

Liquor Circulation Regulations Politically, National and Regional Law

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Abstract. *The purpose of this study is to examine and analyze the regulation of the circulation of liquor politically in national and regional law. The approach method used in this paper is normative juridical. The specification of this writing is descriptive analytical. One of the problems that is very concerning and must receive special attention from the government is the problem of liquor which is widely consumed by the wider community, especially in Indonesian society. The circulation of liquor that is not controlled has an impact on alcoholism in society and crime related to drinking. This is now the duty of the police to always be active in overcoming it. Regulations related to supervision of the circulation of alcoholic beverages, namely Law No. 36 of 2009 concerning Health.*

Keywords: *Distribution; Liquor; Politic.*

1. Introduction

The State of Indonesia is a constitutional state that guarantees a sense of security and comfort for all Indonesian people and protects all Indonesian people from all forms of criminal acts. In the preamble to the 1945 Constitution of the Unitary State of the Republic of Indonesia (UUD NKRI) as the constitution of the State, it has been emphasized that the aim of the State is to protect the entire nation and all of Indonesia's bloodshed, thus the State, in this case law enforcers, has full duty in protecting and protecting the Indonesian people from all forms of criminal acts that threaten the comfort and security of the Indonesian people.¹

The existence of law in society does not stand alone. Law has a close relationship with people's lives. Law is often referred to as a social phenomenon, where there is society, there is law. The existence of law is a community need, both the needs

¹Suhada and Aryani Witasari, Legal Analysis Of Giving Remission To Fostered Citizens Of Criminal Acts In Narcotics In The Narcotics Special Class IIa Gintung Cirebon, Journal of Daulat Hukum, Volume 3 Issue 1, (2020), p.49

of the community individually and in interacting with other people in their relationships.²Law is even needed in simple associations to extensive associations between nations, because law is the basis for the rules of the game in the order of life.³

One of the problems that is very concerning and must receive special attention from the government is the problem of liquor which is widely consumed by the wider community, especially in Indonesian society. Various Indonesian mass media, both television and electronic media to print media, provide news information to the general public about a series of events of death due to consumption of alcoholic beverages.

Research by the Center for Criminology Studies, University of Indonesia in 2013 regarding cases of homicide by children provides data or information that can further explain the effects of consuming alcoholic beverages on violent crimes. This research was conducted on 43 respondents who were correctional students (child convicts) who were detained in Tangerang children's prisons, Palembang children's prisons, Bandung children's prisons, Kutoarjo children's prisons, and Tomohon children's prisons. This study found that out of 43 respondents, 34.9% (15 children) consumed alcohol when they committed the murder. This study concludes that access to alcoholic beverages that is too easy is the main reason why adolescents are under the influence of alcoholic beverages when committing crimes, in this case murder. This is supported by data from the Indonesian National Police Research and Development Service (Dislitbang Polri). The National Police Research and Development Agency found that junior high school (SMP), high school (SMA) and college students occupied the highest number of drug and alcoholic drink users, namely 70% of users. Teen alcoholic drink users range from 14–16 years of age 47.7%, 17–20 years 51.1% and 21–24 years 31%.⁴

The government, both at the central and regional levels, should be responsible for dealing with the problem of alcoholic beverages. The responsibility of the government should not only issue regulations and policies or supervise and control the distribution of alcoholic beverages, but also carry out strict supervision and law enforcement on the regulations and policies that have been issued and disseminate information to the public. about the effects of consuming alcoholic beverages.

²Ali Murtadho, The Investigation Process Prevention And Eradication Of Narcotics Investigator To The Criminal Abuses By Police, *Journal of Daulat Hukum* Volume 1 No. 2 (2018), p.433

³Hasim Purba, 2006, *A Guide to Understanding Law*, Medan: Light of Science, p. 2.

⁴FX. Joko Priyono, The Urgency of Regulating the Circulation of Alcoholic Beverages Through Regional Regulations in the City of Salatiga, *Journal of Legal Issues* No. 2, Volume 43, (2014), p. 260.

The purpose of this writing namely to study and analyze the regulation of the circulation of liquor politically in national and regional law.

2. Research Methods

To conduct an assessment in this writing the author uses a normative juridical approach or a written legal approach (statutory approach).⁵ Writing specifications are carried out using a descriptive analytical approach. The data used for this writing is secondary data. The main data collection method used in the literature study is secondary data obtained from library books, laws and regulations, as well as the opinions of legal experts. The data that has been obtained is then analyzed with qualitative analysis.

3. Results and Discussion

3.1. Legal Political Interpretation

Moh. Mahfud MD argued that legal politics is a "legal policy" or an official policy line regarding law that will be enforced either by taking new legal actions or by replacing old laws, in order to achieve state goals. Thus, legal politics is a choice about the laws that will be enforced as well as a choice about the laws that will be repealed or not enforced, all of which are intended to achieve the goals of the state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia.⁶

William Zevenbergen stated that legal politics tries to answer the question, which legal regulations should be made law. Legislation itself is a form of legal politics (legal policy).⁷ From the understanding of legal politics in general, it can be said that legal politics is a "policy" taken or 'taken' by the state through state institutions or officials who are authorized to determine which law needs to be replaced, or which needs to be changed, or which law. needs to be defended, or laws regarding what needs to be regulated or issued so that with this policy the administration of the state and government can run well and in an orderly manner, so that the goals of the state can be gradually planned and realized.

⁵Soemitro. 1998. *Legal and Jurimetric Research Methodology*, Jakarta, Ghalia Indonesia, p. 24

⁶Moh. Mahfud MD. 2014, *Legal Politics in Indonesia*. Jakarta. Publisher PT Raja Grafindo Persada. p. 1.

⁷William Zevenbergen in Abdul Latif and Hasbi Ali, 2011, *Legal Politics*, Sinar Graphic, Jakarta, p.19

3.2. Dynamics of Liquor Distribution in Indonesia

The history of alcoholic beverages in life is synonymous with human existence in civilization, so the two cannot be separated. The emergence of the habit of drinking alcohol for the first time was as described by Rusni Budiman that in ancient Egyptian civilization, then ancient Greece, to ancient Rome, which made alcoholic drinks an important part of a big celebration, such as a party, after eating, even when going to war or after war. Thus it can be categorized that alcoholic beverages first appeared in the West and developed until Indonesia was brought by the colonials, even though alcoholic beverages existed long before the existence of royal civilization in history.⁸

In certain tribes in Indonesia, alcoholic beverages are a cultural fact of society and have become part of aspects of personal life, social aspects and economic aspects between people, then one of the symbols of peace is by keeping a bottle of *sopi* (traditional liquor made from palm sugar). Alcoholic beverages have an important social function in people's lives, namely strengthening a sense of togetherness and brotherhood as members of society.⁹ So the consumption of alcoholic beverages is not only a desire of individuals or a few people, but a lifestyle of society that contains elements of togetherness in social activities. Alcohol drinkers do not feel guilty because the activity of consuming alcohol has become a way of life together, where the community has made this activity a joint activity and has earned a special place in the life of the local community as a means of unifying community groups. In the economic aspect, alcoholic beverages are a source of family income and wealth. Not a few people build wooden houses with national standards in remote villages, send their children to tertiary institutions, from the sale of local alcoholic drinks that are produced in a traditional way.

In Bali there is also a traditional alcoholic drink called *Arak bali*. Making it is still very traditional when compared to making wine or wine. This traditional alcoholic drink is commonly used in traditional ceremonies or religious activities in Bali as a "tabuhan" (prayer) dish. The making of this Balinese wine has a strong philosophy related to the local people's belief in the existence of the god *Bagus Arak Api* or *Ida Batara Arak Api* who is in the palace at the village temple.¹⁰

The tradition of drinking alcoholic beverages has existed since the kingdom era in the archipelago. According to the *NagArakertagama* Book, which was written

⁸Rusni Budiman. Community Behavior About Liquor and Its Impact on Public Health. *Journal of Health*, (2017), p.23

⁹Fadli Alam Dwi Saputro The Influence of the Role of Peers on Alcohol Consumption Behavior in Adolescents. *Permas Scientific Journal*, Volume 4. No 2. (2014). p. 277

¹⁰Suaniti, Widya Astiti Asih. Detection of Ethanol after Consumption of *Arak* in Urine with Gas Chromatography. *Journal of Chemistry*, Volume 6 Number 2. (2012), p.311

during the golden age of the 14th century Majapahit Empire, it is stated that traditional alcohol drinks at that time were part of a grand banquet hosted by the kingdom. During the annual people's party which was held after the main harvest, the king would hold a big banquet by presenting hard tampo or wine made from the best rice and there was also palm wine and palm juice, palm wine, mills and brem.

3.3. National and Regional Legal Politics Against the Distribution of Alcoholic Beverages

Regulations relating to the supervision of the circulation of alcoholic beverages, namely:

1) Law No. 36 of 2009 concerning Health Article 111, Article 112, and Article 160. Articles 111 and 112 stipulate that food and drink used by the public must be based on health standards and/or requirements. In addition, food and beverages can only be distributed after obtaining a distribution permit in accordance with statutory provisions. Of the two articles, the regulation of alcoholic beverages is not explicitly stated. Alcoholic beverages as a drink must comply with these provisions. Whereas in Article 160¹¹ regulates the responsibility of the Government and Regional Governments to carry out KIE (Communication, Information and Education) related to the consumption of alcoholic beverages.

2) Presidential Decree (Keppres) Number 3 of 1997 concerning Supervision and Control of Alcoholic Beverages. Under this regulation, alcoholic beverages with an ethanol content of >2.5% to 55% are the group of alcoholic beverages produced, whose distribution and sale are determined as goods under supervision. Meanwhile, domestic production of alcoholic beverages can only be carried out based on a permit from the Minister of Industry and Trade. For circulation in hotels, bars, restaurants and certain other places, the Governor determines this after hearing the considerations of the Regent/Mayor. However, the locations mentioned above are prohibited from being close to places of worship, schools, hospitals, or certain other locations that are prohibited by the Governor after hearing the considerations of the Regent/Mayor. Then it is also regulated that alcoholic drinks are prohibited from being distributed and/or sold to those who are not yet 21 years old. For traditional alcoholic beverages, it is regulated that they are prohibited from being produced, except for community

¹¹(1) The government, local government and the community are responsible for carrying out proper communication, information and education about risk factors for non-communicable diseases covering all phases of life. (2) The risk factors referred to in paragraph (1) include, among others, unbalanced diet, lack of physical activity, smoking, consuming alcohol, and improper traffic behavior.

needs according to local customs and traditions based on the permit of the Regent/Mayor.

3) Regulation of the Minister of Trade Number 15/M-DAG/PER/3/2015 concerning the Third Amendment to Regulation of the Minister of Trade Number 43/M-DAG/PER/9/2009 concerning Provisions for Procurement, Distribution, Sales, Supervision and Control of Alcoholic Drinks.

4) Regulation of the Minister of Industry Number 71/M-IND/PER/7/2012 concerning Control and Supervision of the Alcoholic Beverage Industry (which also regulates traditional alcoholic beverages).

5) Regulations related to investment in the alcoholic beverage industry, namely Law No. 25 of 2007 concerning Investment Article 12 paragraph (3)¹²the implementing regulations are Presidential Regulation Number 39 of 2014 concerning List of Closed Business Fields and Open Business Fields with Conditions in the Investment Sector. Based on these regulations, the alcoholic beverage industry is one of the industrial sectors that is closed to investment. So there is no opportunity to open new industries again.

6) Regulation of the Minister of Industry Number 63/M-IND/PER/7/2014 concerning Control and Supervision of the Alcoholic Beverage Industry. This regulation stipulates that companies that already have an IUI can make changes which include moving locations, ownership, class of alcoholic beverages and not changing the total production capacity or merging companies. The procedure for changing the IUI for alcoholic beverages refers to the Regulation of the Director General of Agro Industry Number 30/IA/PER/8/2014 concerning Provisions and Procedures for Granting Recommendations for Industrial Business Permits, Changes for Industrial Business Permits, Implementation of Guidance and Supervision of the Alcoholic Beverage Industry. However, for the alcoholic beverage industry, since 1993 there has been no opportunity for the establishment of a new alcoholic beverage industry. This decision is based on Presidential Decree No. 54 of 1993 concerning List of Business Fields that are Closed and Business Fields Open with Conditions in the Investment Sector.

7) Law No. 39 of 2007 concerning Excise Article 14 which essentially states that every person who carries out activities as a distributor and entrepreneur of a retail place of sale, as a distributor and entrepreneur of a place of retail sale of alcoholic beverages must have a permit. If violated, they will be punished with imprisonment for a minimum of 1 year and a maximum of 5 years, with a fine of

¹²Stating that: "The government based on a Presidential Regulation stipulates business fields that are closed to investment, both foreign and domestic, based on criteria of health, morals, culture, environment, defense and national security, as well as other national interests",

at least 2 times the excise value and a maximum of 10 times the excise value that should be paid (Article 50).

8) Regulations related to the imposition of excise duty on the alcoholic beverage industry, namely: Law No. 39 of 2007 concerning Amendments to Law No. 11 of 1995 concerning Excise. In Law No. 11 of 1995 Article 4 essentially states that goods containing ethyl alcohol or ethanol are included in the category of excisable goods. Then Article 8 states that for goods containing ethyl alcohol or ethanol which are simply made by people in Indonesia, solely for livelihood and not packaged for retail sale (traditionally) excise is not collected. The tariff rate setting is regulated in Minister of Finance Regulation Number 62/PMK.011/2010 concerning ethyl alcohol excise rates.

9) Arrangements relating to criminal acts as a result of consuming alcoholic beverages, namely: Provisions of the Criminal Law (KUHP) Article 300, Article 492 paragraph (1), Article 536 paragraph (1), and Article 537.

10) There are various regional regulations for each region. There are regional regulations that strictly regulate the prohibition of alcoholic beverages, while there are also regulations that regulate the control of alcoholic beverages (depending on the situation and characteristics of the people in the area).

Meanwhile, several local governments (districts/cities) have regulated the control and supervision of alcoholic beverages. For example, several local governments (districts/cities) have regulated the control and supervision of alcoholic beverages. For example Denpasar Regional Regulation No. 11 of 2002 concerning Alcoholic Beverage Trading Business; Magelang Regional Regulation No. 2 of 2012 concerning Supervision and Control of Alcoholic Beverages; Madiun Regional Regulation No. 2 of 2012 concerning Distribution of Permits for Sales of Alcoholic Beverages; Buleleng Regional Regulation No. 15 of 2011 concerning Retribution for Permits for Selling Alcoholic Beverages; Sumbawa Regional Regulation No. 22 of 2005 concerning alcoholic beverages; District Regulation Sleman No. 8 of 2007 concerning Alcoholic Beverages; Kendal Regency Regional Regulation No. 4 of 2009 concerning Liquor; Salatiga Regional Regulation No. 15 of 1998 concerning Retribution for Permits for Sales of Alcoholic Beverages. As well as Purbalingga Regency Regional Regulation No. 8 of 2018 concerning Control and supervision of alcoholic beverages in Purbalingga Regency.

Alcohol is also one of the reasons for the occurrence of unlawful acts in traffic accidents, rape, theft, abuse and acts within the family and even murder. Law cannot be separated from human life because the law regulates human behavior in their life. If there is no law, you can imagine how Indonesia would be. All human behavior has been regulated by law in order to create a prosperous

society, both customary law and legal politics that have been created by the central and regional governments.¹³

4. Conclusion

Regulations relating to the supervision of the circulation of alcoholic beverages, namely Law No. 36 of 2009 concerning Health Article 111, Article 112, and Article 160. In Article 111 and Article 112. Presidential Decree (Keppres) Number 3 of 1997 concerning Supervision and Control Alcoholic Beverages, Regulation of the Minister of Industry Number 71/M-IND/PER/7/2012 concerning Control and Supervision of the Alcoholic Beverage Industry (which also regulates traditional alcoholic beverages). Regulations related to investment in the alcoholic beverage industry, namely Law No. 25 of 2007 concerning Investment Article 12 paragraph (3) with the implementing regulations being Presidential Regulation Number 39 of 2014 concerning List of Business Fields Closed and Business Fields Open with Conditions in the Field of Investment, Regulation of the Minister of Industry Number 63/M-IND/PER/7/2014 concerning Control and Supervision of the Alcoholic Beverage Industry, Law No. 39 of 2007 concerning Excise Article 14, Regulations relating to criminal acts as an effect of consuming alcoholic beverages, namely: Provisions of the Criminal Code (KUHP) Article 300, Article 492 paragraph (1), Article 536 paragraph (1), and Article 537, Regulation of the Minister of Trade of the Republic of Indonesia Number: 27 47/MDag/Per/5/2018 Concerning Procurement, Distribution, Sales, Supervision and Control of Alcoholic Drinks, as well as regional regulations that vary for each region. There are regional regulations that strictly regulate the prohibition of alcoholic beverages, while there are also regulations that regulate the control of alcoholic beverages (depending on the situation and characteristics of the people in the area).

5. References

Books:

Hasim Purba, 2006, A Guide to Understanding Law, Medan: The Light of Science

Moh. Mahfud MD. 2014, Legal Politics in Indonesia. Jakarta. Publisher PT Raja Grafindo Persada

Soemitro. 1998. Legal and Jurimetric Research Methodology, Jakarta, Ghalia Indonesia

¹³MAT Mokorimban. Alcohol Abuse Enforcement Process. Lppm Journal of Economics and Culture, Vol.4 No.1, (2018), p.114.

William Zevenbergen in Abdul Latif and Hasbi Ali, 2011, Legal Politics, Sinar Graphic, Jakarta

Journals:

Ali Murtadho, The Investigation Process Prevention And Eradication Of Narcotics Investigator To The Criminal Abuses By Police, Journal of Daulat Hukum Volume 1 No. 2 (2018)

Fadli Alam Dwi Saputro The Influence of the Role of Peers on Alcohol Consumption Behavior in Adolescents. Permas Scientific Journal, Volume 4. No 2. (2014)

FX. Joko Priyono, The Urgency of Regulating the Circulation of Alcoholic Beverages Through Regional Regulations in the City of Salatiga, Journal of Legal Issues No. 2, Volume 43, (2014)

MAT Mokorimban. Alcohol Abuse Enforcement Process. Lppm Journal of Economics and Culture, Vol.4 No.1, (2018)

Rusni Budiman. Community Behavior About Liquor and Its Impact on Public Health. Journal of Health, (2017)

Suaniti, Widya Astiti Asih. Detection of Ethanol after Consumption of *Arak* in Urine with Gas Chromatography. Journal of Chemistry, Volume 6 Number 2. (2012)

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