Abstract

STATE RESPONSIBILITY IN IMPROVING SOCIAL WELFARE IN REGIONAL AUTONOMY ERA

The legal issues discussed in this study are: 1) philosophical background of social welfare regulations and state responsibility in actualizing social welfare; 2) legal principles of human rights protection within social welfare framework; 3) the implementation of social welfare in regional authority era. This study was a normative legal research applying conceptual approach, statute approach, historical approach, and comparative approach.

Based on the analysis, this study found: 1) the philosophical background of social welfare regulations was established on the consequences of social welfare-oriented constitutional state meaning that the state is responsible to social welfare of its citizens. Social welfare regulations were based on proportional justice and integrity principles based on Pancasila and Indonesian Constitution 1945 (UUD NRI 1945); 2) law (constitution) functioned as regulator in the implementation of national life, government, and social life based on legality principle. Human rights protection was based on Pancasila constitutional state principles. The quality of democracy and human right protection expected the government to be responsible and transparent so that the people would not tolerate any abuse of public trust. Based on this condition, constitutional state principles and democracy should be supported by good government and legal protection provided for the citizens as part of social welfare; 3) the use of different nomenclatures “general welfare”, “people welfare” and “social welfare” implied different meanings which might affect authority. Issues on authority sharing were related to the classification and sub-classification of social welfare made by the state (central government), provincial governments, regencies, and municipalities.

Based on the findings, this study comes with several recommendations: 1) related to institutional nomenclature and its authorities, the ministries, departments, and non-department institutions should apply authority or functionality approach rather than structural (institutional) approach; 2) the government should publish Government Regulation to accompany Act Number 23/2014; 3) the government should revise Act Number 11/2009 by considering Act Number 13/2011 harmonized with Act Number 23/2014 regulating authority shared by the state, provincial government, and regencies/municipalities.

Keywords: State Responsibility, Social Welfare, Authority Sharing