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## VOL 21, NO 2 (2022)

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### TABLE OF CONTENTS

**Attitude of The Notary Public Towards The Request for The Cancelation of The Prenuptial Agreement Deed as A Result of The Marriage Annulment and The Consequences for Third Parties**

 *Putri Ridzka Maheswari Djasmine, Fully Handayani Ridwan*



**Implementation of Criminal Law in Handling Narcotics Cases in Indonesia**

 *Bahtiyar Efendi, Widhi Handoko*



**Sociql - Welfarestate in Perspective of Labour Law: Review of Asean Constitution**

 *Icuk Rangga Bawono, Kuat Puji Prayitno*



**Consumer Protection Against Standard Clauses in Business Transactions Through E-Commerce**

 *Aditya Migi Prematura, Suryani Suryani, Agung Aditya*



**Reconstruction of Law and Policy : Rights and Environment Problem in Northern East Java - Pekalongan**

 *Kuat Puji Prayitno, Icuk Rangga Bawono*



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## SOCIAL - WELFARE STATE IN PERSPECTIVE OF LABOUR LAW: REVIEW OF ASEAN CONSTITUTION

Kuk Ranggga Baroma, Kuart Puji Prayitno

### ABSTRACT

The welfare state in the concept of Labours cannot be covered only in scope of one state only, but also to comparison by the other countries. In order to strengthen of cooperation between asean community, we should required understanding about constitutional concept in asean countries. The state law concept which adopted by majority nation state according with their basic typical of the country and nationality such as social structure and norms.

To compare about welfare- labours need more significant idea in nationality and state. This research is prior to explain about the extent of content recognition of state obligations which recognized in state constitution of the asean countries, using juridical normative methodology with emphasises from the comparison of the constitution among countries, democracy, and democracy. In the end, this research describe how important if we use social welfare for labours concept concept in each manuscript to the body of constitution, and also including to found the living constitution in ASEAN countries. The approach method used the doctrinal legal research, including historical approach.

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### REFERENCES

- Edi Suharto. Negara Kesejahteraan dan Reinventing Depsos, presented on diskusi seruah in topik "Mengkaji Ulang Relevansi Welfare State dan Terobosan melalui Desentralisasi-Otonomi di Indonesia" held by Widya MMUGM, Yogyakarta, July 25 2006. Inside and look Oman Sukmana, (konsep dan desain Negara Kesejahteraan, sunca) september 20, 2015
- Padmawatyono. 1989. "Pembangunan Hukum di Indonesia". Ind-Hill Co. Jakarta.
- Jimly Asshidiqie. 2006. Konstitusi dan Konstitusionalisme Jakarta: SEKEND MKRI.
- Sri Soemantri. 1992. "Bunga Rampai Hukum Tata Negara Indonesia". Alumi, Bandung.
- C.F. Strong. 1960. "Modern Political Constitution: An Introduction to The Comparative Study of their History and Existing Form". Sidgwick & Jackson Limited, London, hal 9. Dalam Budiman Sinaga, 2005, "Hukum Konstitusi", Kusuma Kalam Semesta, Yogyakarta
- Gianfranco Poggi. 2020 4th edition The Development of the Modern State: Sociological Introduction, (California: Stanford University Press.
- Djuhan. 2008. Politik Hukum Negara kesejahteraan Indonesia: Unissula Press Disertasi Semarang
- Sentaoek Kartonegoro. 1967. Jaminan Sosial dan Pelaksanaannya di Indonesia, revision. P 2017. Mutiara Sumber Widya, Jakarta.
- Sri Wajiyati. 2018 "Legal Instruments for Upholding Human Rights in Indonesia". Justice Islamia 15, no. 1
- Jimly Asshidiqie. 2005. Constitutional Law and Pillars of Democracy. Constitution Press Jakarta 2005
- Juanda. Regional Government Law. Alumi, Bandung, 2008
- John Rawls. A Theory of Justice. London: Oxford University Press. 1973, which has been translated into Indonesian by Uzair Fauzan and Heru Prasetyo. Justice Theory. Yogyakarta: Student Library, 2006
- Lawrence M. Friedman. American Law. WW Norton & Company, New York, 1984
- Moh. Kusnardi and Harmally. oranim Indonesian Constitutional Law, Sinar Sakti, Jakarta, 1988.
- Mochtar Kusumaatmadja. Legal Concepts in Development. Alumi, Bandung, 2002
- Munir Fuady. Modern Law State Theory (Rechtstaats). Refika Aditama, Bandung, 2009
- The People's Consultative Assembly of the Republic of Indonesia. Correctional Guide to the 1945 Constitution of the State of the Republic of Indonesia (in Accordance with the Chapters, Articles and Paragraphs). Secretary General of the MPR RI Jakarta, 2007.
- Ramesh Mishra. Welfare State in Crisis: Social Thought and Social Change. Wheatsheaf Books Ltd, Harvester Press, London, 1984
- Satjipto Rahardjo. Progressive Law: An Indonesian legal system. Gemtha Publishing Publisher, Yogyakarta, 2009
- Syaikhani HR. 2001. Looking Forward to the Future of Regional Autonomy, the Kutal Empowerment Development Movement. Institute of Sciences.
- Sarundajang. 1999. Central Power Backflow to the Regions. Pustaka Sinar Harapan Jakarta, 1999
- Sudikno Mertokusumo. Knowing An Introduction to Law. Fourth Printing, Liberty, Yogyakarta, 2008.
- Sentaoek Kartonegoro. Social Security and Implementation in Indonesia. Cet. II, Mutiara Sumber Widya, Jakarta, 1997.
- Teguh Prasetyo. Law and Legal Systems Based on Pancasila. Mighty Media, Yogyakarta, 2012.

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## Social - Welfarestate in Perspective of Labour Law: Review of Asean Constitution

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### Abstract

*The welfare state in the concept of Labours cannot be covered only in scope of one state only, but also to comparison by the other countries. In order to strengthen of cooperation between asean community, we should required understanding about constitutional concept in asean countries . The state law concept which adopted by majority nation state according with their basic typical of the country and nationality (such as social structure and norms). To compare about welfare- labours need more significant idea in nationality and state. This research is prior to explain about the extent of content (recognition of state obligations which recognized on state constitution of the asean countries), using juridical normative methodology, with emphasises from the comparison of the constitution among countries, democracy, and nomocracy. In the end, this research describe how important if we ask social welfare for labours concept concept (in each manuscript) to the body of constitution, and also including to found "the living constitution" in ASEAN countries. The approach method used the doctrinal legal research, including historical approach.*

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## I. Introduction

Setting the wage system is one of the important things in labor law. This is motivated by the important role of wages. Wages are the main goal of

workers/laborers in carrying out their work<sup>1</sup>. The wage system is carried out by referring to statutory regulations. Wages, both the system and the operational lines, must not injure the rights of workers/laborers. The rights of workers/laborers should be protected as citizens based on human values and justice.

Indonesia's efforts to protect all its citizens are implemented in various laws and regulations. Of course, these regulations are inspired and filled with Pancasila values as the nation's way of life. The embodiment of this protection is applied to the ideal fulfillment of human rights by looking for human values. These values are as contained in the Second Pancasila Precepts. The precepts clearly describe that the administration of the state and the preparation of all state products must be based on just and civilized human values.

Fulfillment and protection of human rights and state instruments created with human values is the first step in realizing the ideals of the nation. This ideal is stated in the Preamble of the 1945 Constitution paragraph 4 which views the goals of the state as oriented towards the entire Indonesian nation and all of its bloodshed. One of the ideals of the Indonesian nation that can be highlighted is Indonesia's goal to advance public welfare.

In accordance with Indonesia's ideals in paragraph 4 of the Preamble to the 1945 Constitution, the Government of the Republic of Indonesia in practice implementing the state adheres to the concept of the welfare state. This concept is an idea that implements a democratic state government system that is responsible for the welfare of its people<sup>2</sup>. Thus, a country that adheres to this concept of public policy issued as a product of its state must be oriented towards service, assistance, or prevention of social problems.<sup>3</sup>

The application of the concept of the welfare state in realizing the general welfare of the Indonesian people can go through various policy corridors. The thing that is most related to general welfare which can be viewed from personal welfare is about work. For this reason, the state guarantees the right to work and a decent living for humanity for each of its citizens as stipulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Furthermore, the Constitution also guarantees the right of every citizen (in abstracto "person") to work and get proper and fair rewards in a working relationship. The guarantee

<sup>1</sup> Lalu Husni, Revised Introduction to Labor Law (Jakarta: PT Raja Grafindo Persada, 2020).p.142

<sup>2</sup> V. Hadiyono, "Indonesia in Answering the Concept of the Welfare State and its Challenges," Journal of Law, Politics and Power 1, no. 1 (2020): 24, <https://doi.org/10.24167/jhpk.v1i1.2672>.

<sup>3</sup>Miftachul Huda, Social Work & Social Welfare: An Introduction (Yogyakarta: Student Library, 2009).p. 73

of these rights is clearly stated in Article 28 D paragraph (2). Based on these two articles, the state in realizing general welfare also moves in the corridor of employment.

Efforts to realize general welfare through employment, one of which can be through increasing the value of wages for workers/labourers. Wages are the basic rights of workers/laborers which have implications for the obligations that have been carried out by workers/laborers. The state is obliged to protect and maintain the rights of workers/laborers as a form of fulfilling human rights in wage issues. The fulfillment of wages both procedurally and the value of giving in accordance with normative rules and also the values of Pancasila has made Indonesia step towards its concern for employment problems.

Wages are rights of workers/laborers who are received and expressed in the form of money as compensation from employers or employers to workers/laborers who are determined and paid according to a work agreement, agreement, or laws and regulations, including allowances for workers/laborers and their families for a work and/or service that has been or will be performed<sup>4</sup>. Workers in receiving their wages are entitled to a decent financing for their lives. A decent life is one of the parameters for a person to be said to be prosperous. Fulfillment of aspects of life such as clothing, food, shelter, and education are the determining factors in a decent life.

The Government of the Republic of Indonesia is obliged to its citizens to provide work and a decent life for humanity in accordance with Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Basically, Indonesia is a country that seeks to protect and uphold human rights. This effort is motivated by Indonesia's status as a legal state as stipulated in the 1945 Constitution Article 1 paragraph (3). The real form of the Indonesian government in protecting and upholding human rights is manifested through various national legal instruments<sup>5</sup>. Through this research, the authors examine the concept of wages as a constitutional right of workers by comparing the constitutions of several ASEAN countries as a comparison. In addition, remuneration based on welfare can be used as a step to realize the fulfillment of human rights for workers/laborers and their families for a decent living.

<sup>4</sup> Endah Pujiastuti, *Introduction to Labor Law*, vol. 1 (Semarang: Semarang University Press, 2018), matter. 38

<sup>5</sup> Sri Warjiyati, "Legal Instruments for Upholding Human Rights in Indonesia," *Justicia Islamica* 15, no. 1 (2018): 128.

As a basic document, the constitution is the stone of the beginning of the building of a state. Opinion is not excessive considering today, we can be sure that countries in the world have a constitution, although in a variety of forms. Differences in forms, characteristics, and spirit of nationality embodied in the constitution is very dependent on the social conditions of society, what values are held, and the big goals to be achieved within the scope of the state. In other words, the constitution also regulates the purpose of the establishment of a state, the system of government, the institutional structure to the elaboration of human rights in a country.

## 2. Research Method

The research approach that will be used is the doctrinal legal research. The authors use this approach to look at the concept of state theory of constitutional law in ASEAN countries, whether it has been in conformity with the context labour welfare diversity. This research is based on a normative science of law at the time of the study also includes reviewing the welfare concept for labour worker, norms that exist in the constitutions. This research are technical prescriptive, with this deepening of research results can provide a comprehensive descriptions.

## 3. Results and Discussion

The welfare state is very closely related to social policy which in many countries includes strategies and efforts of the government in improving the welfare of its citizens, especially through social protection which includes social security (both in the form of social assistance and social insurance), The key to the welfare state is the issue of guaranteeing the welfare of the people by the state. Regarding this matter, Jurgen Habermas argued that the guarantee of the welfare of all the people was the main thing for the modern state. Furthermore according to Habermas, the guarantee of the welfare of all the people referred to is realized in the protection of the people, "*The risk of unemployment, accident, illness, old age, and death of the breadwinner must be covered largely through welfare provisions of the state*"<sup>6</sup>.

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<sup>6</sup> Gianfranco Poggi, *The Development of the Modern State "Sociological Introduction*, (California: Stanford University Press, 1992), h. 126. Available URL : <http://books.google.co.id/books?id=DTlvrXjRH10C&pg=PA126&lpg=PA126&dq#v=onepage&q&f=false>. 15 Agustus 2012.

The contribution of thought derived from Muslim scientists in perfecting the concept of Welfare state is the idea put forward by Anwarul Yaqin and Faruq An Nabahan. According to them, Welfare State is the responsibility of the state in the well-being of individuals and society, including increasing spiritual values and fulfilling basic needs. Besides that, the state uses the rule of law to organize education, health protection of the weak (women, children, parents), eradication of economic exploitation, social servants, including supervising the main factors driving the economy, stopping the muamalah which is forbidden and fixing prices if needed .<sup>7</sup>

In a welfare state, according to Sentanoe Kertonegoro, the two risk groups must get attention to be overcome. The reason is because the fundamental risk is a collective macro and is felt by all or most of the community as well as economic risks. While special risks are risks that are more characteristic of individual macros, so that the impact is felt by individuals or business unit.<sup>8</sup>

Based on economic development and social development there are four forms of welfare state, namely:

- a. A prosperous country, a country that has high economic development and high social development. Countries that apply this principle are Scandinavian and Western European countries that apply the universal welfare model and corporations.
- b. A kind country, which is a country that has relatively low economic development, but they still make social investments.
- c. Stingy countries, namely countries that have high economic development, but social development is low. Examples of countries included in this category are Japan and the United States.
- d. Weak countries, namely countries with low economic development and social development. Indonesia, Cambodia, Laos and Vietnam fall into this category.<sup>9</sup>

As with other development approaches, the state welfare system is not homogeneous and static. He is diverse and dynamically follows the development and demands of civilization. While at risk of simplifying diversity, there are at least four state welfare models that are still operating (see Stephens, 1997; Esping-Andersen, 1997; Spicker, 1995; Spicker, 2002; Suharto 2005a; Suharto, 2006):

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<sup>7</sup> Djauhari, ,2008, *Politik Hukum Negara kesejahteraan Indonesia*, Unissula Press,Disertasi,Semarang, h.72

<sup>8</sup> Sentanoe Kertonegoro, 1987, *Jaminan Sosial dan Pelaksanaannya di Indonesia*. Cet, II . Mutiara Sumber Widya, Jakarta, h. 7.

<sup>9</sup> Edi Suharto, 2005, *Membangun Masyarakat Memberdayakan Rakyat: Kajian Strategis Pembangunan Kesejahteraan Sosial dan Pekerjaan Sosial*, Bandung: Refika Aditama, page. 26.

Universal model. Social services are provided by the state equally to all of its population, both rich and poor. This model is often referred to as the Scandinavian Welfare States represented by Sweden, Norway, Denmark and Finland. For example, the welfare of the country in Sweden is often referred to as an ideal model that provides comprehensive social services to all its inhabitants. Country welfare in Sweden is often seen as the most developed and more advanced model than models in the UK, US and Australia.

Corporate or Work Merit Model Welfare States. Like the first model, social security is also carried out institutionally and widely, but the contribution to various social security schemes comes from three parties, namely the government, the business world and workers (laborers). Social services organized by the state are given primarily to those who work or are able to contribute through social insurance schemes. The model adopted by Germany and Austria is often referred to as the Bismarck Model, because the idea was first developed by Otto von Bismarck from Germany Residual Model.

This model is adopted by Anglo-Saxon countries which include the US, UK, Australia and New Zealand. Social services, especially basic needs, are provided primarily to disadvantaged groups, such as the poor, the unemployed, the disabled and the elderly who are not rich. There are three elements that mark this model in the UK: (a) guaranteed minimum standards, including minimum income; (b) social protection when risks arise; and (c) providing the best service possible. This model resembles a universal model that provides social services based on citizens' rights and has a broad scope. However, as practiced in the UK, the number of dependents and services is relatively smaller and short-term than the universal model. Social protection and social services are also given strictly, temporarily and efficiently. Box 3 gives a brief description of the residual model in the US. Model Minimal.

This model is generally applied in clusters of Latin countries (such as Spain, Italy, Chile, Brazil) and Asia (including South Korea, the Philippines, Sri Lanka, Indonesia). This model is characterized by government spending on very little social development. Welfare and social security programs are provided sporadically, partially and minimally and are generally only given to civil servants, members of the Armed Forces and private employees who are able to pay premiums. Judging from the constitutional foundation such as the 1945 Constitution, the National Social Security System Law, and the government's spending on social development that is still small, Indonesia can be categorized as an adherent to the welfare of this model.

Given the complexity of the contents of each country's constitution, as well as important thing for the development of a nation state, it is imperative that the study of the constitution continues to evolve to remain relevant and even viable (living constitution). The differences that occur in constitutional studies are quite large because each country has its own goals and references in advancing its people. Moreover, within a wider range, the Constitution of a country in a particular ideology also has its own uniqueness. The Constitution of the European nation will of course differ with the constitution of the American countries, even so in the constitution of Southeast Asian countries. Differences in style and value will make a difference in the viewpoint of the legal state, although the main objective to be achieved is welfare.

The concept of a welfare state for the clusters of Southeast Asian (eastern) nations differs from that which originally appeared in the western region. The concept of prosperity for the people of southeast asia and the Malay family, not only refers to the priorities of political, economic and social rights, but also rights in the recognition of religion and defends beliefs. Areas with diverse cultures give rise to different views on religious values. Therefore, the importation of values and / or recognition of freedom of religion and belief in the constitution of citizenship rights becomes very important as a matter of constitutional review as well as dismissing the inferiority of the eastern (ASEAN) to the west.

The discourse on constitutional comparisons especially on the realization of the welfare state is actually preceded by the views of Jeremy Bentham. According to Bessant, Watts, Dalton and Smith (2006)<sup>10</sup>, the beginning of the idea of the welfare state can be seen since the 18th century when Jeremy Bentham (1748-1832) promoted the idea that governments have a responsibility to guarantee the greatest happiness (or welfare) Of the greatest number of their citizens. In the meantime, Bentham uses the term 'utility' to describe the concept of happiness or well-being. Based on the principle of utilitarianism, Bentham argues that something that can lead to extra happiness is something good. Conversely, something that causes pain is bad. According to him, government actions should always be directed to increase the happiness of as many people as possible. Bentham's notions of legal reform, the role of the constitution and social research

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<sup>10</sup>. Made this opinion was resumed by Edi Suharto. *Negara Kesejahteraan dan Reinventing Depsos*, presented on discuss session in topic “*Mengkaji Ulang Relevansi Welfare State dan Terobosan melalui Desentralisasi-Otonomi di Indonesia*” held by Wisma MMUGM, Yogyakarta, July 25, 2006. Inside and look: Oman Sukmana, *Konsep dan desain Negara Kesejahteraan*, sunday, september 20, 2015.

for the development of social policy make him known as the "father of the welfare state".<sup>11</sup>

NO	NAME OF STATE	LABOUR - WELFARE SECURITY IN CONSTITUTION
1	INDONESIA	UUD NRI - 1945 (1) Article 28C 1. Every person shall have the right to develop him/herself through the fulfillment of his/her basic needs, the right to get education and to benefit from science and technology, arts and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race. 2. Every person shall have the right to improve him/herself through collective struggle for his/her rights to develop his/her society, nation and state. Article 28D 1. Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law. 2. Every person shall have the right to work and to receive fair and proper remuneration and treatment in employment. 3. Every citizen shall have the right to obtain equal opportunities in government. 4. Every person shall have the right to citizenship status.
2	MALAYSIA	Article number 6 Constitution of Malaysia Slavery and forced labour prohibited 1. No person shall be held in slavery. 2. All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes. 3. Work or service required from any person as a consequence of a conviction or a finding of guilt in a court of law shall not be taken to be forced labour within the meaning of this Article, provided that such work or service is carried out under the supervision and

<sup>11</sup>. *ibid*

		control of a public authority. 4. Where by any written law the whole or any part of the functions of any public authority is to be carried on by another public authority, for the purpose of enabling those functions to be performed the employees of the first mentioned public authority shall be bound to serve the second mentioned public authority, and their service with the second mentioned public authority shall not be taken to be forced labour within the meaning of this Article, and no such employee shall be entitled to demand any right from either the first mentioned or the second mentioned public authority by reason of the transfer of his employment.
3	SINGAPORE	<p>Fundamental Liberties,</p> <p>12. Equal protection 1. All persons are equal before the law and entitled to the equal protection of the law.</p> <p>2. Except as expressly authorised by this Constitution, there shall be no discrimination against citizens of Singapore on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.</p> <p>3. This Article does not invalidate or prohibit— a. any provision regulating personal law; or b. any provision or practice restricting office or employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion.</p>
4	BRUNEI DARUSSALAM	3. The Principal officers responsible to His Majesty the Sultan and Yang Di-Pertuan for Religion, Custom and Welfare shall be the Religious Adviser, the Adat Isti'adat Officer and the Welfare, respectively.

5	THAILAND	<p>Thailand constitution of 2014 (welfare <i>content was covered include all human dignity</i>)</p> <p>Section 258 National reform in various areas shall be carried out to at least achieve the following results:...</p> <p>f. Economy: 1. eliminating obstacles and promoting the competitiveness of the country in order that the nation and the people benefit from participation in various economic groups in a sustainable and resilient manner; 2. establishing a mechanism to promote and support the application of creative ideas and modern technology in the economic development of the country; 3. improving the taxation system with a view to promoting fairness, reducing disparity, increasing State revenues from various sources in an efficient manner, and improving the system for preparing and expending budgets to be efficient and effective; 4. establishing a mechanism to promote cooperatives and business operators of all sizes to ensure their appropriate competitiveness and to promote social enterprises and environment-friendly enterprises, as well as establishing a mechanism to increase opportunities for employment and occupation of the people;</p>
6	PHILIPPINES	<p>Sec 9 The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.</p>
7	MYANMAR	<p>Section 22. The Union shall assist: a. to develop language, literature, fine arts and culture of the National races; b. to promote solidarity, mutual amity and respect and mutual assistance among the National races; c. to promote socio-economic development including education, health, economy, transport and communication, so forth,</p>

		of less-developed National races. 23. The Union shall: a. enact necessary laws to protect the rights of the peasants; b. assist peasants to obtain equitable value of their agricultural produce. 24. The Union shall enact necessary laws to protect the rights of workers. 25. The Union shall assist to promote the interests of the intellectuals and intelligentsia.
8	LAO	Constitution of Lao people's democratic republic Article 39 Lao citizens have the right to work and engage in occupations which are not contrary to the laws. Working people have the right to rest, to receive medical treatment in times of illness, [and] to receive assistance in the event of incapacity or disability, in old age, and in other cases as provided by the laws.
9	CAMBODIA	Article 36 Khmer citizens of either sex shall enjoy the rights to choose any employment according their ability and to the needs of the society. Khmer citizens of either sex shall receive equal pay for the same work. Housework shall have the same value as work outside the home. Khmer citizens of either sex shall have the rights to obtain social security and other social benefits as determined by law. Khmer citizens of either sex shall have the rights to form and to be members of trade unions. The organization and functioning of trade unions shall be determined by law.
10	VIETNAM	Article 35 1. Citizen has the right to work and to select career, job, and workplace. 2. Worker shall be provided equal and safe conditions of work and shall be paid with salary and enjoy break policy. 3. Discrimination, forced labor, and employment of worker under minimum age of labor are strictly prohibited.

## 4. Conclusion

Some parts of labour - welfare recognition in the constitution of the Asian countries depend on their normative legal systems<sup>12</sup>. In Indonesia, the recognition of labour welfare in the constitution is based on the principles of democratic law, while in Malaysia and Brunei, its constitutionalism is strongly influenced by the religion correlated with Islam as the majority. Unlike the case with Thailand, Laos, and Cambodia, more accommodate the types of labour welfare that comes from national Law. In the Philippines the concept of labour welfare influenced by the value of national democracies. It differs precisely in the Vietnamese constitution more emphasizes the value of socialism.

## References

- Edi Suharto. *Negara Kesejahteraan dan Reinventing Depsos*, presented on discuss session in topic "Mengkaji Ulang Relevansi Welfare State dan Terobosan melalui Desentralisasi-Otonomi di Indonesia" held by Wisma MMUGM, Yogyakarta, July 25, 2006. Inside and look: Oman Sukmana, *Konsep dan desain Negara Kesejahteraan*, Sunday, September 20, 2015.
- PadmoWahyono, 1989, "Pembangunan Hukum di Indonesia", Ind-Hill Co, Jakarta.
- Jimly Asshiddiqie, 2006, *Konstitusi dan Konstitusionalisme*. Jakarta, SEKJEND MKRI.
- Sri Soemantri, 1992, "Bunga Rampai Hukum Tata Negara Indonesia", Alumni, Bandung.
- C.F. Strong, 1960, "Modern Political Constitution, An Introduction To The Comparative Study of their History and Existing Form", Sidgwick & Jackson Limited, London, hal 9, Dalam Budiman Sinaga, 2005, "Hukum Konstitusi", Kusuma Kalam Semesta, Yogyakarta
- Gianfranco Poggi, 2020 4<sup>th</sup> edition *The Development of the Modern State "Sociological Introduction*, (California: Standford University Press.
- Djauhari, 2008, *Politik Hukum Negara kesejahteraan Indonesia*, Unissula Press, Disertasi, Semarang,
- Sentanoe Kertonegoro, 1987, *Jaminan Sosial dan Pelaksanaannya di Indonesia*. revision, II 2017. Mutiara Sumber Widya, Jakarta,.
- Sri Warjiyati, 2018 "Legal Instruments for Upholding Human Rights in Indonesia," *Justicia Islamica* 15, no. 1
- Jimly Asshiddiqie, 2005, *Constitutional Law and Pillars of Democracy*, Constitution Press, Jakarta 2005
- Juanda, *Regional Government Law*, Alumni, Bandung, 2008

<sup>12</sup> Henning Glaser, statement, on winter academy of human rights, CPG, 2017

- John Rawls, *A Theory of Justice*, London: Oxford University Press, 1973, which has been translated into Indonesian by Uzair Fauzan and Heru Prasetyo, *Justice Theory*, Yogyakarta: Student Library, 2006,
- Lawrence M. Friedman, *American Law*, WW Norton & Company, New York, 1984
- Moh. Kusnardi and Harmaily Ibrahim, *Indonesian Constitutional Law*, Sinar Bakti, Jakarta, 1988,
- Mochtar Kusumaatmadja, *Legal Concepts in Development*, Alumni, Bandung, 2002 .,
- Munir Fuady, *Modern Law State Theory (Rechtstaat)*, Refika Aditama, Bandung, 2009,
- The People's Consultative Assembly of the Republic of Indonesia, *Correctional Guide to the 1945 Constitution of the State of the Republic of Indonesia (In Accordance with the Chapters, Articles and Paragraphs)*, Secretary General of the MPR RI, Jakarta, 2007,
- Ramesh Mishra, *Welfare State in Crisis, Social Thought and Social Change*, Wheatsheaf Books Ltd, Harvester Press, London, 1984
- Satjipto Rahardjo, *Progressive Law, An Indonesian legal system*, Gentha Publishing Publisher, Yogyakarta, 2009,
- Syaukani HR, 2001, *Looking Forward to the Future of Regional Autonomy, the Kutai Empowerment Development Movement*, Institute of Sciences,
- Sarundajang, 1999, *Central Power Backflow to the Regions*, Pustaka Sinar Harapan, Jakarta, 1999
- Sudikno Mertokusumo, *Knowing An Introduction to Law*, Fourth Printing, Liberty, Yogyakarta, 2008,
- Sentanoe Kertonegoro, *Social Security and Implementation in Indonesia. Cet. II. Mutiara Sumber Widya*, Jakarta, 1987.
- Teguh Prasetyo, *Law and Legal Systems Based on Pancasila*, Mighty Media, Yogyakarta, 2013,

***Reference official website:***

- [https://www.constituteproject.org/constitution/Brunei\\_1984.pdf](https://www.constituteproject.org/constitution/Brunei_1984.pdf)
- <http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A%22cf2412ff-fca5-4a64-a8efb95b8987728e%22%20Status%3Ainforce%20Depth%3A0;rec=0;whole=yes>
- [https://www.constituteproject.org/constitution/Thailand\\_2014.pdf?lang=en](https://www.constituteproject.org/constitution/Thailand_2014.pdf?lang=en)
- <http://www.officialgazette.gov.ph/constitutions/1987-constitution/>
- [http://www.burmalibrary.org/docs5/Myanmar\\_Constitution-2008-en.pdf](http://www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf)
- <http://confinder.richmond.edu/admin/docs/laos.pdf>
- [https://www.constituteproject.org/constitution/Cambodia\\_2008.pdf?lang=en](https://www.constituteproject.org/constitution/Cambodia_2008.pdf?lang=en)
- [http://www.constitutionnet.org/sites/default/files/tranlation\\_of\\_vietnams\\_new\\_constitution\\_enuk\\_2.pdf](http://www.constitutionnet.org/sites/default/files/tranlation_of_vietnams_new_constitution_enuk_2.pdf)
- www.cpg-online.de