and Democracy*, Cambridge: Polity Press, 1996, 127.

<sup>13</sup> Anthony Giddens, *Jalan Ketiga: Pembaruan Demokrasi Sosial*, Jakarta: Gramedia, 1999, 83-85.

<sup>14</sup> John Rawls, *A Theory of Justice*, Oxford: Oxford University Press, 2000, 52-53.

<sup>15</sup> Joseph E. Stiglitz, *Globalization and Its Discontents*, London: Penguin Books, 2002, 53. Stiglitz points out that the “most obvious” problems in Latin American countries are: the amount of money lost by inefficient government companies, which contribute to high deficits; the loss of money due to inefficient private companies that make consumers to pay high costs; the loss of money due to monetary policy that causes uncontrolled high inflation.

the fulfillment of the basic human needs of individuals, the elimination of poverty, employment, and the equitable distribution of income and wealth among all peoples, man is always the object of economic power. Therefore, we need a new order in the formulation of a welfare state capable of combining material and spiritual prosperity that leads to serenity, happiness, and peace of life. This paper is to review the Islamic principles in creating a rule and applying the principle of justice as an instrument of all aspects of life, which is called *Maqāṣid al-Sharī'ah*. It aims at realizing the formulation of the welfare state based on *Maqāṣid al-Sharī'ah* as an alternative way to embody an integrated material welfare and spiritual well-being.

### ***Maqāṣid al-Sharī'ah*: methodological development**

Literally *Maqāṣid al-Sharī'ah* is a compound word (*murakkab idāfi*) consisting of the word *maqāṣid* and *al-sharī'ah*. Basically, the two words have their own meaning. The word “*maqāṣid*” is *jama'* (plural) of the word “*maqṣad*” (*maṣdar mimy*) of the verb *qaṣada*, *yaqṣidu qaṣdan wa maqṣadan*, “which means legitimacy<sup>16</sup>, commitment to the right path (al-Nahl: 9). This verb can also be interpreted as balance and moderate (Luqman: 19). While the word “*al-sharī'ah*” literally comes from the root word “*shara'a*” and has two meanings: (a) as a source of water (springs) which can be used as drinking water, Arabians call it “*mashara 'at al-mā'i*” which means “*maurid al-mā'i*”(water source) and (b) as the right path (al-Jathiyah: 18).<sup>17</sup>

Epistemologically, *Maqāṣid al-Sharī'ah* can be found in the work of scholars such as Ibn 'Ashur, Alal al-Fasi, Ahmad al-Raisuni, etc. First,

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<sup>16</sup> Khaeruddin Hamsin, ““*Maqāṣid al-Sharī'ah* in the Establishment of Islamic Law”, *Training Paper of Majelis Tarjih of Muhammadiyah all over Indonesia*, Universitas Muhammadiyah Magelang, 2012, 3-6.

<sup>17</sup> Asmuni mth, “Studi Pemikiran *Al-Maqāṣid*: Upaya Menemukan Fondasi Ijtihad Akademik yang Dinamis”, *Jurnal Al-Mawarid*, vol. XIV (2005), 169-172.

according to Al-Tahir Ibn 'Ashur:

مقاصد التشريع العام هي: المعاني والحكم المحوطة للشرع في جمع أحوال التشريع  
أو معظمها بحيث لا تختص ملا حظتها بالكون في نوع خص من أحكام الشريعة

“*Maqāṣid al-Sharī'ah are meanings and wisdom recorded / revealed by Allah in all or most of His Shari'ah, including the nature of shariah or general purpose*”<sup>18</sup>.

Second, 'Alal al-Fasi: <sup>19</sup>

المراد بمقاصد الشريعة: الغاية منها ولأسرار التي وضعها الشرع عند كل حكم من  
أحكامها

“*Maqāṣid al-Sharī'ah is the purpose of shariah and secrets placed by Allah on every of His laws*”.

Ahmad al-Raisuni:

الغاية التي وضعت الشريعة لأجل تحقيقها لمصلحة العبادة

“*Maqāṣid l-Sharī'ah are the goals determined by sharia to be manifested for the benefit of man*”<sup>20</sup>

With regard to the above definitions, it can be said that the content of “*Maqāṣid al-Sharī'ah* or the purpose of law” is for the benefit of man. The law that has been determined and passed down to man is not made for the law it self but it is made for the benefit of man.<sup>21</sup>

Moslem scholars who are very meritorious and contribute to the development of *Maqāṣid al-Sharī'ah* are Imam al-Juwaini, Izzu al-Din bin

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<sup>18</sup> Muhammad Al-Tahir Ibn 'Ashur, *Maqāṣid al-Sharī'ah al-Islāmīyah*, Tunisia: Mashna' al-Kitab, n.d., 51.

<sup>19</sup> 'Alal al-Fasi, *Maqāṣid al-Sharī'ah Al-Islāmīyah wa Makārimuhā*, Maroko: Mathba'ah al-Risalah, 1979, 3.

<sup>20</sup> Ahmad al-Raisuni. *Naẓariyah Al-Maqāṣid 'inda al-Imam al-Shāṭibī*. Dār al-'Ālamīyah li al-Kitāb al-Islāmīyah, n.d., 7.

<sup>21</sup> Khaeruddin Hamsin, “*Maqāṣid al-Sharī'ah dalam Penetapan Hukum Islam...*”, 6.



'Abd al-Salam, Abu Ishaq al-Shaṭibi and Al-Ṭahir Ibn' Ashur. Al-Juwaini introduces the *Hājīyyah* theory (needs) used today. In his book "*Ghiyat al-Umam*" (rescue of the State), al-Juwaini has an important contribution in the theory of *Maqāṣid al-Sharī'ah* and undertook the initial project of reconstructing Islamic law based on *maqāṣid*.<sup>22</sup>

Imam al-Juwaini puts forward a theory of the 'level of basic needs' in the nuances of meaning that we know today. Al-Juwaini suggests 5 levels of *maqāṣid*, namely: *al-Ḍarūrah* (inevitability), *al-ḥājah al'āmmah* (public needs), *al-makrūhah* (moral action), *al-mandūbah* (recommended), and those which can not be returned to specific purposes. He suggested that the goal of Islamic law is *al-iṣmah* (real protection) of faith, soul, reason, personality realm, and property.<sup>23</sup>

Furthermore, the principal and fundamental concept developed by Izzu al-Din bin 'Abd al-Salam in *Qawā'id al-Aḥkām fi Maṣāliḥ al-Anām* is the concept of *mashlahah* as the goal of the establishment of Islamic law. The concept of *mashlahah* occupies the position as the purpose and core of the entire construction of Islamic legal legislation. The discussion of this concept can be found in the books of *uṣūl fiqh* written in the early phases of growth, developmental phase, middle phase as well as the modern phase of Islamic law. These books, at different levels, discuss *maslahah* as the purpose of the Shari'a.

Imam Izzu al-Din bin 'Abd al-Salam argues that *Maqāṣid al-Sharī'ah* not only aims to keep the five things as stated by Imam al-Juwaini but also maintains *Maqāṣid al-Ḍarūriyah* and *al'Ird* (Honor and Protection of Human Rights). For him, *al'Ird* is a basic or primary necessities of someone who should be obtained by every human being because the main purpose of Islamic shari'ah is to maintain the dignity of human beings.

<sup>22</sup> Azmi Sirajuddin, "Model Penemuan Hukum dengan Metode *Maqasid AlSharī'ah* sebagai Jiwa Fleksibilitas Hukum Islam", *Istinbath: Jurnal Hukum*, Vol. 13, No.1, (2016), 115.

<sup>23</sup> Al-Imam Al-Haramain Al-Juwaini, *Al-Burhān fi Uṣūl al-Fiqh...*, 923.

One theory, which addresses the absolute aspect of *maṣlahah* both in written Islamic law and unwritten law in various aspects of *muamalah* law, is proposed by Izzu al-Din bin ‘Abd al-Salam. This Mashlahah theory argues that *muamalah* is a very extensive area in the field of Islamic law studies. This theory comprises of Islamic family law, civil law, criminal law, *shari’a* judiciary, politics and state administration<sup>24</sup>. Thus, all *maqāṣid* aim to preserve the existing law to realize goodness (*Tahqīq al-Maṣāliḥ*) and to reject destructive behavior (*dar’u al-mafāṣid*)<sup>25</sup>.

According to Abu Ishaq al-Shatibi, there are two purposes of *Shari’a* in *Maqāṣid al-Sharī’ah*. The first objective is based on the purpose of God as the Maker of the *Shari’a*. The second goal is based on the purpose of human beings burdened with the *Shari’a* so that they understand the essence of the wisdom of the *Shari’a*<sup>26</sup>. Allah reveals the *Shari’ah* of Islam to achieve human welfare as a whole. *Maqāṣid al-Sharī’ah* means the end of Allah and His Messenger in formulating Islamic laws. Al-Shatibi argues that the benefit is divided into three levels, namely the needs of *al-Darūriyyah*, the needs of *al-ḥājīyyah*, and the needs of *al-taḥṣīniyyah*<sup>27</sup>.

The first level, the *al-Darūriyyah*, is the primary needs that must be satisfied. If the fulfilment is neglected, the existence of mankind will be threatened both in the world and in the hereafter. According to al-Shatibi there are five things that fall into this category: keeping religion, nourishing the soul, nurturing the mind, as well as preserving honor, ancestry, and the treasure (*hifẓ al-dīn, al-nafs, al-‘aql, al-nasl, and al-māl*).

The second level or the *al-ḥājīyyah* is secondary needs. If a person can

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<sup>24</sup> Enden Haetami, “Perkembangan Teori Mashlahah Izzu al-Din bin ‘Abd al-Salam dalam Sejarah Pemikiran Hukum Islam”, *Jurnal Asy-Syari’ah*, Vol. 17, No.1, (2015), 38.

<sup>25</sup> Izzu al-Din bin ‘Abd al-Salam, *Qawā’id al-Aḥkām fi Maṣāliḥ al-Anām*, Cairo: Maktabah al-Kulliyat al-Azhariyyah, 1991, 5.

<sup>26</sup> Abu Ishaq al-Shatibi, *Al-Muwāfaqāt fi Uṣūl al-Sharī’ah*, Juz. II. Cet. III; Bairut: Dār al-Kutub al-‘Ilmiyah, 1424, 324.

<sup>27</sup> Abu Ishaq al-Shatibi, *Al-Muwāfaqāt...*, 324.

not meet these needs, his welfare will not be threatened but he will experience difficulties. In contrast to the first and the second levels, the *third* level or the requirements of *al-taḥsīniyyah* are the needs, which, if they are not fulfilled, do not threaten the existence of any of the five points above nor cause inconvenience. This level is complementary needs, which are permissible by custom, moral and honour.

From his in-depth examination, al-Shaṭībī concludes five correlations between *al-darūriyyah*, *al-ḥājīyyah*, and *al-taḥsīniyyah*. *First*, primary interests are the origin and basis of other interests. *Second*, the destruction of the primary interests causes absolute damage to the other interests. *Third*, the damage to the other interests, however, should not cause damage to the primary interest. *Fourth*, in certain cases, damage to the complementary interests may result in destruction of the primary interests. *Fifth*, the protection of the secondary and complementary interests must be made to achieve the primary interest.

With regard to the impeccable maintenance of the five principal elements, the three levels of the *maqāṣid* are inseparable. Al-Shaṭībī argues that the level of *al-ḥājīyyah* complements the level of *al-Darūriyyah*, the level of *al-taḥsīniyyah* complete the level of *al-ḥājīyyah*, and *al-Darūriyyah* becomes the principal of *al-ḥājīyyah* and *al-taḥsīniyyah*. The classification of al-Shaṭībī shows the important of maintaining the five basic elements in human life. In addition, the classification also refers to the development and dynamic understanding of God's law in order to realize human benefit.

Al-Ṭāhir Ibn 'Ashur proposes two factors that influence the existence of *maqāṣid al-sharī'ah* in the future. First, *maqāṣid al-sharī'ah* become an independent discipline by reforming *uṣūl al-fiqh* (*tajdid uṣūl al-fiqh*). Second, the correlation of *al-fiṭrah* (religious instinct), *al-samḥah* (tolerance), *al-musawah* (egalitarian) and *al-ḥurrīyah* (freedom of action) in the context

of *maqāṣid al-shari'ah* can strengthen *maqāṣid al-shari'ah* itself.<sup>28</sup>

According to Imam al-Tahir Ibn 'Ashur, there are four issues that reinforce *Maqāṣid al-Shari'ah*. The *first* is al-fitrah or Islamic teaching or Islamic Shariah revealed by Allah SWT for the benefit of all human beings. The *al-fitrah* has actually been aligned with the basic human character. It is the nature of man, a certain system (*al-niẓām*) that Allah grants to every creature, both outwardly (visible) and inwardly (invisible). The Commandment of God (al-Rūm: 30) is the basis of Ibn 'Āshūr's opinion. This verse implies two kinds of fitrah, namely "*fiṭrah 'aqliyyah*" and "*fiṭrah nafsiyyah*". *Fiṭrah 'aqliyyah*" (reason) guides people to feel God through the existence of universe. In addition, *fiṭrah 'aqliyyah* guides people to realize the importance of rules or shari'a to govern their lives in fulfilling their desires correctly and purposefully.

The *second* is *al-samḥah* (tolerance). This *al-samḥah* can be freely translated in mutual respect. Tolerance is one of nature that fits perfectly with *fiṭrah* as a basic feature of Islam itself and is a fundamental character of Muslims. The *third* is *al-musāwāh* (egalitarian). Islam is a religion that treats all human beings equally before syar'i laws, this requirement is important in implementing the five basic principles of Islamic *Shari'ah*: *hiḏ al-dīn, al-naḡs, al-'aql, al-nasl, and al-māl*.

*Fourth*, *al-ḥurrīyah* (freedom) has two meanings: 1) it is the opposite of *slavery (al-'ubūdīyah)*; 2) *Al-ḥurrīyah* (independence) means someone who does something by choice. The freedom of a person in doing something without being influenced by anyone else is called *al-ḥurrīyah al-majūẓī* in Arabic. It means, in Islam, there is no absolute independence. The western world, which tends to propagate this absolute freedom, has begun to

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<sup>28</sup> Muhammad Al-Tahir Ibn 'Ashur, *Treatise on Maqāṣid al-Shari'ah*, London: International Institute of Islamic Thought, 1427/2006, 80-81.

reap its negative impact now.<sup>29</sup>

Based on the description of *maqāṣid al-sharī'ah* above, we can see that the concept of *maqāṣid al-sharī'ah* has been improved based on the contextual response of the *maqāṣid al-sharī'ah*'s scholars. The concept map of the *maqāṣid al-sharī'ah* and the contributions of these *maqāṣid al-sharī'ah*'s intellectuals can be seen in table 1.

Tabel. 1. Concept Map of *Maqāṣid al-Sharī'ah*

No	Name of Scholars	Contribution (Teory)
1.	Abu Ishaq al-Shatibi	<ul style="list-style-type: none"> <li>▪ The Purpose of <i>Maqāṣid al-Sharī'ah</i> is to achieve prosperity</li> <li>▪ The levels of human needs:                             <ul style="list-style-type: none"> <li>○ <i>al-Ḍarūriyyah</i> (primary right)</li> <li>○ <i>al-ḥājīyyah</i> (secondary right)</li> <li>○ <i>al-taḥsīniyyah</i> (supplementary right)</li> </ul> </li> </ul>
2.	Imam Al-Juwaini	Purposing <i>al-Maqāṣid</i> as public needs. There are 5 levels of <i>al-Maqāṣid</i> : <ul style="list-style-type: none"> <li>▪ <i>al-Ḍarūriyyah</i> (inevitabilities)</li> <li>▪ <i>al-ḥājāh al-'āmmah</i> (public needs)</li> <li>▪ <i>al-makrūmah</i> (principal acts)</li> <li>▪ <i>al-mandūbah</i> (recomendations)</li> <li>▪ <i>al-'iṣmah</i> (protection)</li> </ul>
3.	'Izzu al-Din bin 'Abd al-Salam	<ul style="list-style-type: none"> <li>✓ The validity of a rule depends on its purpose and wisdom behind it</li> <li>✓ Adding <i>al-irḍ</i> (honour and the protection of human rights) to <i>maqāṣid al-ḍarūriyyah</i></li> </ul>

<sup>29</sup> Andriyaldi, "Teori *Maqāṣid al-Sharī'ah* dalam Perspektif Imam Muhammad al-Tahir Ibn 'Ashur", *Jurnal Islam dan Realitas Sosial*, Vol.7, No.1, (2014), 27-29.

4. Al-Tahir Ibn 'Ashur      The main purposes of *maqāṣid al-sharī'ah* is:
- Order
  - Equality
  - Freedom
  - Simplicity
  - The protection of human *fitrah*
- 

### **The formulation of welfare state of *Maqāṣid al-Sharī'ah***

Welfare is the economic goal of *maqāṣid al-sharī'ah*. It is a part of *raḥmatan lil 'ālamīn*, which is taught by Islam. Prosperity as referred to in the Qur'an, however, is not an unconditional right. Allah will give it if man keeps His commandments and keeps away from His prohibition

The verses of the Quran describes welfare, which is related to economic problems, directly (explicitly) and indirectly (implicitly). However, these two types of descriptions constitute a view of welfare, Al-Naīl : 97; Ṭaha 117-119; al-A'rāf : 10; al-Nisā' : 9; al-Baqarah: 126. Explicitly, the Quran defines welfare in some terms : الفرح , الفوز , and الفلاح as well as حَيَوَةٌ طَيِّبَةٌ . First, the term الفرح (*farḥ*) means “happy person” or “excited”. Feelings of joy or excitement usually arise from getting the desired things that are reflected in the face and conversation of a person. Quran repeats the word *farḥ* 22 times in its various forms. The past verbs is replicated seven times as in al-Tawbah [9]: 81, al-Shūra [42]: 48, and al-An'am [6]: 44. The present and future verbs (*muḍari*) is reiterated nine time as in al-Qaṣaṣ [28]: 76, al-Ḥadīd [57]: 23, al-Naml [27]: 36, etc. The noun (*masdar*) can be found six times, for instance in Hūd [11]: 10, al-Tawbah [9]: 50, and al-Mu'minūn [23]: 53.<sup>30</sup>

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<sup>30</sup> Imroatus Sholehah, “Konsep Kebahagiaan Dalam al-Quran: Perspektif Tafsir Mutawali Asya'rawi dan Psikologi Positif”, Thesis, Master of Islamic studies, UIN Maunlana Ibrahim, 2016, 74-90.

Second, الفوز (fauz is *maṣḍar* [infinitive]). The Quran repeats 26 times the word *fauz* and words having the same root, twice its *fi'il maḍi* form, one form of its *fi'il muḍari'*, four times its *isim fa'il* form, and 19 times the *maṣḍar* form. In other words, *fauz* means luck. The word *fauz* is devoted to luck or victory to be gained in the afterlife or ultimate luck or *fauzun 'aẓīm* (al-Shaffat [37]: 60, al-Tawbah [9]: 100, etc.). Luck (*fauz*) is expressed in the Qur'an as an eternal and unfailing good fortune (al-Tawbah 9: 72, 89, 100, 111, al-Nisā'[4]: 13, al-Māidah [5]: 119, Surah Yūnus [10]: 64, al-Shaffat [37]: 60, Ghāfir [40]: 9, al-Dukhān [44] : 57, al-Jathīyah [45]: 30, al-Ḥadīd [57]: 12, al-Shāf [61]: 12, al-Taghābun [64]: 9, and al-Burūj [85]: 11.<sup>31</sup>

Third, the 13 verses of the-Quran explain that the terminology of *al-falāḥ* (welfare) is the derivation of *al-muflīḥūn* and *al-muflīḥūn*. The word *aflaḥa* is repeated four times in one redaction, namely in Ṭaha [20]: 64, al-Mu'minūn [23]: 1, al-A'la [87]: 14, and al-Shams [91]: 9. In the Four verses, this word is preceded by the word *qad* (real), which indicates certainty. The derivative word of *aflaḥa* is *fi'il muḍari'* is used eleven times in the Qur'ān and always preceded by a pronunciation which means "to make you happy". Then, the word الفلاح becomes a diction for the one who earns «luck» or «happiness». This word is not linear with the meaning of the harvest of crops. The word includes all the human mobility that balances their life with food. Because the earth is the source of all these things, then the earth is the source to obtain the "luck".

Success in Islam is closely related to happiness and spirituality as well as fulfillment of needs (prosperity). Azadin Salem states that *al-falāḥ* is basically related not only to the income of wealth or the maximization of economic profit but also closely related to morality<sup>32</sup>. Thus, Islam does

<sup>31</sup> Imroatus Sholehah, "Konsep Kebahagiaan dalam al-Qur'an"...74-90.

<sup>32</sup> Zanatul Shima Aminuddin, Ummi Salwa Ahmad Bustamam dan Muhammad

not prohibit maximizing profits and does not restrict Muslims to gain much wealth or assets as long as it follows the provisions of shari’ah.

The fourth is *حياة طيبة*. The practice of Islam as a way of live consistently in all aspects of life will result in a good life order called *ḥayāh ṭayyibah* (al-Nahl: 97). This concept is a very essential wellbeing. Welfare is not only the prosperity of individuals but also a very prosperous and peaceful life order, the ease of the nation and the state and the prosperous generation. The life phase of *ḥayāh ṭayyibah* can be achieved after completing the stages of the concept of *al-farḥ*, *al-fauz*, and *al-falāḥ*.

The classification of the use of welfare-related terms in the Qur’anic verses, as described above, can be seen in table 2.

Tabel. 2. Classification of the use of welfare-related terms in the Quranic verses

Term	Tujuan Kesejahteraan	Penggunaan Term dalam Ayat
الفرح	Welfare that not only implies happiness in the world but also shows prosperity in the afterlife (Welfare Materials)	There are three substances of well-being; willingness, joy, and arrogance. These substances are more widely used for a negative sense of world pleasure, such as the arrogance of wealth. However, the substance that points to the pleasure in the afterlife and shows the positive meaning is only the verse of Ali Imran [3]: 170. Thus, the Qur’an affirms that the pride or pleasure derived only from the material wealth is not the category of Welfare in question but of arrogance.

Khairi Mahyuddin, “Exploring The Concept Of Al-Falāḥ (Success) In Business: An Insight From Muslim Experts”, *International Journal of Management Information*. Vol. 4, Issue 8, (Aug 2016), 23-36.



الفوز	Afterlife prosperity (Transcendental/Spiritual welfare)	The Sinonim of الفلاح. The differences lie on the requirements, i.e. for those who have accomplished the <i>taklif</i> , which is shown in the term الفوز, achieving glory, victory, prosperity and happiness
الفلاح	World and afterlife welfare (the integration of spiritual and Material wellbeing)	It implies positive welfare because it integrates Spiritual and Material prosperity.
حَيَوَةٌ طَيِّبَةٌ	Essential Welfare	Essential welfare is not only the spiritual and material welfare, perceived by individuals, but also a very prosperous and tranquil life order, the ease of living in a state, and a prosperous generation. To achieve the life phase of <i>ḥayāḥ ṭayyibah</i> , it is required to go through the stages of the concept of <i>al-farḥ</i> , <i>al-fauz</i> , and <i>al-falaḥ</i> .

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Based on the welfare classification in Table 2, the Quran indicates several factors of the essential welfare formulation of حَيَوَةٌ طَيِّبَةٌ. The Quran has alluded to its indicators in Quraysh: 3-4. Based on these verses, we can see three indicators of welfare in the Quran, i.e. to worship the Lord (owner) of the Ka'bah, to eliminate hunger and to eradicate fear.

*The first indicator* of welfare is the full dependence of man to the Lord of the Ka'bah. This indicator represents mental development. It shows that if all the welfare indicators based on the material aspects have been met, it does not guarantee that the owner will be happy. Hence, human dependence on God reflected in worship to Him or transcendental-prophetic can build a spiritual man (Islamic Man).

*The second indicator* is the loss of hunger (the fulfillment of consumption needs). The above verse states that it is God (Allah) who feeds them to relieve hunger. Welfare indicators should be sufficient (it is only to eliminate hunger) and should not be exaggerated, particularly hoarding goods to maximize the maximum wealth. One must give priority to *al-*

*makrūmāt* (noble action) in fulfilling the need.

While the third indicator is the loss of fear, which is the representation of a safe, comfortable and peaceful life. If various criminals such as robberies, rape, murder, theft, and other crimes frequently occur in society, it shows that people do not live in peace and comfort environment. In other words, the people have not obtained the safe, peaceful, and comfortable welfare as an effort to strengthen the faith.<sup>33</sup>

The concept of welfare based on the above verse can be understood from the perspective of its *maqāṣid al-sharīʿah*. Welfare in the view of *maqāṣid al-sharīʿah* requires prosperity covering all material and non-material (psychic) aspects. The reason is that human satisfaction lies in non-material factors.<sup>34</sup>

M. Abdul Mannan emphasized that the welfare state is the achievement of comprehensive humanity welfare. The material (economic) field is only one part of the welfare state, in addition to its moral and spiritual values and political value<sup>35</sup>. Naqvi also writes that the welfare state is identical with one of the objectives of the material (economy) of Islam, namely its general characteristics are very egalitarian. The doctrine of the welfare state, which seeks to pursue the middle path between capitalism and socialism, is the culmination of citizens' political rights<sup>36</sup>. Naqvi, quoting I. Gough's book *The Political Economy of Welfare State*, says that the character of the welfare state doctrine is basically derived from the principle of socialism, that is "*from everyone by virtue of his ability and*

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<sup>33</sup> Amirus Sodik, "Konsep Kesejahteraan Dalam Islam", *Jurnal Equilibrium*, Vol. 3, No. 2 (2015).

<sup>34</sup> Agung Eko Purwana, "Kesejahteraan Dalam Perspektif Ekonomi Islam", *Jurnal Justitis Islamica*, Volume 11 (2014), 29-33.

<sup>35</sup> M. Abdul Mannan. *Ekonomi Islam, teori dan Praktik*, terj. Nastangi, Yogyakarta: Dana Bhakti Prima Yasa, 1997, 358.

<sup>36</sup> Haedar Naqvi, *Menggagas Ilmu Ekonomi Islam*, translated by M. Saiful Anam dan M. Ufuqul Mubin, Yogyakarta: Pustaka Pelajar, 2003, 115.

to everyone on the basis of his needs.” So, state intervention is required to regulate production, consumption, and market economy. The capitalistic global-modern system has stifled the right of individual independence, hence, according to al-Nabhani, the government must intervene the social aspects by issuing policies for the welfare of the *ummah*.

Even, Islam has emphasized (preponderat) moral values. Therefore the state can not be separated from the ethics of society. Islamic Welfare State is the policy concept of creating a comprehensive morality, religious and general welfare<sup>37</sup>. To remedy the disadvantages of individualistic orientation of classical *maqāṣid al-sharī'ah*, contemporary scholars have expanded the concept of *maqāṣid* such as society, nation, and even humanity in general. The expansion of the *maqāṣid al-sharī'ah* concept provides an opportunity for contemporary scholars to respond to global challenges and develop *maqāṣid* into practical plans.

In Islamic teachings, there is a positive and correlational relationship between religiosity and prosperity (al-A'rāf: 97 and al-Ṭalāq: 2-4). These verses break the very clear distinction between the concept of Islam and the conventional concept, which relates welfare to only material dimensions. Prosperity in Islamic concepts has a broad and multidimensional spectrums.<sup>38</sup>

It should be emphasized that the Islamic welfare concept of *maqāṣid al-sharī'ah* is not the same as the concept of modern welfare state. There are similarities between them but they also have very fundamental differences. *First*, the modern welfare state is not developed on the concept of morality - religiosity - spirituality, it is based on an interpretation of

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<sup>37</sup> Ahmad Dahlan, dkk, “Menggagas Negara Kesejahteraan”, *Jurnal el-Jizya*, Vol.2, No.1 (2014), 14-16.

<sup>38</sup> Manik Mutiara Sadewa, et all. “Hubungan Antara Religiusitas dan Kesejahteraan Pada Masyarakat Banjar, Kalimantan Selatan”, *At-Taradhi: Jurnal Studi Ekonomi*, Vol. 6. No. 2 (2015), 207.

the history of Marxism, or Pigou's economic principle<sup>39</sup>. In both cases, the emphasis is placed on the material welfare of the people by ignoring the spiritual and moral well-being. While the Islamic system of *maqāṣid al-sharī'ah* strives for moral - religiosity - spirituality as the points of departure of its view of welfare. This is different from the welfare state, which is generally secular and does not aim to vertically integrate human material and spiritual aspirations.

*Second*, the Islamic concept of *maqāṣid al-sharī'ah* is more comprehensive, aiming to achieve the welfare of mankind as a whole (spiritual and material). While the welfare state is based only on economic prosperity. *Third*, the Islamic concept of *maqāṣid al-sharī'ah* departs from the fact that only God has the right to possess all things. Everyone is given the freedom to gain wealth. It is the right of everyone to meet basic needs, to obtain appropriate employment and independence, education, marriage and care, to build a spiritual environment, to get recognition and protection or assurance of life, property and honor built on the awareness of moral obligation - religiosity - spirituality.

*Fourth*, the Islamic concept of welfare in *maqāṣid al-sharī'ah* is the fulfillment of material and non-material needs in the world and in the Hereafter based on personal and community consciousness to obey the revealed laws of Allah whose instructions are set forth in the Quran, model of the Prophet Muhammad, and through the *ijtihad* of scholars. Therefore welfare is not a goal without expenses but requires continuous and sustained struggle.<sup>40</sup>

*Fifth*, Islam interpretes prosperity differently. Al-Shatibi uses the term

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<sup>39</sup> In Agus Purnomo, "Islam dan Konsep Welfare State dalam Ekonomi Islam" *Al-Iqtishadiyah: Jurnal Ekonomi Syariah dan Hukum Ekonomi Syariah*, Vol.II. No.II (2015), 104-108.

<sup>40</sup> Almizan, "Distribusi Pendapatan: Kesejahteraan Menurut Konsep Ekonomi Islam", *Maqdis: Jurnal Kajian Ekonomi Islam*, Vol. 1, No. 1, (2016), 80.

*maṣlahah* to refer to welfare. The concept of *maqāṣid al-sharī'ah* clearly shows that sharia requires every individual to fulfill their welfare. In other words, humans are always required to seek benefit (*maslahah*). The economic activities of production, consumption, and exchange, which include the benefit as required by shari'a, are religious duties aimed at doing good in the world and at gaining rewards in the hereafter. Thus, the necessities (needs) are all economic activities that provide benefits to mankind. If this is related to *maqāṣid al-sharī'ah*, it is clear that in the Islamic view, human motivation in economic activity is to fulfill the necessities of life in order to gain the benefit of the world and the Hereafter.

Based on the theoretical discussion of *maqāṣid al-sharī'ah* in the previous paragraphs, we can formulate the welfare state, in the view of *maqāṣid al-sharī'ah*, as follows: Abu Ishaq al-Shatibi states that the purpose of *maqāṣid al-sharī'ah* is to meet the three levels of human needs: *al-D arūriyyah*, (primary rights), *al-ḥājīyyah* (secondary rights), and *al-taḥsāniyyah* (supplementary rights). Thus, if the welfare state applies this concept, *al-D arūriyyah* (primary rights) consists of the fulfillment of basic needs (*hiḥ al-nafs*), employment and independence (*hiḥ al-māl*), education for every citizen (*hiḥ al-'aql*), proper marriage and parenting (*hiḥ al-nasl*), the spiritual environment (*hiḥ al-dīn*). When the citizen's needs are met then the state has brought about an elementary welfare for its citizens. Al-Shatibi places religion as the principal factor of the basic human needs, because religion is the human nature that becomes the decisive factor in directing human life in this world. When basic human needs have been met, other necessities will follow. Prosperity or *maṣlahah* will be achieved if all the fulfilled needs is used as a tool to achieve *maṣlahah* in the world and the hereafter.

Imam al-Juwaini, introduced al-maqāṣid as *al-ḥājah al'āmmah* (public needs). The fulfillment of public needs can be realized through freedom in business, freedom of association, infrastructure and transportation de-

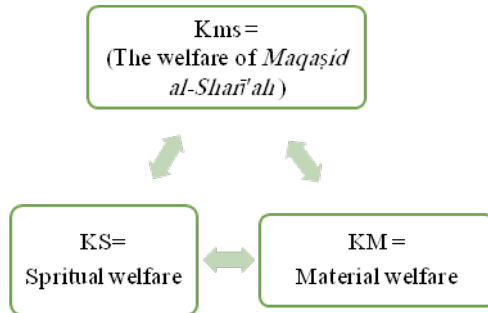
velopment, fair and equitable distribution of income and wealth as well as access to libraries, research and information technology. While *al-ʿiṣmah* is the protection of life, health and property of citizens.

According to Izzu al-Din bin ‘Abd al-Salam, the legal requirement of a rule depends on its purpose and the wisdom behind it. The state is obliged to realize prosperity. Therefore, the state should regulate it in legislation and honor of human being (*hifz al’ird*). Human Rights Protection which is part of the state’s obligation to protect its citizens in order to maintain Human Rights and honor as well as dignity of citizens.

Al-Ṭahir Ibn ‘Ashur, argues that the ultimate purpose of *maqāṣid al-sharīʿah* is Order (*al-fitrah*), Equality (*al-musāwah*), Freedom (*al-ḥurriyah*), tolerance (*magnaminty, al-samḥah*). When the state is able to present and ascertain the ultimate goal of al-Ṭahir Ibn ‘Ashur’s *maqāṣid al-sharīʿah*, it can be said that the law existing and implemented in the welfare state is a delighted law. The law is not just ensuring order, it has gone beyond that so that every citizen is not only prosperous but also happy.

The concept of state based on *maqāṣid al-sharīʿah* is more comprehensive. This concept aims to achieve the welfare of mankind as a whole (spiritual and material). The welfare state adopted by the modern state, however, only relies on economic prosperity. The spiritual uplift and material development programs are related and sustainable programs in realizing the welfare state. The formulation of prosperity based on the *Maqāṣid al-Sharīʿah* is described in Figure 2.

Figure 2. The Formulation of Welfare based on *maqāṣid al-sharī'ah*



$Kms = f(KS, KM)$ .

$Kms$  = The welfare of *Maqāṣid Al-sharī'ah* .

$KS$  = Spritual welfare (Moral, Spritual, Religious dan Transendental)

$KM$  = Material welfare

The implementation of the concept of Spiritual Welfare (Moral, Spritual, Religious and Transcendental Welfare) may bring about prosperity based on *Maqāṣid al-Sharī'ah*. Abu Ya'la and al-Mawardi explain that the characteristic of an ideal country is a country that practices the people's sovereignty, a crucial aspect of a country. Furthermore, al-Mawardi states that the imam or leader is also an important facet in upholding the truth and developing the knowledge. Even Ibn Khaldun asserted that the institutionalization of a state is a duty that must be upheld and managed by every Muslim. Ibn Taymiyah, Shah Waliyullah, and some of the world's Muslim leaders also share the same idea. Therefore, Islam views a state as an instrument to achieve the fundamental goals of a country. Through this sovereignty, the aims of a country can be achieved.

The welfare concept of *maqāṣid al-sharī'ah* in figure 3 can be described as follows: *first*, this welfare is based on *maqāṣid al-sharī'ah*, namely: the fulfillment of individual needs (*al-ḥarūrīyah* or primary rights, *al-ḥājīyyah* or secondary rights and *al-taḥsīniyyah* or supplementary rights), public

needs, (*al-ḥājah al'āmmah*), distributed equally, the existence of protection or assurance (*al-ʿiṣmah*) and law enforcement, which can be achieved through *al-fiṭrah* (order), equality (*al-musāwah*), freedom (*al-ḥurrīyah*), and magnanimity (*al-samḥah*) or tolerance.

*Second*, moral-spiritual-religious and transcendental is the foundation of the welfare of *maqāṣid al-sharīʿah*. This second platform can be implemented through moral action (*al-makrūmāt*), the building of spiritual man, and strengthening the faith. Any drafting of rules or legislation should emphasize the moral-spiritual-religious and transcendental meanings in order to achieve an essential order of prosperity.

*Third*, the implementation of the first and second stages in a country will result in Islamic Man/religious man/human who can combine Spiritual Intelligence, emotional intelligence and Intellectual Intelligence. As the result, the welfare gained or perceived is not only material prosperity but also the outward (spiritual) and inward (material) happiness in the world and the hereafter. The three stages of achieving prosperity based on the formulation of *maqāṣid al-sharīʿah* cannot be achieved without the role of the state.

Happiness is the ultimate goal of human life. Humans will be happy when they can meet all the short-term and long-term needs in both material and spiritual forms. Material requirements are clothing, homes, and other properties. Welfare is the fulfillment of these material needs. Welfare also means fulfillment of all material and spiritual necessities of life evenly for all people. In a broader sense, welfare is also the fulfillment of human rights, especially civil liberties.<sup>41</sup>

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41 Rahmat Ilyas, "Etika Konsumsi Dan Kesejahteraan Dalam Perspektif Ekonomi Islam", *At-Tawassuth*, Vol.1, No.1 (2016), 164-165.



The implicit meaning of the above definition of liberty is that everyone has the right to have a job and to be an entrepreneur in a harmonious cooperation. The Islamic concept of *maqāṣid al-sharī'ah* uses the term *al-falāḥ* for “welfare”. This term means holistic and balanced welfare between material and spiritual aspects, individual and social spaces, and the well-being of worldly life and the hereafter. The prosperity of the world means anything that gives physical, intellectual, biological and material pleasure. While the welfare of the hereafter is the pleasure that will be obtained after the human died.

## **Conclusion**

Market failure and government failure to prosper the citizen cause inequality and social injustice everywhere. Some scholars, e.g. Reinert, Bourdieu and Walzer, argue that the role of the state is crucial, particularly in the equitable distribution of social justice and public goods. Some other scholars, e.g. Hayek, Friedman, and Stiglitz, however, propose that the role of the state should be disarmed. They argue that the state should not interfere with individual freedoms, especially in the economic sectors. The third opinion in addressing globalization and social justice, which is delivered by Habermas, Giddens, and Rawls, accepts these two ideas as long as they do not neglect individual freedom.

Despite the unfinished debate about the country's role, some of the policies offered, e.g. capitalism, neoliberalism, and Washington Consensus, heightens the world's gap and poverty. Three main pillars support the concepts are fiscal austerity, privatization, and market liberalization, as well as the Letter of Intent agreement proposed by IMF (International Monetary Fund). The last pillar, which offers the concept of palliative economics, has been the guide in the planning and implementation of socio-economic policies. This agreement seems to be the sacred book of state policy to this day. These verses of the scripture are liberalization, pri-

vatization and deregulation, which tend to pose a serious threat to nation states in the world, which struggles to bring about prosperity.

This article offers the formulation of a welfare state based on *Maqāṣid al-Sharīʿah*, a concept developed by Imam al-Juwaini, Izzu al-Din bin 'Abd al-Salam, Abu Ishaq al-Shatibi and al-Tahir Ibn' Ashur. The formulation of the welfare state of *Maqāṣid al-Sharīʿah* comprises of, *first*, individual needs (primary, secondary and supplementary rights), which includes the fulfillment of basic needs, employment and self-reliance, education, the creation of a *samawa* family that can nurture children appropriately, piety (spiritual) and honor, as well as the protection of human rights. The *second* necessity is public needs, which includes the freedom to own the business, the freedom to join in an organization, infrastructure and transportation development, fair and equitable distribution of income and wealth, access to libraries / research / information technology, the resilience of culture and nation character. These public needs should be feasible and equitable for all citizens. The *third* is the protection or assurance of life, health and property that can guarantee the life of the individual. The fourth consists of law enforcement in the field of *al-ḥiṭrah* (order), equality (*al-musāwāh*), freedom (*al-ḥurriyah*), and magnanimity (*al-samḥah*) or tolerance. The purpose of the welfare of *maqāṣid al-sharīʿah* is beyond the creation of social order; every citizen is no longer only prosperous but also happy.

It is the time for Indonesia to have the concept of welfare state (distinctive and particular) derived from noble values and not values transplanted from other countries. The reconstruction of the Indonesian welfare state concept becomes an urgent agenda to be addressed. This article offers an alternative to the formulation of welfare state of *Maqāṣid al-Sharīʿah* to meet the founding fathers ideals. The founders of this country embarked on an idea with an imagination of a state capable of protecting and fulfill-

ing the needs of its citizens, the welfare of all the people. In other words, the Indonesian state aims to build a welfare state. The state plays a role in this concept combined with the civil society movement. This concept suggests social transformation and leads society at a stage where there is no welfare gap in some parts of Indonesia. Civil society is very high level of social fragmentation. Thus, through the incorporation of the role of state and civil society, the concept of the welfare state based on *Maqāṣid al-Sharī'ah* can be achieved. Welfare reform is urgently required, at least the concept of welfare state formulation based on *Maqāṣid al-Sharī'ah* generated from this research can be an initial step to achieve prosperity for the society.

## Bibliography

- al-Fasi, 'Ailal. *Maqāṣid al-Sharī'ah al-Islāmīyah wa Makārimuhā*. Maṭba'ah al-Risālah: Maroko, 1979.
- al-Juwainī, al-Imam al-Haramain. *Al-Burhān fi Uṣūl al-Fiqh*. Qatar, n.a.
- Almizan, "Distribusi Pendapatan: Kesejahteraan Menurut Konsep Ekonomi Islam", *Maqdis: Jurnal Kajian Ekonomi Islam*, Vol. 1, No. 1, (2016): 63-81.
- al-Raisuni, Ahmad. *Naḥarīyah al-Maqāṣid 'inda al-Imām al-Shāṭibī*. al-Dār al-'Alamīyah li al-Kitāb Al-Islāmīyah, n.a.
- al-Salām, Izzū al-Dīn bin 'Abd. *Qawā'id al-Ahkām fi Maṣālih al-Anām*. Maktabat Kulliyat Al-Aḥarāyah: Kairo, 1991.
- al-Shatibi, Abu Ishaq. *al-Muwāfaqāt fi Uṣūl al-Sharī'ah*, Juz. II. Cet. III. Bairut: Dār al-Kutub al-'Ilmīyah, 1424.
- Aminuddin, Zanatul Shima Ummi Salwa Ahmad Bustamam dan Muhammad Khairi Mahyuddin, "Exploring The Concept of al-Falāḥ (Success) In Business: An Insight From Muslim Experts", *International Journal of Management Information*. Vol. 4, Issue 8 (Aug 2016): 23-35.
- Andriyaldi, "Teori Maqāṣid al-Sharī'ah dalam Perspektif Imam Muhammad Al-Tahir Ibn 'Ashur", *Jurnal Islam dan Realitas Sosial*,

- Vol.7, No.1 (2014) 25-42.
- Dahlan, Ahmad dkk., “Menggagas Negara Kesejahteraan”, *Jurnal el-Jizya*, Vol.2, No.1, (2014): 1-22.
- Fuadi, Ariza, “Negara Kesejahteraan (Welfare State) dalam Pandangan Islam dan Kapitalisme”, *Jurnal Ekonomi Syariah Indonesia*, Vol. V, No.1 (2015): 13-32.
- Fukuyama, Francis (eds). *Memperkuat Negara: Tata Pemerintahan dan Tata Dunia Abad 21*. Jakarta: Gramedia, 2005.
- Giddens, Anthony. *Jalan Ketiga: Pembaruan Demokrasi Sosial*. Jakarta: Gramedia, 1999.
- Habermas, Jürgen. *Between Facts and Norms: Contributions To A Discourse Theory of Law and Democracy*. Polity Press: Cambridge, 1996.
- Haetami, Enden. “Perkembangan Teori Mashlahah Izzū al-Dīn bin ‘Abd al-Salīm dalam Sejarah Pemikiran Hukum Islam”, *Jurnal Asy-Syari‘ah*, Vol. 17, No.1 (2015): 30-44.
- Hamsin, Khaeruddin, “Maqāṣid al-Sharī‘ah dalam Penetapan Hukum Islam”, *Makalah Pelatihan Majelis Tarjih Muhammadiyah se-Indonesia*, Universitas Muhammadiyah Magelang, (2012).
- Hayek, Friedrich A. *The Constitution of Liberty*. Routledge and Kegan Paul: London, 1960.
- Ibn ‘Āshūr, Muhammad Al-Ṭāhir. *Treatise on Maqāṣid Al-Sharī‘ah*. London: International Institute of Islamic Thought, 1427/2006.
- Ibn ‘Āshūr, Muhammad Al-Ṭāhir. *Maqāṣid al-Sharī‘ah al-Islāmīyah*. Tunisia: Mashna’ al-Kitab, n.a.
- Ilyas, Rahmat, “Etika Konsumsi Dan Kesejahteraan Dalam Perspektif Ekonomi Islam”, *At-Tawassuth*, Vo.1. No.1 (2016): 152-172.
- Kamus Besar Bahasa Indonesia (KBBI), Kamus versi online/daring (dalam jaringan), <http://kbbi.web.id/esensial>, diakses 27 Maret 2017.
- Keech, William R. “Market Failure and Government Failure”, *Paper submitted for presentation to Public Choice World Congress*, Public Version 1.02-27-12, Miami, (2012): 1-43.

- Kholis, Nur, "Kesejahteraan Sosial Di Indonesia Perspektif Ekonomi Islam", *Jurnal Akademika*, Vol. 20. No. 02 (2015): 243-260.
- Kymlicka, Will. *Contemporary Political Philosophy: An Introduction*. Oxford: Oxford University Press, 1990.
- Mannan, M. Abdul. *Ekonomi Islam, Teori dan Praktik*. terj. Nastangin. Yogyakarta: Dana Bhakti Prima Yasa, 1997.
- Mohd, Jalaluddin Abul Khair. *The Role of Government in a Islamic Economy*. Kuala Lumpur: A.S. Noordeen, 1991.
- Mth, Asmuni. "Studi Pemikiran al-Maqāṣid: Upaya Menemukan Fondasi Ijtihad Akademik yang Dinamis", *Jurnal Al-Mawarid*, XIV (2005): 155-178.
- Myles, John and Jill Quadagno. "Political Theories of the Welfare State", *Social Service Review*, Volume. 76, No. 1 (2002): 34-57.
- Naqvi, Haedar. *Menggagas Ilmu Ekonomi Islam*. Trans. M. Saiful Anam dan M. Ufuqul Mubin. Yogyakarta: Pustaka Pelajar, 2003.
- Perkins, John. *Confession of an Economic Hit Man*. Read How You Want: US, 2008.
- Purnomo, Agus, "Islam Dan Konsep Welfare State Dalam Ekonomi Islam", *Al-Iqtishadiyah: Jurnal Ekonomi Syariah dan Hukum Ekonomi Syariah*, Vol.II. No.II (2015): 99-109.
- Purwana, Agung Eko, "Kesejahteraan Dalam Perspektif Ekonomi Islam", *Jurnal Justitis Islamica*, Volume 11 (2014): 21-42.
- Ramesh, Mishra. *Globalization and the Welfare State*. London: McMillan, 2000.
- Rawls, John. *A Theory of Justice*. Oxford: Oxford University Press, 2000.
- Reinert, Erik S. *How Rich Countries Got Rich and Why Poor Countries Stay Poor*. London: Constable, 2008.
- Sadewa, Manik Mutiara dkk., "Hubungan Antara Religiusitas dan Kesejahteraan Pada Masyarakat Banjar, Kalimantan Selatan", *At-Taradhi: Jurnal Studi Ekonomi*, Vol. 6. No. 2 (2015): 207-217.
- Sholehah, Imroatus, "Konsep Kebahagiaan Dalam al-Qur'an: Perspektif Tafsir Mutawali Asya'rawi dan Psikologi Positif", Tesis, Program Magister Studi Ilmu Agama Islam, UIN Maunlana Ibrahim, 2016.

- Sirajuddin, Azmi, “Model Penemuan Hukum dengan Metode Māqāṣid Al-Sharī’ah sebagai Jiwa Fleksibilitas Hukum Islam”, *Istinbath: Jurnal Hukum*, Vol. 13, No.1 (2016): 109-126.
- Sodiq, Amirus, “Konsep Kesejahteraan Dalam Islam”, *Jurnal Equilibrium*, Vol. 3, No. 2 (2015): 380-405.
- Tim Penyusun, *Ensiklopedia Al-Qur’an: Kajian Kosakata*. n.a.
- Walzer, Michael. *Spheres of Justice: A Defence of Pluralism and Equality*. Oxford: Blackwell, 1983.