

SOCIAL SECURITY (*AL-TAKAFUL AL-IJTIMA'I*) IN ISLAMIC PERSPECTIVE

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Abstract

Law No.40 of 2004 is a legal umbrella for the implementation of social security in Indonesia. The basis for managing social security including health insurance is social compulsory insurance and equity. The social insurance system, requires social security financing based on contributions where each resident shares the burden of health expenditure that has been delegated responsibility to the Social Security Organizing Agency. This study will examine, how the views of health social security based on Law No.40 of 2004 concerning the National Social Security System and how the views of Islamic law on social security in Law No.40 of 2004. The results of this study indicate that: social in Islam, as a system that provides good for the community and rules in togetherness with the legal basis of the Koran or from others.

Keywords: Security, Social, Islam

A. INTRODUCTION

Every country wants prosperity, economic stability and social welfare which is felt by all levels of people. To achieve this goal, a social security program has been held which is a major agenda of the countries in the world. Social security is understood as a form of social protection to ensure that all people can meet their basic needs properly (Kementrian Kesehatan RI, n.d. : 16). International Labour Organization (ILO), provide a definition of social security (*social security*):

Social security is a system for providing income security to deal with the contingency risk of life, sickness and maternity, employment injury, unemployment, invalidity, old age and death, the provision of medical care and the provision subsidies for family with children (Sulastomo, 2011 : 16-17).

Social security has been held in various countries including Indonesia. After World War II, the Indonesian government took the initiative to develop health social security for all residents (Universal Health Coverage). The health social insurance program (National Health Insurance-JKN) organized by the Indonesian government, based on Law No. 40 of 2004 concerning the National Social Security System (SJSN) with BPJS as the organizing body. BPJS is a public legal entity formed to run a health and employment social security program based on Law No. 24 of 2011 (Kementrian Kesehatan RI, 2013 : 2).

This national social security system is a mandatory program for all Indonesian people. The community must be involved in membership by paying regular contributions or premiums to the implementer, in this case BPJS. Accordingly, the denial of these obligations for those categorized as being able to be considered a violation of the law. Article 19 paragraph 1 of Law No. 40 of 2004 concerning SJSN said : "*Health insurance is held nationally based on the principle of social insurance and the principle of equity*". The principle of social insurance as article 1 point 3 states: "*Social insurance is a mechanism for collecting funds that are*

mandatory, originating from contributions to provide protection against socio-economic risks that afflict participants and / or family members".

Implementation of Law No. 40 of 2004 turned out to give birth to various management issues such as cases of neglect of patients, the complicated and convoluted hospital administration system, poor service quality for patients, especially poor patients, to the neglect of medical measures that greatly affect the safety of the patient's life. As for the Islamic law in terms of muamalah, Law No. 40 of 2004 this triggered a polemic, especially Muslim communities related to the contract. Decision of Commission B2 Masa'il Fiqhiyah Mu'asirah Ijtima' Ulama Fatwa Commission V MUI stated that the implementation of social security by BPJS is not in accordance with sharia principles because it contains elements of maisir, garar, and usury inherent in it (Majelis Ulama Indonesia, 2015 : 56-57). Besides that, in terms of the guarantee agreement (*ad-daman*), the principle of social insurance which is a mechanism in social security is also problematic.

Discussing about Islamic social security, means talking about state guarantee in the real sense, namely assistance from the state which is its obligation. Collateral here is not compulsory social insurance or social insurance as the guarantee paradigm in the capitalist system. Social security in the Islamic system is a state obligation and is a social right of the people. Whereas in social insurance, people as participants must pay their own premiums to insurance companies. That means people must protect themselves, bear themselves and also bear other participants, both rich and poor. The equity principle as referred to in Law No.40 of 2004, bases its health services based on the amount of contributions. People will only get services according to class. The role of the state in this case is only to establish an institution for administering health insurance (BPJS). Furthermore, financing is returned to the shoulders of the people. It is on this basis that there is a substantial difference between social security in Islam and social security in Law No. 40 of 2004.

Based on this reality, it can be said that fundamentally, the concept of health social security according to Law No. 40 of 2004 concerning the National Social Security System has changed the obligation of the state in providing social security to the people's obligations in the form of social insurance.

From the description above, it is interesting for researchers to study, because this is different from the provisions in force in Islam, Islam is a religion that has perfection in various aspects of human life, departing from Law Number 40 on the National Social Security System, the researcher tries to conducted a study about it from the concept of the Islamic religion.

B. METHOD

This research is in the form of qualitative, which seeks to collect data, process and analyze it qualitatively and define it qualitatively as well (Bachtiar, 1997 : 21). Qualitative research is generally more lax towards data collection instruments and is more focused on the process of the product of an object of research (Muhadjir, 1996 : 43), so qualitative research is carried out based on accurate data collection through library studies (Taylor & Bogdan, 1998 : 4). In qualitative research, data collection is not only through participation, but also through literature, both as primary data and as secondary data (Saebani, 2017 : 157).

C. RESULT AND DISCUSSION

1. Definition of National Social Security

Social security (social security) is part of the concept of social protection, where social protection is broader. The difference between them is that social security provides social protection for individuals with funds obtained from periodic contributions, whereas social protection usually involves many parties in providing protection to individuals, families or communities from a variety of unpredictable life risks such as economic crises, or natural disasters. This is in line with the opinion of BAPPENAS which has conducted a preliminary study on the National Social Security System (SJSN), and in the study an opinion was expressed that social security covers two things, namely (a) Social insurance and (b) Social Assistance (Social Assistance) (BAPPENAS, 2002).

Social insurance has a concept as insurance in general, where the payment of premiums is a joint responsibility between the employer (ie the government or employers) and workers (Civil Servants (PNS), ABRI / POLRI or private employees) because of the employment relationship. According to Law Number 40 of 2004 concerning the National Social Security System, the definition of Social Insurance is as stated in Article 1 paragraph 3, which is a compulsory fund collection mechanism originating from contributions to provide protection against socio-economic risks affecting participants and / or their family members. . While social assistance, in the form of "assistance" in various forms, money, services and goods with social objectives.

Another understanding put forward by Agusmindah, that social security is a form of protection for workers / laborers related to income in the form of material, in order to meet their needs including in the event of undesirable events that cause a person unable to work, this is termed also as economic protection (Agusmindah, 2010 : xi). This understanding reflects the concept of social insurance aimed at workers in the formal sector with a predetermined formula that is based on the participation of workers and employers who deposit a portion of the periodic contributions that are carried out by PT. JAMSOSTEK. Another expert who defended the concept of social insurance as the basis of social security techniques is Vladimir Rys, who said that social security is a whole set of mandatory steps taken by the community to protect them and their families from all consequences arising from inevitable disruption, or because of reduced the income they need to maintain a decent standard of living (Rys, 2011 : 23).

A series of mandatory steps taken by the community to protect themselves and their families from an economic or physiological risk is to take part in social insurance. Rys' opinion is in line with the development of thoughts about ways to deal with the risk of income instability when someone has an accident, illness or when someone no longer has physical abilities due to old age or physical disability (physiological risk) and also when someone is not working (social risk), even though they must maintain their family life. To anticipate these risks, funds are needed so that financial resources are needed to be created, there must be a party / institution that manages these funds and programs need to be formulated in accordance with each risk so as to realize the ideals of protecting each citizen to obtain a level decent life. About this will be discussed further in the National Social Security Management session.

If seen from the history of existing legislation, thoughts about the concept of social security have existed since Indonesia's independence as formulated in Article 27 paragraph 2 of the 1945 Constitution (UUD 1945) which reads "Every citizen has the right to work and livelihood

appropriate for humanity "and Article 34 which states" The poor and neglected children are nurtured by the state ". Article 27 paragraph (2) reflects the nuances of sectoral social security, namely formal workers, both state and private employees, while Article 34 emphasizes the responsibility of the government for disadvantaged citizens.

Social security is also universally recognized and contained in Article 22 and Article 25 of the Declaration of the United Nations on Human Rights in 1948 and affirmed in ILO Convention No. 102/1952 which advocates all countries to provide minimum protection for each worker. Indonesia has ratified these provisions. In accordance with the provisions of the 1945 Constitution, the United Nations Declaration of Human Rights and ILO Conventions, the 2001 Annual Assembly of the Indonesian People's Consultative Assembly issued the Decree of the Indonesian People's Consultative Assembly Number X / MPR / 2001 Concerning the Report on the Implementation of the Decree of the Indonesian People's Consultative Assembly by the State High Institutions relating to social protection and security, by giving the task to the President of Indonesia to establish a national social security system in order to provide more comprehensive social protection to the people of Indonesia.

In connection with that, the Indonesian government has reaffirmed its intention in order to provide social protection for its people, namely by including the provisions on social security in the 1945 Constitution which has been amended several times, namely in Article 28 paragraph 3 which reads "Everyone has the right to guarantee social development that allows the full development of himself as a dignified human being "and Article 34 paragraph 2 which reads" The state develops a Social Security System for all people and empowers people who are weak and unable to comply with human dignity ".

The form of the government's seriousness in following up the mandate of the 1945 Constitution is to make and enact Law Number 40 of 2004 concerning the National Social Security System where Article 1 number 1 defines that Social Security is one form of social protection to guarantee all people to be able to meet their basic living needs that is feasible, and Article 1 paragraph 2 defines the National Social Security System is a procedure for the implementation of social security programs by several social security providers. Furthermore, Subianto explained that the National Social Security System is a welfare guarantee system applicable to all citizens and its nature is basic. (Subianto, 2010 : 277). This definition is intended to emphasize that welfare facilities must be enjoyed by all citizens without exception.

Another opinion came from Yaumul Ch Agoes Achir who said that the SJSN is a Government and Community program that aims to provide certainty in the amount of social welfare protection so that each population can meet their living needs towards the realization of social welfare for all Indonesian people (Agoes Achir, 2002). Because of its wide scope, namely all Indonesians, this opinion is in line with what has been stated by BAPPENAS that social security has two (2) approaches, namely (i) social insurance approach or compulsory social insurance and (ii) social assistance (social assistance) both in cash and in the form of services from various sources of financing.

That one of the objectives of the implementation of social security in various countries is to alleviate poverty and anticipate the occurrence of social risks that may occur in the community, so that a person must continue to meet his basic needs when he does not get income because of illness, accident, reaching old age, affected by termination work or die. According to Law

Number 3 of 1992 Concerning Workers' Social Security, Social Security has a universal understanding, so that if it is looked deeper, then Social Security is a protection for all people in the form of compensation in the form of money as a substitute for a portion of lost income or reduced and services as a result of events or circumstances caused by social risks in the form of workplace accidents, illness, pregnancy, childbirth, old age and death through mandatory fund collection mechanisms (Tim Internal SJSN PT Jamsostek (Persero), n.d.).

2. Social Security in the perspective of Islam (*Al-Takâful Al-Ijtima'i*)

Al-Takâful al-Ijtima 'i, the *ma'rifat* form of the words *takafulun* and *ijtima'*, which is composed of two words namely *al-takâful* and *al-Ijtima '*. *Al-Takâful* itself the root word of *كفل - يكفل* then experiences the addition of the letters "ta" and "alif" to *تكافل - يتكافل*; the addition of two letters *ta'di* in front and *alif* in the middle, in the science of *shorf* when the verb consists of three letters then the addition of the letter *ta* 'in front and *alif* in the middle have the meaning of "mutual". *Kafala* which means making a living, while *takafal* which means "mutual guarantee" (Munawwir, 1997 : 1220). the word *kafala* has several meanings, in addition to the meanings mentioned earlier. derivative meaning or *mustaqot* from the word *kafala*, including:

- a. First, *الضعف و النصيب و الكفل* which means part, as contained in the verses of al-Qur'an surah al hadid verse 28 and surah an-Nisa 'verse 85.
- b. Second, *الكفيل: الشاهد و الرقيب*, who witnessed and watched, the meaning of this word is strengthened by the verses of al-qur'an an-Nahl verse 91.
- c. Third, *العائل و الضامن و الكافل* which means to bear and guarantee, as the word is contained in Surah ali 'Imran verse 44.

From the description above, it can be concluded that *al-Takaful al-Ijtima'i* is a common need and characteristic of the Islamic community, according to the word of God contained in Surah al-Maidah verse 2 which reads :

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ ۖ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ

And help in helping (virtue) virtue and piety, and do not help in committing sins and transgressions.

The social security system is nothing but a part of a universal Islamic concept, with this concept people who think think will find a comprehensive Islamic concept for all living things that exist on earth, especially human life. And it is recognized that Islam is a relevant religion and will continue as long as there is life and human growth, in addition to leading humans to absolute perfection, in the life provisions they seek. it is believed from the basis of his findings that this beautiful Islamic sharia has an independent principle, has an identity that is inherent to each of these principles as a whole, and in every concept of humanity, the word of Allah SWT in surah al-Maidah verse 3 : **"On this day I have perfected your religion for you, and I have sufficient My mercy for you, and I have blessed Islam as your religion".**

Among the principles of social security in an Islamic perspective are as follows:

- a. Principles of Forbidden Eating the Property of the General Public

For someone who gets the mandate from the community and gets the responsibility from the community. If they do not have a conscience, their mind is damaged, then they will use the state treasury for personal needs, so that they will eat people's property that can be eaten without any control from religion or from conscience then if they are left alone they will play in the bloating and hoarding of assets obtained from public money, small businessmen and workers and taken from the proceeds of tax payments.

b. Principles for Public Benefit Assurance

When humans need basic needs such as water, electricity, salt and other fuels, the state is obliged to provide these needs in society, as well as maintaining its stability. And more important so that public benefit is not controlled by a handful of people, and there is no inflation of the wealth of the people's property controlled by them, namely by hoarding, controlling prices, exploiting needs

Social security (*al-takaful al-ijtima'i*) is one of the most basic pillars of Islamic economics (basic and essential) among the three pillars of Islamic economics. Ahmad Muhammad 'Assal, Professor of the University of Riyadh, Saudi Arabia, in the book *An-Nizam al-Iqtishadity al-Islami*, states that the most basic pillars of Islamic economics are three, namely, ownership (*al-milkiyyah*), freedom (*al-hurriyyah*) and guarantees social (*al-takaful al-ijtima'i*).

Some substance of the word *takaful* shows the meaning of "necessity" and "responsibility", because the word *takaful* is an interactive form of the word *kafala*. It is said *takafaltubisy syai-i*, meaning "I oblige myself to him and I will remove from him neglect and disappearance". *Kâfil* is a person who guarantees human beings who become his family and the obligation to provide for him. While the word *ijtim* 'is a sign of *ijtim*' means the community. That is, the association of a group of people who are combined by one purpose.

So social security here can be interpreted as "the responsibility of guarantees that must be carried out by the community towards individuals who need it by covering their needs, and trying to realize their needs, pay attention to them, and avoid the badness of them" (Haritsi, 2006 : 285-286).

According to Sheikh Abu Zahrah, what is meant by *al-takaful al-ijtima'i* is that every individual in a society is in the community's collateral or responsibility. Every person who has the ability to be a guarantor, with humanitarian goals in society that is in line with the maintenance of individual benefit, in rejecting the damaging and maintaining the good, in order to avoid various obstacles to community development that is built on the right basis (Zahrah, n.d. : 4).

Furthermore, Sheikh Husain bin Muhammad al instead, gave the definition of *al-takaful al-ijtima'i* is insurance (guarantees) that are given to certain communities, such as civil servants, soldiers, retired people, people who are not able and others. This insurance is usually carried out by the government and is binding, such as health insurance, old age pension insurance, labor social insurance, special army social insurance, vehicle insurance, education insurance and others (Vandiantara, 2017 : 125).

Syafii Antonio then tried to explain further related to the instruments in *al-takaful al-ijtima'i*, namely taken from alms, infaq, grants, waqaf, manihah, athaya, gifts, and i'arah. So that it becomes a very sturdy and solid instrument, as well as being a hallmark of a unique Islamic

distribution system. All of these instruments are recommended not obligatory so if there are community members who get a disaster, we cannot oblige our relatives to ease the disaster on time and in the amount needed. Because they are recommendable, they will provide assistance in accordance with their plans, when they remember and in a modest amount (Vandiantara, 2017 : 126).

The most important meaning of social security is compulsory, collective responsibility in the guarantee, both from individuals to individuals, from pilgrims to individuals, or from individuals to pilgrims, and the breadth of its scope to all sides of life from education, health, care and others .

The concept of social security is similar to the concept of insurance which in Arabic is called at-tamîn, the guarantor is called muammîn, while the insured is called mûamman lahu or mustamîn. At-tamîn (التأمين) taken from the word amana (أمن) has the meaning of providing protection of calm, security, and freedom from fear. As mentioned in QS. Quraysh (106): 4, i.e. "*He is the God who keeps them from fear*" (Sulastomo, 2011 : 28).

In Indonesia, Islamic insurance is often known as takâful. The word takâful comes from the word takâfala-yatakâfulu which means to guarantee or bear one another (Sulastomo, 2011 : 32). By definition, Billah means "takaful" with mutual guarantee provided by a group of people living in the same society against is defined risk or catastrophe befalling one's life, property or any form of valuable things (joint guarantees provided by a group of people who live in one the same environment to the risk or disaster that befell someone's soul, property, or anything of value) (Ali, 2004 : 61-62).

Husain Hamid Hisan said that insurance is a praiseworthy year, namely helping one another in doing goodness and piety. Az-Zarqa said that insurance is a system of taawun and tadamun which aims to cover the losses caused by a group of insured people to the people affected by the disaster. The compensation comes from their premium. Mohd. Mâsum Billah to mean "coverage" with the word CAD, which means "shared responsibility, shared guarantee, responsibility, assurance or surety" (mutual responsibility, mutual guarantee, mutual bearing) (Sula, 2004 : 28).

Contemporary fiqh expert Wahbah az-Zuhaili defines insurance based on its distribution. He divides insurance in two forms, namely at-tâmin at-tâawuni and at-tâmin bi qist sickle. At-tâmin at-tâawuni or insurance please help is "the agreement of a number of people to pay a sum of money in compensation when one of them gets harmed". At-tamîn bi qist tsâbit or fixed sharing insurance is "a contract that requires a person to pay an amount of money to an insurance party consisting of several shareholders with an agreement if an insurance participant gets into an accident, he is compensated" (Perwataatmadja et al., 2005 : 222).

Takaful has great urgency in Islam. Among the clearest propositions in this regard are as follows :

- a. The order of Takaful which is equated with the command of Allah's Tawheed Allah Ta'ala, His Word: "Do good to two parents, close relatives, orphans, poor people, near neighbors and distant neighbors, colleagues, ibnu your sabil and servant sahayamu "(Surah An-Nisa: 36)

- b. Takaful is equated with faith and piety in its existence and absence. Allah says in characterizing those who believe: "and in their property there is a right for the poor who ask and the poor who do not insult" (Surah Al-Ma'un, 1-3)
- c. In the Qur'an and as-Sunnah there are many propositions that show that carrying out the obligation of takaful is the most important reason to enter heaven, and that disregarding the rights of people in need is the biggest cause of going to hell, including the word of God, "What entered you into Saqar (hell)? They replied, We were not among those who prayed, and we did not (also) feed the poor "(Surah Al-Muddatsir: 42-44)
- d. In the fiqh of Umar Radhiyallahu Anhu's Economy, it is clear that attention to social security in various fields, Takaful was Umar Radhiyallahu Anhu's last will when he was dying. Because there is a history that before a few days of the disaster that befell him in Medina, he said: "If Allah saves me, surely I will leave the widows of the Iraqi population will not need someone after me forever" (Haritsi, 2006 : 288-289).

Takaful is the responsibility of each individual, community and government. The following explanation relates to Takaful's responsibility:

a. Individual Responsibility.

It is the responsibility of the personnel (*fardhu'ain*) carried by someone who is capable of those who need themselves for the people he is obliged to provide for, sometimes due to the close relationship of relatives to realize their adequacy and sometimes due to the urgent need to save their lives, then he gave them what could prevent them from danger.

b. Community Responsibility.

Actually the original law that *ulilamri* (government) reflects the community in realizing social security. However, if *Ulil Amri* does not do this for a reason, then the community bears the responsibility directly, and the responsibility here becomes *fardhu kifayah* if there are some people who do it, then the sins of others will fall, and if there are not some people who do it, then fall from the other sin, and if no one commits it, then the sin is the responsibility of all people, until there is certainty who did it.

c. Government Responsibility.

This responsibility is sometimes direct, namely by realizing adequacy through *baitul mall* or through government budgets for people who are unable and sometimes indirectly, namely by requiring individuals and communities to carry out obligations towards people who need (Haritsi, 2006 : 290).

Takaful is a grant agreement that basically aims to help each other to help alleviate the burden of loss, and contribute to bear the suffering when a disaster occurs. Not commercially intended and solely aimed at helping. Gharar in the grant agreement is permitted and does not include gambling, so it does not affect and damage the validity of the contract (Tarmizi & Konsultan, 2013 : 247).

- a. Contract; there are two contracts that form takaful, viz : (1) *Tabarru* contract. *Tabarru* contract is part of *tabaddul haq* (transfer of rights) whose main purpose

is for virtue; and (2) Mudharabah contract; the mudharabah agreement is realized when the funds collected are invested (Iqbal, 2006 : 147).

- b. The procedures for management or investment must not be in conflict with Islamic sharia: (1) Usury Ban; additional from basic assets or vanity capital (Antonio, 2001 :37); (2) Prohibition of Maisir (gambling): one of the parties who profit but on the other hand actually suffered losses (Ali, 2004 : 134); and (3) Prohibition of Gharar (uncertainty); gharar or also called taghrir is a situation where incomplete information occurs because of the existence of uncertainty to both parties (the uncertainty of the two parties to the transaction) (Karim, 2008 : 31).

The concept of at-takmîn at-ta'âwuniy in Islamic financial fiqh is Social security (*al-takâful al-ijtimâ'i*) is one of the most basic pillars of Islamic economics (fundamental and essential) among the three other pillars of Islamic economics. Social security is part of sharia maqashid, which is to maintain oneself (soul) which is called by the ulema with the term *hifz al-nafs* occupying a very important position in Islam.

D. CONCLUSION

Social security (social security) is part of the concept of social protection, where social protection is broader. The difference between them is that social security provides social protection for individuals with funds obtained from periodic contributions, whereas social protection usually involves many parties in providing protection to individuals, families or communities from a variety of unpredictable life risks such as economic crises, or natural disasters. While in the view of Islam social security is called *al-Takaful al-Ijtima'i* which is a common need and characteristic of Islamic societies. The most important meaning of social security is compulsory, collective responsibility in the guarantee, both from individuals to individuals, from pilgrims to individuals, or from individuals to pilgrims, and the breadth of its scope to all sides of life from education, health, care and others . The principles of social security in the perspective of Islam are: 1) the Principle of Forbidden Eating the Property of the General Public and 2) the Principle of Public Benefit Guarantee.

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