

Reflections on Social Welfare Theory in the Juridical Foundation of Sustainable Public Policy

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ABSTRACT

This research discusses how the national law system accommodates and reflects social welfare theories in the formulation and implementation of sustainable policies. The research is conducted through a normative juridical approach and a literature study of the main regulations governing social welfare. It was found that although various regulations have provided formal space for the fulfillment of society welfare, in practice most policies are still based on residual approaches that tend to be reactive and short-term. Social welfare theories such as institutional and developmental approaches have not been widely accommodated in law and policy products. This reflects the weak integration between social theory and the law's logic. The gap between theoretical foundations and the law's norms can hinder the achievement of social justice in a sustainable manner. Law reform is needed that responds to administrative issues, and is driven by theory-based academic thinking. Regulations that reflect the principles of distributive justice and structural empowerment are important for building a transformative and inclusive social welfare system. This research contributes to strengthening the scientific basis for the formation of adaptive and long-term social policies.

INTRODUCTION

In the history of social thought, social welfare has become one of the main pillars that reflect the level of civilization and maturity of a country. Social welfare is not only seen as an economic indicator, but also as a reflection of the extent to which a country is able to fulfill the basic needs of its citizens, such as education, health, and social protection. Amid the development of globalization and the complexity of modern human needs, various theoretical approaches continue to emerge to explain, shape and direct the practice of social welfare. Over time, the concept of social welfare has undergone a transformation, in line with the social, economic and political dynamics that occur (Blau & Abramovitz, 2010). A country is required to provide economic welfare for its citizens, and to guarantee social rights holistically, including education, health, employment, and social protection. The research of the paradigms and theories that underlie social policy is very important, considering that these theories are not just academic constructions, but the foundation of the reality of government policies (Carnes & Mares, 2009). An understanding of these theories is important to ensure that social policy truly addresses social welfare challenges.

Various approaches such as functional structural theory, conflict theory, institutional theory, and humanistic perspectives have provided color in the development of social welfare systems. Each approach has different implications for how the state defines its obligations towards citizens (Kaufmann, 2000). Governments often focus on the technical and operational aspects of policies, such as the efficiency of resource distribution or the achievement of budget targets, without considering the philosophical underpinnings of the policies (Boekholt & Thuriaux, 1999; Hill & Hupe, 2021). But often, in the practice of public policy, the philosophical and normative dimensions of these theories go unnoticed. In fact, a comprehensive understanding of the theoretical basis will provide a more precise direction in developing social programs, determining success indicators, and evaluating the expected welfare achievements (Aravacik, 2018). This understanding not only helps in formulating more equitable and effective policies, but also ensures that the policies reflect the social values desired by society, making them more acceptable and supportive of achieving overall social welfare. Evaluation of expected social welfare achievements will also be more targeted.

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Normatively juridically, Indonesia has placed social welfare as part of the constitutional mandate, as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia, which emphasizes that one of the state's objectives is to promote public welfare. The state has a constitutional obligation to create a social system that is able to guarantee the fulfillment of the basic needs of the society as an effort to achieve general welfare. On the other hand, Law Number 11 Year 2009 concerning Social Welfare is the main law basis for the implementation of social policy. Policies taken often tend to be pragmatic, without considering the philosophical sustainability derived from established and academically reviewed social welfare theories. Without considering the philosophical and normative perspectives contained in these theories, policies may lose their way and not adequately address the root causes of social injustice.

This inequality between the substance of theory and policy practice has prompted the importance of conducting a normative juridical literature study concerning social welfare paradigms and theories. A more comprehensive understanding of the relationship between theory and law will enable policymakers to formulate policies that are more based on a strong scientific foundation, as well as relevant to the evolving social context in society (Rich, 2018). This research will strengthen the academic foundation for policy makers, and fill the void in the social law literature that discusses the relationship between social welfare theory and the national law system. By re-examining these theories within the framework of the prevailing regulations, this research is expected to bring together the dialectic between academics, policymakers and the civil society. This process not only enriches intellectual discourse, but also leads to the formation of policies that are more inclusive and responsive to society needs.

While social welfare has become a state goal explicitly stated in the constitution, its implementation at the policy level is often inconsistent with the underlying normative principles. This is reflected in the lack of in-depth theoretical references in the formulation of public policy. As a result, social welfare programs are often reactive, fragmentary and unsustainable, without considering a strong conceptual framework derived from various social welfare theories. The resulting policies are also sometimes unable to comprehensively address social problems, but instead tend to be reactive and poorly coordinated. Without a solid conceptual framework, policies are more likely to be influenced by political expediency or social trends. Referring to theoretical and strengthening conceptual foundations is something that policy makers must pay attention to.

The absence of a strong synchronization between the scientific approach in social welfare theory and the prevailing regulations is one of the main obstacles in the development of effective social welfare policies in Indonesia. Law Number 11 Year 2009 concerning Social Welfare, for example, still emphasizes administrative and procedural aspects rather than an in-depth exploration of the philosophical and theoretical basis of the social welfare system. The administrative and procedural aspects emphasized in the Law risk making the formulation of social welfare policies tend to be technocratic, focusing on the application of rules without paying attention to the underlying substance or values. This causes policy formulation to become technocratic and does not reflect the socio-cultural context that characterizes Indonesian societies.

The absence of a strong theoretical framework also has an impact on the lack of accountability of social policies. Without an explicit theoretical foundation, evaluating the success or failure of policies is difficult to do objectively. Social policy accountability is usually measured by the extent to which the policy achieves its objectives, but if the policy is not based on a structured conceptual framework, then the assessment of the achievement of these objectives becomes blurred. The lack of clarity in paradigm orientation also makes it difficult to assess whether the policies implemented are in line with the principles of social justice as mandated by Article 34 of the 1945 Constitution and reinforced by Government Regulation Number 39 Year 2012 concerning the Implementation of Social Welfare. A clear theoretical framework can provide guidelines to assess whether the policy truly reflects social justice or exacerbates existing social inequalities.

Reviewing the theoretical basis in the applicable law framework will enrich the perspective in understanding the social welfare system as a whole. This is important to avoid mistakes in interpreting the concept of welfare, which if left unchecked can lead to an inequality between policy objectives and the real needs of society. Reviewing the theoretical basis of the applicable legal framework can more easily determine whether the policies implemented reflect real social needs and answer the social challenges faced by society. The juridical normative approach is able to place welfare theory not just as an academic discourse, but as the basis for legitimate and effective decision-making. Social welfare theory studied within a legal framework not only serves to enrich scientific understanding, but also provides legitimacy for policies taken by the government. This theory is also a solid basis for policy formulation.

The integration of social welfare theory with the law system will strengthen the legitimacy of policies taken by the government. With a more comprehensive understanding of the various social welfare paradigms, stakeholders can design programs that are more targeted, fair and sustainable. Each social welfare paradigm offers a different perspective on policy design. This is an important part of a democratic and equitable social development process. This development process prioritizes economic growth and equitable distribution of welfare for all levels of society.

This research aims to examine normatively juridically how social welfare theories can be accommodated explicitly in the Indonesian legal system and how the reflection of the theory is realized in the practice of implemented policies. This research is expected to contribute to strengthening the conceptual basis and law legitimacy in the formulation of national social welfare policies that are oriented towards social justice and sustainability.

RESEARCH METHOD

The research method used in this study is a literature study approach with a normative juridical framework. This approach relies on an examination of primary law materials such as laws and regulations, as well as secondary law materials in the form of scientific books, journals, and the results of academic studies relevant to the theory and paradigm of social welfare. The normative juridical approach is used because the main focus of this research is to analyze the law as a written norm that is the basis for implementing social welfare policies, as well as to see how welfare theories can be accommodated in the Indonesian law system. As emphasized by Soekanto and Mamudji (2001), the normative method is a law research method that uses an approach to legislation and law theories as an instrument of analysis of the issues studied.

This research also adopts a descriptive-qualitative analysis technique of various academic literature related to social welfare theory, as well as systematic interpretation of applicable law norms. By examining the relationship between law doctrine and social theory, this research is expected to produce a more complete understanding of the integration of the social welfare paradigm in law policy. As stated by Marzuki (2005), the normative approach allows researchers to examine law principles and norms that apply as a coherent system, rather than just seeing the law as an empirical fact. This method is very suitable to discuss how the national law system is able or not able to reflect social welfare theories in the form of regulations and concrete policies.

RESULT AND DISCUSSION

Since the beginning of independence, the purpose of the country has been formulated to maintain order and sovereignty, and to ensure a decent life for all citizens. This goal is not just about ensuring security or political stability, but also creating social welfare for all people. This spirit is reflected in the constitution as the highest foundation, which directs the government to carry out the welfare function as a whole (Knight, 1992). The fulfillment of citizens' social rights cannot be considered as a mere administrative burden, but rather is the core of the existence of a modern country that upholds social justice as the main foundation of national life (Rutgers, 2008). Social welfare not only functions as a means to reduce poverty or inequality, but as a reflection of the state's commitment to the fulfillment of basic human rights (Tushnet, 2002; Dean, 2004).

Welfare cannot be built only with political enthusiasm or short-term policies. While political impetus is often the trigger for policies, without a solid and structured rationale, policies risk being unsustainable and losing their way in the long-term. A strong conceptual understanding is needed that is able to guide the direction of regulation and implementation of social policies in a sustainable manner. Social welfare theories have developed as a framework that outlines the responsibilities of the country towards its citizens. This thinking provides a scientific basis for assessing, developing and evaluating every form of the country's intervention in people's social, economic and cultural lives (Svensson et al., 2012).

In the process of legislation and policy implementation, law has a strategic position to realize the vision of equitable welfare. Laws provide the necessary structure to guarantee the rights of citizens, prevent injustice, and ensure that any policies implemented lead to the achievement of equitable social welfare (Craig et al., 2008). So that the law does not become a rigid and formalistic normative device, it is needed to have a close relationship with living and relevant social theories. Social theory provides a conceptual foundation that enriches understanding of existing social problems, and offers a more humane approach to policy formulation (Spicker, 2014). This scientific approach is able to change regulations to be more reflective, responsive, and able to touch social reality as a whole. The interaction between law and theory is crucial so that policies are legal, and in favor of human dignity and collective survival (Quadagno et al., 1988). A good policy must not only fulfill the requirements of legality, but must also reflect the values of justice and humanity that are the basis of social welfare.

The normative foundation must be understood as an effort to harmonize the prevailing legal framework with the theoretical foundations of the social welfare paradigm developed in social science and public policy. Law, as an instrument that regulates the relationship between the state and its citizens, must be able to reflect the principles contained in relevant social welfare theories. Regulations made must not only be in accordance with existing rules, but also in line with the values of justice, humanity and welfare governed by these theories. Theories such as residual, institutional and developmental welfare give their own style to how the country formulates its responsibilities towards the citizens. Unfortunately, policy formulation in Indonesia often does not reflect the explicit separation or integration of these theories in regulations. This opens up room for research on how the national law system should facilitate deeper conceptual reflection on these theories.

Law Number 11 Year 2009 concerning Social Welfare is the main reference in this discussion. The law stipulates that social welfare is a condition of fulfillment of the material, spiritual and social needs of citizens in order to live properly and be able to develop themselves (Baron, 2017). This suggests that the state is responsible for ensuring every individual has access to the basic needs necessary for a good and dignified life. When further examining the normative content, it appears that the approach used is still predominantly residual, where state intervention is remedial in nature towards groups that are vulnerable or experiencing social dysfunction. This is less in line with institutional and developmental approaches that encourage the country to proactively build long-term systems that are inclusive and sustainable.

The reflection of social welfare theory in regulation can also be found in Government Regulation Number 39 Year 2012 concerning the Implementation of Social Welfare. This regulation regulates the principles, strategies, and policy directions for the implementation of welfare. This regulation contains a commitment to creating a social welfare system that is inclusive and covers various aspects of life, including material, spiritual and social aspects. This is in line with the broader spirit of social welfare theories that prioritize social justice and equitable distribution of welfare for all levels of society. In practice, social welfare programs tend to be fragmented and not based on an integrated theoretical framework. For example, temporary social assistance programs such as the Family Hope Program (PKH) have not been fully developed into sustainable empowerment tools in the spirit of developmental welfare theory, which emphasizes systemic society capacity building.

The Indonesian law system has enough room to accommodate the development of the social welfare paradigm, both through regulatory adjustments and through new law products based on theoretical research. Institutional theory that places welfare as a universal right and not a form of state mercy can be used as a basis for strengthening social security as a whole, including social insurance, quality public services, and an equitable education system. Revisions are needed to regulations that still separate social rights as sectoral matters rather than seeing them as an integral structure of national development.

Law Number 23 Year 2014 concerning Regional Government gives a large portion of regional autonomy to organize basic services, including social welfare. Unfortunately, not all local governments have strong conceptual guidance in designing theory-based social policies that suit local characteristics. Sectoral regulations are often uncoordinated, hindering the integration of theory into practice. The absence of an evaluation framework based on theoretical indicators also obscures the direction and success of implemented welfare programs.

Other normative instruments such as Law Number 13 Year 2011 concerning the Handling of the Poor also show that the state still bases most policies on a residual approach. Poverty management is focused on providing assistance and subsidies, not on structural empowerment that overhauls the roots of poverty itself. In fact, progressive welfare theory emphasizes the importance of structural change and redistribution of access to resources, education, and economic opportunities.

From a juridical point of view, the Indonesian law system has not developed a normative mechanism that encourages evidence-based policy-making by referring to relevant social theories. This causes social policies to often be ad hoc and vulnerable to political change. One of the reasons is the absence of law norms that require the integration of theory in the legislative and policy-making process. In other words, law has not functioned as a theory-based social engineering instrument, as understood in the progressive law tradition.

As an anticipation, the formulation of laws and regulations needs to include theoretical analysis in academic papers as part of the law formation process. Instruments such as academic papers regulated in Law Number 12 Year 2011 concerning the Formation of Legislation should be used to bridge between the results of theoretical studies and the regulations produced. Thus, a legalistic legal system will be formed, which is reflective and adaptive to modern social thinking.

The sustainability aspect is also a part that has not been optimally accommodated in the social welfare legal framework. Most regulations do not include social sustainability indicators in policy design or evaluation. In fact, the principle of sustainable development has become a global commitment and has been internalized in various national planning documents such as the National Medium-Term Development Plan (RPJMN). Sustainable social welfare requires the integration of social rights with sustainable environmental and economic dimensions.

Strengthening the theoretical dimension of the Indonesian law system is not impossible, given the flexibility of national law in responding to scientific developments. The Indonesian legal system, which is characterized by a mixture of civil law and customary law, has great potential to absorb social theories contextually. This provides an opportunity to further integrate approaches based on social welfare theory in existing legal and regulatory policies. Setyowati and Toengkagie (2006) suggest this requires close collaboration between academics, law drafters and other stakeholders so that theories do not stop in the scientific discussion room, but enter the logic of regulation and its implementation mechanism.

In order to create sustainable policy practices, a normative framework is needed that is able to bridge theory and practice simultaneously. This means that the law functions as a rule enforcer, and as a medium for dynamic social transformation. The Indonesian law system should be able to internalize the basic values of social welfare theory, such as distributive justice, social solidarity, and collective responsibility, into regulations that can be operationalized at various levels of government (Warman et al., 2018).

Confronting the increasingly complex dynamics of social life, the direction of law formation can no longer rely solely on a normative approach. Welfare as a collective goal requires regulations that are able to accommodate the diversity of needs and challenges that develop in society. The presence of theory as a conceptual foundation is important to keep social policies in line with the principles of substantive justice, not just law formalities (Hidayat & Sugiarto, 2019).

The legislative process must pay attention to more than just administrative feasibility or budget efficiency. It must address structural dimensions that have been overlooked—such as resource distribution, access to public services, and protection of vulnerable groups. When laws are formulated by taking into account scientific views from various disciplines, they will grow as transformative tools that regulate and improve an unequal social order.

Finally, efforts to make law an instrument for realizing equitable social welfare require the courage to review the old, overly bureaucratic approach. An approach that overemphasizes administrative procedures often neglects substantial aspects relating to the fulfillment of the basic rights of the society. A new orientation is needed that places welfare theory not as a complement, but as the core of the policy formulation process. Thus, law can appear as a medium of change that is rooted in reality, in favor of the citizens, and able to lead the nation towards a more equal and dignified life.

CONCLUSION

The national legal system has provided a fairly strong normative framework to support the implementation of social welfare policies, as set out in various regulations, ranging from the 1945 Constitution to various sectoral laws. The existence of social welfare theories in policy practice has not been fully and consistently reflected. The dominance of the residual approach in regulations indicates a inequality between the theoretical conceptual basis and normative implementation. To realize policy practices that are sustainable and in favor of social justice, the law system must be able to become a vehicle for active reflection of social theory, not just a formal legal instrument.

The lack of integration between social welfare theory and applicable regulations has serious implications for the effectiveness and sustainability of social policies. Policies that are born without a strong theoretical foundation tend to be reactive, do not touch the root of the problem, and are weak in long-term empowerment mechanisms. Such policies are more likely to respond to emergencies or crises, without paying attention to deeper root causes. As a result, efforts to reduce poverty and improve welfare are partial, incomplete, and prone to overlap between sectors. This also hampers the process of evidence-based policy-making and distances the law from its function as a transformative means of social engineering.

A more progressive reform of social welfare regulations is needed by explicitly referring to social welfare theories at every stage of formulation, from academic papers to policy implementation. The government, academics and legislators need to strengthen cross-sectoral cooperation in building a normative framework that reflects institutional and developmental approaches in a sustainable manner. Social policy evaluation should be based on clear theoretical indicators so that the legislative process becomes more accountable, responsive to social reality, and able to bring real distributive justice.

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