

## Law Enforcement Against Liquor Circulation

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**Abstract.** The problem in this research are: enforcement of the circulation of the liquor and the constraints of the enforcement of the circulation of liquor. Based on the results of the study concluded that: The police in law enforcement there are two (2) actions that persuasive action and repression which has its own purpose. In a persuasive action the police take preventive where often do counseling, provide guidance to the public about the dangers of alcohol. And invite various parties such as RT, RW, community leaders participated sertaandil in helping oversee the circulation of alcohol in their area. Constraints experienced as an investigator in conducting criminal investigations liquor circulation happens, is as follows: 1) Internal factors. In carrying out the investigation on the crime of liquor one such constraints is the current infrastructure of the police in tackling the crime of trafficking of liquor due to the lack of laboratory criminals who facilitate the investigation, because this place is useful as a means to prove with the naked eye between liquor original or fake. Lack of socialization conducted by the police. 2) external factors. This factor is of a society, of public awareness is relatively low which affects the smoothness in investigating criminal offenses circulation of alcohol, lack of awareness of the consequences of alcohol.

**Keywords:** Law Enforcement; Circulation; Liquor.

### 1. Introduction

Indonesia is a country based on law, so that every community activity is an activity that people's lives should be based on the existing regulations and norms prevailing in society. Law can not be separated from human life, because the law is a rule to regulate human behavior. The legal norms applicable in today's society are often not adhered to, so that many infringements of the law.

The offenses in the Criminal Code liquor stipulated in Article 300, Article 492, Article 536-539 who have criminal elements that make drunk, drunk on the masses and sell freely. Criminal offense under the Criminal Code liquor, as stated in Article 300 of the Criminal Code which defined intentionally sell, make drunk and threats of violence to force the alcoholic drink as well as Article 492 of the Criminal Code which defined a drunken disturbance of public order. Article 536 of the Criminal Code to sell liquor on minors.<sup>4</sup>

Issues of liquor in Indonesia increasingly widespread and alarming, it can be seen from the many victims who died due to alcohol either because high doses or for liquor mixture or more often called adulterated. Liquor sellers who distribute liquor many do

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not have a business license to sell liquor. Permits are not owned by the seller because of various things such complex procedures and costs that do not cost the reason liquor sellers do not have permission. Seller liquor to survive must rely on his business of selling liquor. They with or without guilt and fear reckless selling liquor without licenses its adverse effects harmful to consumers. Any action of the liquor seller should have been emphasized in a legislation, that an action is valid only if made by or based on specific legal rules. Legal provisions can only be ruled out in the case of public interest really wants or application of a rule of law would violate the basics of justice prevailing in society.<sup>5</sup>

The difficulty of obtaining permits is exactly what makes sellers of liquor not seek permission. Provision of services to the public relating to the business licensing which will be met by the public in order to permit issued in this case is the seller of liquor which must meet the rules of the Government. Giving Service to the community is a primary obligation for the Government, the Government acted as a catalyst that accelerates the process in accordance with that which should be. Catalyst will become the foundation of the Government Organization in providing the best service to the community.<sup>6</sup>

The reality is certainly very worrying and should receive special attention from the local government. Act of selling liquor without a license is an act which is unlawful and may be liable if it has been declared false. One is an understanding psychologisch which means their inner relationship with a person who acts committed acts resulting in negligent acts.<sup>7</sup> Criminal law itself has the function of organizing public life or organizing governance in society. Law also assess an act legally declared guilty or not. An act declared not one which can not be penalized, considering the legality principle set out in Article 1 (1) of the Criminal Code is a criminal act can not be imposed if it has not set a law.<sup>8</sup>

Legislation is a necessary condition for ensuring order in the society.<sup>9</sup> If the absence of a law, then there will be chaos in society. Therefore, legislation should be seen as an instrument that can give hope to achieve certain goals.

Based on The background outlined above, the issues to be discussed in the writing of this study are: 1) How law enforcement against the circulation of liquor? 2) What constraints the enforcement of the circulation of liquor?

## Research methods

Approach method used problem in this research is juridical approach sociological and juridical empirical approach. Sociological juridical approach is intended to identify and

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<sup>5</sup>C.J.N Verstedden, 1994, *Inleiding Algemeen Bestuursrecht*, Samson H.D. Tjeenk Willink, Alpena an den Rij, p. 15.

<sup>6</sup>Adrian Sutedi, 2011, *Hukum Perizinan Dalam Sektor Pelayanan Publik*, Sinar Grafika, Jakarta, p. 3

<sup>7</sup>Suharto, 2002, *Hukum Pidana Materil*, Sinar Grafika, Jakarta, p. 5.

<sup>8</sup>Schaffmeisster, 1995, *Hukum Pidana*, Liberty, Yogyakarta, p. 5.

<sup>9</sup>Rijkschroeff, 2001, *Sosiologi, Hukum dan Sosiologi Hukum*, Mandar Maju, Bandung, 18.

conceptualize law as a social institution that is real and functional in a real life system.<sup>10</sup>

Type of research is a field research is research to obtain data directly in the field. While the nature of this research is descriptive-analytic, that is to systematically describe the facts or events concerning the actual distribution of alcoholic beverages and carefully,<sup>11</sup>

## 2. Results and Discussion

### 2.1. Law enforcement on the circulation of liquor

Alcoholic beverages if consumed can bring benefits, but also provides a very fatal effects for health. Alcoholic drinks can be beneficial when taken in appropriate doses and not excessive. The problem is that ordinary people often consume alcoholic beverages can not control themselves to not drinking or increase the amount of dose is often referred to addiction. The empirical fact that alcoholic beverages are commodities that are commonly consumed by people worldwide. Market share is promising considering consumers have been provided so that market participants stayed trying to find strategies how these commodities are marketed and how well controlled the market at competitive prices. Nuance competition will create the social conditions in which between one actor to other actors exchange rate system to benefit as much as possible with little effort as possible. Aroma of unfair competition is ultimately a rational choice for perpetrators of alcohol distribution. The actors do a la Macchiavelli economic transactions, namely to justify a variety of ways, unfair competition, each engineer, character assassination, using the backing, uses law enforcement, and a number of other measures of social deviation. Weak social controls, such as limited access to the complaint, media coverage and the geographical influence, has made Batam as a soft nest that makes actors feel at home to practice law violations (law disobedience).<sup>12</sup>

In law enforcement is done in two (2) ways, namely preventive and repressive. As for preventive measures carried out where possible and still their awareness to obey the law. While repressive action is action taken if preventive measures are not effective, so that the people carrying out the law though involuntarily.

In the process of law enforcement, police who are on the frontline, because the police are most directly related to citizens, compared with other law enforcement agencies. Therefore, the attitude and exemplary personal police force is one factor whether or not they are valued by citizens against law enforcement, which had an impact on their

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<sup>10</sup>Soerjono Soekanto, 1986, *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia Press, Jakarta, p. 51.

<sup>11</sup>M. Iqbal Hasan, 2002, *Pokok-pokok Materi Metodologi Penelitian dan Aplikasinya*, Ghalia Indonesia, Jakarta, p. 22

<sup>12</sup>Chairil A. Adjis, 2005, "Alkohol, TKI, dan Perdagangan Anak: Perspektif Kejahatan Transnasional," *Jurnal Kriminologi Indonesia*, Vol. 4 No 1, p. 78

obedience. By him, the quality and empowerment of the police is one of the factors that determine the effectiveness of the provisions of applicable law.<sup>13</sup>

To provide a deterrent effect For the dealer or seller who acted fraudulently or through the trading illegally. This effort is the government's efforts to minimize the occurrence of crime. For traffickers or illegal sellers who commits an offense, the police immediately acted decisively and do not simply give administrative sanctions only, but immediately closed the business because it saw the previous experience of the vendor underestimated because only sanctioned only.

Supervision of the form, internal and external supervision, guidance on places of illegal sale of alcoholic beverages, and demolition of places of illegal sale of alcoholic beverages. internal control such as conducting raids carried around in a scheduled and non-scheduled (according to the warrant). External supervision in the form of reports from the public about the existence of places that committed the crime of illegal liquor circulation disturbing public order, and then followed up appropriate internal control procedures by conducting raids at the scene.

The police in conducting an investigation, an investigation to look for evidence on public complaints. In his work the police to eradicate and minimize the crime of illegal distribution of alcohol. In the circulation of alcoholic drinks a lot of alcohol illegal circulation. Illegal is that alcohol does not have any outstanding taxes. Several brands and types of alcohol that are circulating that Tommy Stanley, Bintang Kuntul, Mc Donald, Manssion, Vodka, *Arak Jowo*, as well as a variety of wines. In this case the police ever test lab samples seized evidence that there is a wine jowo incoming group C. can be concluded that the alcohol in circulation is also nothing fake in the same bottle.

Law enforcement by the police here there are two (2) actions that persuasive action and repression which has its own purpose. In a persuasive action the police take preventive where often do counseling, provide guidance to the public about the dangers of alcohol. And invite various parties such as RT, RW, community leaders participated part in helping oversee the circulation of alcohol in the region.<sup>14</sup>

As for the repressive actions of police investigations, searches, and arrests if there are indications of alcohol trafficking a criminal offense. In this repressive action of the police was a bit of difficulties because traders often rebelled and blocked. In his work the police do alcohol every 1 week operation two to three times, even if there is a report from the police station, police station and the community could have been more.

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<sup>13</sup>Achmad Ali. 2001, *Menguak tabir Hukum (Satu Kajian Filosofis dan Sosiologis)*. PT. Tokoh Gunung Agung Tbk: Jakarta, p 98-99.

<sup>14</sup>Satjipto Rahardjo, 2009, *Penegakan Hukum Suatu Pengantar Sosiologis*, Togyakarta, Genta Publishing, p 12.

## 2.2. Implementation Constraints Prosecution Against Liquor Circulation

Police also experienced constraints experienced as an investigator in conducting criminal investigations liquor circulation happens, is as follows:<sup>15</sup>

- Internal factors

In carrying out the investigation on the crime of liquor one such constraints is the current infrastructure of the police in tackling the crime of trafficking of liquor due to the lack of laboratory criminals who facilitate the investigation, because this place is useful as a means to prove with the naked eye between liquor original or fake. Lack of socialization conducted by the police.

- External factors

This factor is of a society, of public awareness is relatively low which affects the smoothness of doing the investigation of the offenses circulation of alcohol, lack of awareness of the consequences of alcohol. Alcohol as a part of daily life, even this difficulty has been experienced for a long time. This habit is considered a disease of society where often conducted raids are still doing the same thing. This suggests traders are not committing a crime deterrent circulation of alcohol, because the benefits are also great as well as the penalty of only more than 1 year (misdemeanor). Generally people is key to the success of law enforcement officials that the Police in law enforcement criminal offense of alcohol. Thus the need for cooperation between the respective parties. Because often it carried out the raid but has spread out into the community.

From these discussions actually arise why such enforcement is no constraint on the theory of the passage of the law as a law enforcement function in society divided into three kinds of things the rule of law as a rule. About the enactment of the rule of law there is a presumption as follows<sup>16</sup>:

- The rule of law applies legally, based on the rule of law which is higher (Hans Kelsen), or when it is formed according to a predetermined manner (W. Zevenbergen) if it shows the relationship between a state requirement and consequently (JHA Logemann)
- The rule of law applies in sociological, if this rule will be effective if the rules enforceable by the authorities, although not accepted by the community (theory of power), or earlier rules apply as accepted and recognized by the community (recognition theory)
- The legal maxim applies philosophically, in accordance with the ideals of positive law as the highest value.

In order for a rule to work, then the rule of law must meet all three kinds of elements above because if a legal principle applicable legally, then most likely the rule is a rule die (dode regal), if it is valid only sociologically (in the sense of the theory of power),

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<sup>15</sup>Soekanto, Soerjono, 2008, *Faktor-faktor yang Mempengaruhi Penegakan Hukum*, Jakarta: PT. Raja Grafindo Persada, p5

<sup>16</sup>Soerdjono Soekanto, 1993, *Penegakan Hukum*, Bandung, Binacipta, p. 29

then the rules of the rule enforcer (dwangmaatregel), and if applicable, philosophically rule of law is only a law that aspired (ius constituedum). Rule of law or written rules really works then there are several factors that affect where the rule of law or the legislation itself, the officers who enforce or apply, the facilities are expected to support the implementation of the rule of law, and residents affected by the scope of regulations ,

Law enforcement is a community activity harmonizing relationships that span the 'hierarchy of values in roles or a grained look and to create, maintain, mepertahankan peace. Law enforcement is seen as a process, then you should review directed at humans who carry out legal proceedings.

Expectations of society in law enforcement is actually very simple, namely to achieve a justice. In simple societies, the rule of law is still applicable customs increasingly powerful, role of legal norms still less where there still exists the roles are based on trust, decency, modesty. Refusal of foreign law, especially the formal law due to a strong belief in nonlaw has been able to maintain peace within the community. In an assumption there is a strong expectation, that law enforcement is the expectation after the customary legal norms. This situation is still visible in the periphery or hinterland in Indonesia. The tendency of apparatus to solve the problem is the village.

Hope that directed the community on law enforcement is, appears a justice, enforcement and prosecution of those guilty, or violating the law, observance of the law. The basic expectations of the " role-expectation "of the law enforcement and justice is to give, to follow and decide who is at fault, gives a truth, so that people understand the law and obey it, provide an example to obey the law.<sup>17</sup>

With that in mind why law enforcement alcohol in police encounter constraints of society itself. So if from the law enforcement alone is unlikely to run the existing law. Need the cooperation of people who are aware betrul uphold the law.

### **3. Closing**

#### **3.1 Conclusion**

- The police in law enforcement there are two (2) actions that persuasive action and repression which has its own purpose. In a persuasive action the police take preventive where often do counseling, provide guidance to the public about the dangers of alcohol. And invite various parties such as RT, RW, community leaders participated sertaandil in helping oversee the circulation of alcohol in their area.
- Constraints experienced as an investigator in conducting criminal investigations liquor circulation happens, is as follows:
  - Internal factorsIn carrying out the investigation on the crime of liquor one such constraints is the current infrastructure of the police in tackling the crime of trafficking of liquor

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<sup>17</sup>Soerjono Soekanto, 1983, *Beberapa Aspek Sosio Yuridis Masyarakat*, Alumni, Bandung, p. 139

due to the lack of laboratory criminals who facilitate the investigation, because this place is useful as a means to prove with the naked eye between liquor original or fake. Lack of socialization conducted by the police.

- External factors

This factor is of a society, of public awareness is relatively low which affects the smoothness in investigating criminal offenses circulation of alcohol, lack of awareness of the consequences of alcohol. Alcohol as a part of daily life, even this difficulty has been experienced for a long time. This habit is considered a disease of society where often conducted raids are still doing the same thing.

### 3.2 Suggestion

- The police should conduct raids spontaneously in order to leak information about the implementation of the raid is not spread out in the community so that the parties rogue who committed the crime of trafficking alcohol can not destroy evidence.
- As the people's side, more people should give a good contribution to assist the police in tackling the trafficking of alcohol.

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