

The Law Enforcement against Alcoholic Drinks Habits

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Article	Abstract.
Keywords:	The problem of alcohol abuse in various circles, both in society and among
Alcoholic; Beverages;	teenagers, has become a problem that continues to experience a very
Control.	significant increase and tends to increase every year. When teenagers or people have the habit of consuming liquor, it can lead to crime, in various
Article History	forms that vary greatly, for example juvenile delinquency, fights, the
Received: 2021-12-30;	emergence of juvenile gangs, thuggery, immoral acts and others. Juridically
Reviewed: 2022-06-11; Accepted: 2022-06-14;	there is no prohibition of liquor or alcoholic beverages, but only on the regulation of procurement, distribution, sale and control. The existing laws
Published: 2022-06-21.	and regulations in Indonesia have not been able to fully accommodate to be able to control the circulation of alcoholic beverages because some of the
DOI:	regulations that have been spread have not been specifically and
http://dx.doi.org/10.306	comprehensively able to suppress the circulation and even prevent alcoholic
59/jdh.v5i2.19099	beverages in the community. As a result, regulations at the lowest level
	(regional regulations) can only carry out prevention locally at the provincial level which has regional regulations concerning the Control and Supervision
	of alcoholic beverages, such as Gorontalo Provincial Regulation No. 16 of
	2015. The Gorontalo Provincial Government considers it very important that
	the control and supervision of the circulation of alcoholic beverages must be
	carried out in order to prevent disturbances to peace, order and public
	security
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1. Introduction

The initial milestone of the progress of the times called modernization has had an extraordinary influence and impact on the survival of human life at this time. Modernization has also brought about fundamental changes in various fields and values of human life, which of course will have consequences and influences for humans as components of life. One of the impacts of modernization is in socioeconomic life which is quite real in our society, namely the habit of consuming alcoholic beverages or commonly referred to as liquor. In fact, this has penetrated into teenagers who have the habit of consuming liquor. As is well known that consuming alcoholic beverages brings a bad appearance to health and can lead to addiction for those who consume it.¹ If this situation continues and becomes a condition that is used to it, it will have a negative impact on the lives of teenagers, who have obligations as the next generation of the nation, the generation that determines the progress and development of a country.

The problem of alcohol abuse in various circles, both in society and among teenagers, has become a problem that continues to experience a very significant increase and tends to increase every year². When teenagers or people have the habit of consuming liquor, it can lead to crime, in various forms that vary greatly, for example juvenile delinquency, fights, the emergence of juvenile gangs, thuggery, immoral acts and others.

Liquor is a drink that contains alcohol. Alcoholic beverages are alcoholic beverages or commonly referred to as minol, which are drinks that contain ethanol. Ethanol is a psychoactive ingredient and for those who consume it can cause a decrease in consciousness, affect behavior, ways of thinking to make a person abnormal.

The habit of consuming liquor has become a culture in people's lives since ancient times. Even in ancient times in Arab society, in the period before the entry of Islam, they were familiar with liquor or what was called Kham. After the arrival of Islam, drinking *khamr* has been forbidden for Muslims. This rule has existed since 14 centuries ago. This can be seen from the number of Qur'an and Hadith which recommends to stay away to forbid the *khamr*. Referring to the Qur'an, there are at least four stages that are passed until the label is haram. So that by staying away from liquor or alcoholic beverages in order to save the lives of the younger generation and the nation is a belief.³

Gorontalo Province is the place that the author chose as the location in the discussion of this writing. In 200117 the police in Operation Pekat Otanaha 2017 and other routine operations, the Police confiscated more than 36,000 bottles of liquor. In 2021, while carrying out security ahead of the *Ketupat Eid* tradition in Gorontalo Regency, tens of liters of liquor type of rat stamp were secured.⁴

Likewise, the Food and Drug Monitoring Agency (BPOM) of Gorontalo Province in 2020 confiscated a number of liquor (liquor) stamped with rats with a total weight of around 5.3 tons.⁵ An incident like this is one of several problems that concern all parties, both the community and the government and especially law enforcement officers. This is because liquor has become the consumption of various groups of

¹ Raynald A. Issakh, Ronald Ottay, and Dina V. Rombot, "Gambaran Perilaku Remaja Terhadap Kebiasaan Mengonsumsi Minuman Beralkohol Di Desa Sapa Kecamatan Tenga Kabupaten Minahasa Selatan Tahun 2012," *Jurnal e-Biomedik* 4, no. 1 (2016): 5–10.

² Taufikin, "Hukum Islam Tentang Minuman Keras Pencegahan & Penanggulangan Perilaku Minuman Keras Di Desa Sidomulyo Kecamatan Dempet Kabupaten Demak," *Jurnal Pemikiran Hukum & Hukum Islam* 6, no. 2 (2015): 482–499.

³ Hamidullah Mahmud, "Hukum Khamr Dalam Perspektif Islam," *Maddika Journal of Islamic Family Law IAIN Palopo* 01, no. 01 (2020): 28–47, http://ejournal.iainpalopo.ac.id/index.php/maddika.

⁴https://hulondalo.id/polres-gorontalo-sita-puluhan-liter-miras-jelang-tradisi-lebaran-ketupat.

⁵ detiknews, "BPOM Sita 5,3 Ton Miras Cap Tikus di Gorontalo" selengkapnya https://news.detik.com/berita/d-5131557/bpom-sita-53-ton-miras-cap-tikus-di-gorontalo.



people and even teenagers. So that the circulation of liquor which must get serious handling even must be completely eliminated in all levels of society.

Gorontalo Province, better known as the City of Medina Veranda, the Government in this case the Governor has issued Regional Regulation No. 16 concerning the Supervision and Control of Alcoholic Drinks because the government considers this very important and is considered very necessary in order to prevent disturbances related to disturbing the peace and order of society. As a result of the consumption of liquor and the impact of health problems and can lead to other criminal acts, so based on this description, the author wants to conduct a more indepth study of "Law Enforcement against Alcoholic Drinks based on Gorontalo Provincial Regulation No. 16 of 2015 concerning Supervision and Control of Alcoholic Drinks".

2. Reseach Metods

In this paper, using normative juridical research methods, namely library law research conducted by examining library materials or secondary data.⁶ A juridical approach that is based on existing legal or statutory regulations. The source of the data was obtained using library research, namely by collecting materials by reading and studying books, journals and articles related to the problems discussed.

3. Result and Discussion

3.1 Law Enforcement Effort Against Abuse Of Alcoholic Drink

Law enforcement is an effort to realize legal concepts and ideas that are expected to become reality by the community. Law enforcement is a process that involves many things.⁷

Soerjono Soekanto, emphasized that law enforcement lies in the activity of harmonizing the relationship of values that are outlined in solid and embodied rules and attitudes of action as a series of final stages of value elaboration, to create, maintain, and maintain peaceful social life.⁸

Satijpto Rahardjo emphasized that law enforcement is one form of implementing the law specifically in people's daily lives.⁹ Lawrence M Friedman stated that the benchmarks for the success of law enforcement are related to: legal substance, legal structure and legal culture.¹⁰ Lawrence M Friedman, legal substance is defined as law in a material sense, namely written regulations that are generally accepted and made by legitimate central and regional authorities. Regarding the enactment of the law, there are several principles that aim to make the law have a positive impact. This

⁶ Soerjono Soekanto & Sri Mahmudji. 2003. *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*. Jakarta:Raja Grafindo Persada. p. 13.

⁷ Shant Dellyanam , Konsep Penegakan Hukum, Yogyakarta, 1988, Liberty, p. 32.

⁸ Soerjono Soekanto, Penegakan Hukum & Kesadaran Hukum, Makalah pada Seminar Hukum Nasional ke IV, Jakarta, 1979.

⁹ Satjipto Rahardjo, Ilmu Hukum, Citra Aditya Bakti, Bandung, 2000, p. 81.

¹⁰ Judul asli *Legal Theory*, penerjemah: Mohammad Arifin, Cetakan kedua, (Jakarta, PT Raja Grafindo Persada 1993) Friedman Lawrence M, 1977.

means that the law has achieved its purpose, so that it has been effectively implemented in accordance with the purpose of the law.¹¹

Legal substance is a substantial part that determines whether or not the law can be implemented. Substance also means the product produced by people who are in the legal system that includes the decisions they make, or the new rules they make. The substance also includes living law, not just the rules contained in law books.

The legal structure is one form of law enforcement specifically, there is a structure that is the content of the existing legal system consisting of a legal framework including law enforcement agencies, legal procedures, legal jurisdiction, courts and the people involved in it. The legal structure is a model that can show how legal institutions or law enforcement officers work in accordance with the formal provisions stipulated by law.¹²

Legal culture is a social concept and social forces that determine how to use, avoid or abuse the law. This section covers the values and attitudes of community members including the practice of law enforcement and the determination of the status of the legal system across national cultures. A legal system will be powerless without the support of the legal culture that exists in society.¹³

Lawrence M Friedman, said that legal culture is a human attitude towards the law and the legal system, in the form of beliefs, values, thoughts and expectations. Legal culture is a state of social thought and social forces that determine how to use, avoid and abuse the law. Culture is closely related to the legal awareness of the community. The higher the legal awareness of the existing community, the better the culture will be. In short, public compliance with the law is one indicator of the implementation of law enforcement.

These three factors are interrelated and influence each other. In the implementation of law enforcement, the legal substance, structure and legal culture support each other, so as to create a pattern of life that is peaceful, peaceful and secure.

As it is well known that the spread of alcohol / liquor cannot be stopped, although it has been tightened in terms of administrative permits, it has not been able to close the gate for parties who want to take advantage of the liquor trade. In order to avoid the complexity of administrative licensing, they sell liquor illegally, sell mixed liquor, and even sell alcoholic beverages regardless of the age limit of the buyer. This of course causes social problems in society.

Liquor (commonly referred to as liquor), distilled beverage, or spirit is an alcoholic beverage containing ethanol produced by distillation (concentration through distillation) ethanol produced by fermentation from grains, fruits or vegetables. Some examples of strong liquor include: *arak, vodkam gun, baijiu, teuqila, rum, whiskey, brandy and soju*.¹⁴ In Arabic, liquor, alcoholic beverages, wine is called *Khamr*.¹⁵

¹¹ Purbacaraka & Soerjono Soekanto, *Perundang-undangan & Yurisprudensi, Bandung: Alumni. 1979.*

¹² Musakkir, "Problem Penegakan Hukum Oleh Aparat Penegak Hukum Di Indonesia", Komisi Yudisial Republik Indonesia, Sekretariat Jenderal KY RI, Cetakan Pertama, Jakarta, July, 2014. p. 141.

¹³ Cited by Musakkir, in book of *American Law An Introduction*, Lawrence M. Friedman,. Diterjemahkan oleh Wisnu Basuki, Jakarta, Tata Nusa, 1998, p. 7-8.

¹⁴ Jenny Christalia Bermalang, "Komunikasi Antarpribadi Tokoh Agama Tentang Bahaya Minuman Keras Kepada Remaja Di Kelurahan Maksubun Kabupaten Sorong," *E Journal ACta Diurna* V, no. 5 (2016): 1–8.



In Indonesia, the regulation of alcoholic beverages has been regulated in various laws ranging from the central level to regional regulations. At the central level, laws and regulations or government regulations do not specifically mention the regulation of alcoholic beverages. Even now, there is no comprehensive regulation regarding the prohibition of the consumption of alcoholic beverages. Regulations related to the consumption of alcoholic beverages range from statutory regulations to regional regulations. However, it has not yet regulated alcohol drinks specifically and comprehensively, starting from the level of production, circulation to consumption, along with efforts to protect against the negative effects of alcoholic beverages.¹⁶

In several existing laws and regulations in Indonesia, alcoholic beverages are not clearly stated and the delegation of alcoholic beverages is not further regulated. In some laws it is only categorized as "beverage" or processed food.

Law No. 36 of 2009 concerning Health, it is stated that food and drink used by the community must be based on health standards and/or requirements. Food and beverages that are circulated must obtain a distribution permit in accordance with statutory regulations.

In Law no. 18 of 2012 concerning Food only regulates the guarantee of food safety and food quality during the production process and until it can be consumed by the public. Likewise with Presidential Regulation No. 17 of 2013 concerning Control and Supervision of Alcoholic Beverages, in this regulation, alcoholic beverages with an ethanol content of > 2.5% to 55% are classified as alcoholic beverages that are produced, circulated and sold as goods under supervision. Meanwhile, in the case of domestic production of alcoholic beverages, it can only be carried out based on a permit from the Minister of Industry and Trade, namely Permendag No. 15/M-DAG/PER/3/2015 concerning Procurement, Distribution, Sales, Supervision and Control of Alcoholic Beverages. Meanwhile, alcoholic beverages which are traditionally produced are Industrial Control and Supervision based on the Regulation of the Minister of Industry No. 71/M/ENG/PER/7/2012.

Alcoholic beverages can only be produced by business actors who already have an industrial business license, while alcoholic beverages originating from imports can only be imported by business actors who have an import license. And the circulation must be carried out by business actors who have a permit from BPOM. This provision is based on Presidential Regulation No. 74 of 2013 concerning Control and Supervision of Alcoholic Drinks.

The law enforcement that can be applied to the abuse of liquor is based on the provisions of the Criminal Code, as follows:

Article 300 of the Criminal Code:

1) With a maximum imprisonment of one year or a maximum fine of IDR 4.500,punished

¹⁵ Taufikin, "Hukum Islam Tentang Minuman Keras Pencegahan & Penanggulangan Perilaku Minuman Keras Di Desa Sidomulyo Kecamatan Dempet Kabupaten Demak."

¹⁶ Tri Rini Puji Lestari, "Questioning the Regulation on Consumption of Alcoholic Beverages in Indonesia," *Aspirasi* 7, no. 2 (2016): 127–141, https://jurnal.dpr.go.id/index.php/aspirasi/article/download/1285/707.

- a. Whoever knowingly sells or gives an intoxicating drink to someone who is already visibly drunk;
- b. Whoever deliberately intoxicates a child who is not yet sixteen years of age;
- c. Whoever by force or threat of violence compels a person to drink intoxicating drinks.

2) If the act results in serious injuries, the guilty person is threatened with a maximum imprisonment of seven years.

3) If the act results in death, the guilty person is threatened with a maximum imprisonment of nine years.

4) If the guilty person commits the crime in carrying out his search, his right to carry out the search may be revoked¹⁷.

Article 492 of the Criminal Code:

- Anyone who is drunk in public obstructs traffic, or disturbs order, or threatens the safety of others, or does something that must be done carefully or by taking certain precautions in advance so as not to endanger the life or health of others, shall be threatened with a maximum imprisonment of six days, or a maximum imprisonment of three hundred and seventy thousand rupiahs.
- 2) If at the time of committing the offense, one year has not passed since the decision was made on the previous sentence for the guilty person for the same offense or because of the offense described in Article 526, he is sentenced to a maximum imprisonment of two weeks.

Article 536 of the Criminal Code:

- 1) Anyone who is evidently drunk on a public road, is threatened with a maximum fine of two hundred and twenty five rupiahs;
- 2) If at the time of committing the offense one year has not elapsed since the previous sentence for the guilty party was due to the offense in the same form or the offense described in Article 492, the fine may be replaced with a maximum imprisonment of three days.
- If there is a second repetition within one year after being sentenced to a maximum imprisonment of two weeks;
- 4) In the third or more repetitions in one year, after the sentence which was later due to a second or more repetition becomes permanent, he shall be subject to a maximum imprisonment of three months.

Article 537 of the Criminal Code

Whoever sells or gives liquor or wine to members of the Armed Forces below the rank of lieutenant or to his wife, children or servants, is threatened with a maximum imprisonment of three weeks or a maximum fine of one thousand five hundred rupiahs.

Article 538 of the Criminal Code

The seller or his representative who sells liquor who in carrying out his work gives or sells liquor or wine to a child under the age of twelve, is threatened with a

¹⁷ Chuasanga A., Ong Argo Victoria. (2019). *Legal Principles Under Criminal Law in Indonesia and Thailand,* Jurnal Daulat Hukum, Vol 2, No 1 (2019) <u>http://jurnal.unissula.ac.id/index.php/RH/article/view/4218</u>



maximum imprisonment of three weeks or a maximum fine of four thousand five hundred rupiahs.

Article 539 of the Criminal Code:

Any person who on the occasion of a public celebration or public performance or a public procession, provides free liquor or promises as a gift, shall be punished by a maximum light imprisonment of twelve days or a maximum fine of three hundred and seventy five rupiahs.

3.2 Control Of Liquid Circulation In Gorontalo Province

The control of liquor circulation has been carried out by the Gorontalo Provincial Government, namely the Regional Government has ratified the Gorontalo Provincial Regulation No. 16 of 2015 concerning Supervision and Control of Alcoholic Beverage Circulation. Alcoholic beverages if consumed can endanger physical and spiritual health, threaten life and threaten the future of the nation's generation, trigger disturbances in security, peace and public order and other actions that even commit acts that violate the provisions of the law and are often a driving factor for the occurrence of criminal act.

Gorontalo Province is one of the provinces where the population is Muslim, so people who consume liquor are contrary to the values of life and the philosophy of the Gorontalo region which is based on "customs based on sara', sara' based on the book of Allah". By religious law, liquor is considered a bad thing and even an unlawful drink which if consumed, then the person will get a sin.

They have the autonomous right to manage their government concurrently, the region becomes the basis for the implementation of regional autonomy as referred to in Article 12 of Law no. 23 concerning Regional Government, the Provincial Government has the authority to regulate and manage (mandatory affairs) related to basic services, including the implementation of public order and public peace, so that in relation to the circulation of liquor which has so far caused unrest for the community the consequences that have been caused. The Regional Government establishes a Regional Regulation to control and supervise the circulation of alcoholic beverages, because they can disrupt public order and peace and have an impact on workers' health.

So far, various incidents have arisen as a result of drinking alcohol which has disrupted public order and public peace in Gorontalo Province. Some time ago in early 2021 in Gorontalo City, a video circulated on social media, a baby was given liquor by his uncle, his uncle gave liquor because at that time, he was having a liquor party at his house. Seeing such conditions, it is clear that the effects of alcohol are very dangerous for both oneself and others.

In controlling and supervising the circulation of alcoholic beverages, the provincial government has determined in Regional Regulation no. 16 of 2015, as for the prohibitions, including the following:

- Alcoholic beverages with ethanol content above 55% (from outside the region) are prohibited from being imported, circulated or sold within the region.
- Everyone is prohibited from selling in retail alcoholic beverages class A, B and C in packages and/or selling directly to be drunk on the spot, at the location:

- Sports/youth arenas, karaoke places, street vendors, terminals, stations, small kiosks, youth inns or campgrounds;
- Close to places of worship, schools, hospitals and settlements;
- Anyone who consumes alcoholic beverages that causes the blood alcohol content to exceed 50mg/CI (0.5%) is prohibited from:
 - Wandering in public areas, public facilities and roads;
 - Driving/driving a motorized vehicle;
 - Operate machines that may endanger the health and safety of oneself and/or others;
 - Using equipment that can endanger the health and safety of oneself and/or others; and
 - Make noise, commotion, disturb the peace and tranquility.
- Everyone is prohibited from bringing alcoholic beverages of class A, B and C from abroad as luggage, if they commit a violation, they will be subject to sanctions in accordance with the Customs Law.

Meanwhile, for business actors who violate the provisions of Provincial Regulation No. 16 of 2015, criminal provisions and fines apply. respectively as follows:

- Every SIUP-MB holder violates the provisions of Article 5, namely the provisions on Indonesian national standards and quality standards and sanitation requirements for alcoholic beverages based on statutory regulations and must pay attention to social conditions, public health and tourist visits.
- Prohibition of selling alcoholic beverages to children and adolescents who have not reached the age of 21 years.
- Each alcoholic beverage packaging must be registered with BPOM and include the type, alcohol content, volume and prohibition for children under 21 years of age and pregnant women.

If this happens, a fine of up to IDR 50,000,000

Everyone who violates the provisions:

- Every retailer of alcoholic beverages of class A, B and C, direct seller of alcoholic beverages of class A, B and C to be drunk on the spot must have a permit.
- Alcoholic beverages with levels above 50% (from outside the region) are prohibited from being imported, circulated or sold within the region.
- Raw materials for alcoholic beverages in the form of concentrates are prohibited from being imported, produced and circulated within the province.
- Violation of the sale of alcoholic beverages in places such as GOR, parks, karaoke places, street vendors, terminals, stations, small kiosks, inns and campgrounds, places close to places of worship, schools, hospitals and settlements.
- It is forbidden to consume alcoholic beverages A, B and C in public places, public facilities and roads.
- Everyone who consumes alcoholic beverages is prohibited from: roaming in public places, public facilities and roads; driving/driving a motorized vehicle; operate machines that may endanger the health and safety of oneself and/or others;
- Make noise, commotion, disturb the peace and tranquility. Then a maximum of 3 (three) months imprisonment and/or a fine of IDR 50,000,000.



The community and/or community groups also have obligations and participate in controlling and supervising the circulation of alcoholic beverages, namely by;

- Report the existence of alcoholic beverage circulation that violates the provisions of the law.
- Report to the government apparatus or local law enforcement officers if they know of any activities of consuming alcoholic beverages and/or drunkenness which are carried out outside the places specified in the regional regulations
- Participate in the socialization of regional regulations.

4. Conclusion

Circulation of alcoholic beverages (liquor) is a problem for all, not only the central government, but moreover the local government as well as the community. Alcoholic beverages have a negative impact on the health and behavior of those who consume them. Alcoholic beverages that cause loss of consciousness can pose a danger to self and others. The existing laws and regulations in Indonesia have not been able to fully accommodate to be able to control the circulation of alcoholic beverages because some of the regulations that have been spread have not been specifically and comprehensively able to suppress the circulation and even prevent alcoholic beverages in the community. As a result, regulations at the lowest level (regional regulations) can only carry out prevention locally at the provincial level which has regional regulations concerning the Control and Supervision of alcoholic beverages, such as Gorontalo Provincial Regulation No. 16 of 2015. The Gorontalo Provincial Government considers it very important that the control and supervision of the circulation of alcoholic beverages must be carried out in order to prevent disturbances to peace, order and public security.

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