NON-PENAL MEASURES AGAINST THE CIRCULATION OF TRADITIONAL LIQUOR "SOPI" DURING COVID-19 PANDEMIC

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Abstract

Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the state is based on the One Godhead, but in responding to developments regarding alcoholic beverages, the government cannot do anything. Meanwhile, the right to a healthy environment in human life is a human right which is guaranteed in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states: "Everyone has the right to live in physical and spiritual prosperity, to have a home and to obtain a good and healthy living environment and the right to obtain health services. The development of the spread or circulation of traditional liquor during the Covid-19 pandemic in Jezirah Lehitu in Negeri Asilulu and Negeri Kaitetu (Kalaili Village) really needs special attention from the government. This is because in society, it is not only adults who consume liquor but also many teenagers who consume it. Consumption of alcoholic beverages is a problem that needs to be tackled together. Alcohol is consumed in traditional activities, religious ceremonies, as well as in daily stalls and local security posts (Pos Keamanan Lingkungan/Poskamling). For this reason, non-penal means are needed to overcome the circulation of traditional liquor in the Negeri Zeith, Negeri Asilulu, and Negeri Kaitetu during the covid-19 pandemic, this can be done in three ways, namely as follows pre-emtive efforts, preventive efforts, and repressive efforts. Governments in these three countries can work together with traditional leaders and religious leaders to convince the public in terms of instilling good values where these values have been displaced by an unfavorable culture and the police need to increase their efforts to supervise the circulation of traditional liquor sopi.

Keywords: circulation, non-penal, sopi, traditional liquor,

INTRODUCTION

At the beginning of 2020, the world was shocked by the incidence of severe infections with unknown causes, which began with a report from China to the World Health Organization (WHO) that there were 44 severe pneumonia patients in an area, namely Wuhan City, Hubei Province, China, to be exact. on the last day of 2019 China. The initial assumption was that this was related to a wet market selling fish, marine animals and various other animals. On January 10, 2020, the cause was identified and the genetic code was obtained, namely the new corona virus.¹

The Indonesian Constitution Article 29 paragraph 1 of the 1945 Constitution states that the state is based on one God, but in responding to developments regarding alcoholic beverages, the government cannot do anything. Meanwhile, the right to a healthy environment in human life is a human right that is guaranteed in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states: "Everyone has the right to live in prosperity. physically and mentally, have a place to live, and get a good and healthy living environment and have the right to obtain health services. This basic right must not be violated by anyone and must be upheld and respected so that everyone can enjoy their life in prosperity.²

The development of the distribution or circulation of traditional liquor in Jezirah Lehitu in Zeith Village, Negeri Asilulu, and Negeri Kaitetu (Kalaili Village) really needs special attention from the government. This is because in society, it is not only adults who consume liquor but also many teenagers who consume it. As humans who have good character, we all know that the younger generation is the next generation of the Indonesian nation, in this case we can see that what will happen to the Indonesian nation if these children grow up in their teens not in accordance with what they have aspired to.

The existence of value basically depends on two things, namely on desire and scarcity. A physical object will have value if it has both of these qualities, and has no value if the two qualities do not exist. Every value is formed, the basis of which is consideration, creative ability, feelings, human free will and individual or community beliefs. Theoretically, the formation of values occurs in a certain way and is based on human awareness and belief. So, value is not formed if because of a coercion. What is meant here are norms or rules that must be obeyed by law enforcers or custodians. These norms need to be obeyed, especially in shepherding.

The discussion of norms does not only cross aspects of philosophy, the ontology that underlies the normal description of norms, but also crosses the use of formal logic. The author does not involve the use of formal logic. The author chooses to use the normal description of the norm, because this description is widely accepted by experts. The existence of norms is generally accepted by experts. The existence of norms is generally defined based on the acceptance of the notion of norms as a standard of behavior.³

The regulation of alcoholic liquor in Ambon City is regulated in the Ambon Regional Regulation (Peraturan Daerah/Perda) Number 16 Year 2017 *Juncto* Ambon Regional Regulation Number 13 Year 2012 concerning Levies for Permits for Selling Alcoholic Drinks. The substance of the Regional Regulation has the purpose of implementing regional autonomy in the field of control, supervision and trading of traditional alcoholic beverages which is formed under the authority of the Ambon City Regional People's Representative Council (Dewan Perwakilan Rakyat Daerah/DPRD).

METHOD

Research is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced.⁴ This type of research is normative research, which is legal research carried out by examining library materials or secondary legal materials.⁵ Legal materials used in this research are primary legal materials consisting of legislation, and secondary legal materials is to provide an explanation of primary legal materials consisting of scientific opinions of scholars and literature books, legal dictionaries, encyclopedy and so on. The technique of collecting legal materials used in this writing is carried out by literature study of legal materials,⁶ both primary legal materials

¹ Diah Handayani, et.al., Penyakit Virus Corona 2019, *Jurnal Respirologi Indonesia*, Vol. 40, No. 2, 2020, p. 120

² FX. Joko Priyono, Urgensi Pengaturan Peredaran Minuman Beralkohol Melalui Peraturan Daerah di Kota Salatiga, *Jurnal Masalah-Masalah Hukum*, Vol. 43, No. 2, 2014, p. 225

³ Margie Gladies Sopacua, *Reformulasi Kaidah Hukum Pencegahan Tindak Pidana Kekerasan dalam Rumah Tangga*, Doctoral Thesis at Hasanuddin University, Makasar, 2019, p. 30

⁴ Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, 2006, p. 35

⁵ Soeriono Soekanto, *Metode Penelitian Hukum*, Rajawali Pers, Jakarta, 2012, p. 13

⁶ Kadarudin, *Mengenal Riset dalam Bidang Ilmu Hukum, Tipologi, Metodologi, dan Kerangka*, Uwais Inspirasi Indonesia, Ponorogo, 2020, p. 151

and secondary legal materials were analyzed descriptively qualitatively.⁷

RESULTS AND DISCUSSION

Liquor Regulation in Positive Law in Indonesia

Social life in society always wants a change that can provide positive value in order to create harmony and peace in a social environment. Whether or not a social environment is good depends on how the circumstances, conditions, commitment and depend on each individual in a social environment. One of the problems faced in social life where humans as social beings certainly want harmony and peace in social life in order to create a social life between people that is safe, harmonious, and peaceful. Historically, the use of this drink in several areas in Maluku society is often used in a banquet of a traditional or cultural tradition that contains certain meanings depending on a rural area or village. However, recently the traditional Sopi drink when consumed there is a group gathering and party celebrations which in the end tend to cause chaos and commotion that disrupts activities or social harmony, especially in the Leihitu country so that efforts are needed to control the circulation of traditional liquor Sopi.⁸

Consumption of alcoholic beverages is a problem that needs to be tackled together. The behavior of consuming alcohol has been rooted for a long time, both in rural communities and in urban communities. For people in rural areas, the habit of consuming alcohol is seen as a local custom. This view has implications for efforts to maintain behaviors that actually endanger health as a habit of the local community. Alcohol is consumed both in traditional activities, religious ceremonies, as well as daily in stalls and poskamling. These activities are generally carried out in the evening. The habit of consuming alcoholic beverages for urban communities is seen as a lifestyle. For people who live or work in the tourism sector, alcoholic beverages are certainly very easy to find. The culture of consuming alcoholic beverages does not only occur in Indonesia, but also in almost all parts of the world.⁹

The legal politics of regulating alcoholic beverages has so far been regulated in various laws and regulations whose content is related to alcoholic beverages, among others, the 1945 Constitution of the Republic of Indonesia, the Criminal Code, the Trade Law, the Industry Law, Presidential Decree No. 74 Year 2013, Presidential Regulation No. 44 Year 2016, Regulation of the Minister of Industry Number No. 63/M-IND/PER/7/2014 as amended by Regulation of the Minister of Industry Number 63/M-IND/PER/8/2015 concerning Control and Supervision of Industry and Quality of Alcoholic Beverages, Regulation Minister of Trade No. 20/M-Dag/Per/4/2014 as amended by Regulation of the Minister of Trade Number 72/M-DAG/PER/10/2014, provincial regulations, and district/city regulations.¹⁰

The Criminal Code (KUHP) regulates the abuse of alcoholic beverages or criminal acts of alcohol which are regulated in several articles, including Article 300; Article 492; Article 536; Article 537; Article 538; and Article 539 of the Criminal Code.

Presidential Regulation No. 74 of 2013, alcoholic beverages are classified into 3 (three) groups, namely:

- 1. Group A, consisting of all alcoholic beverages with an ethanol content of up to 5% (five percent):
- 2. Group B, consisting of all alcoholic beverages with an ethanol content of more than 5% (five percent) to 20% (twenty percent); and
- 3. Group C, consisting of all alcoholic beverages with an ethanol content of more than 20% (twenty percent) to 55% (fifty five percent).¹¹

Class B and class C alcoholic beverages are groups of alcoholic beverages whose production, import, distribution and sale are determined as goods under control. To ensure that the type and qualifications of alcoholic beverages circulating in the market are known by consumers, the competent authority is given to the competent authority to test the ethanol content, the financing of which is fully borne by the company. The arrangement for the classification or classification of alcoholic beverages

⁷ Kadarudin, Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal), Formaci Press, Semarang, 2021, p. 171

⁸ Rani Lalihun, et.al., Upaya Non-Penal dalam Pengawasan Peredaran Minuman Keras Tradisional (Studi Pada Negeri Zeith Kecamatan Lehitu Kabupaten Maluku Tengah), *Jurnal Tatohi Ilmu Hukum*, Vol. 1, No. 1, 2021, p. 1

⁹ Dewi Bunga, Urgensi RUU tentang Minuman Beralkohol dalam Pembaruan Hukum di Indonesia, *Jurnal Hukum Undiknas* Vol. 2, No. 2, 2015, p. 117-118

¹⁰ Prianter Jaya Hairi, et.al., *Politik Hukum Pengaturan Minuman Beralkohol di Indonesia*, Pusat Penelitian Badan Keahlian DPR RI Bekerja sama dengan Intelegensia Intrans Publishing, Jakarta, 2019, p. 96

Ni'matul Huda, et.al., Urgensi Pengaturan Peredaran Minuman Beralkohol di Daerah Istimewa Yogyakarta, Jurnal Hukum lus Quia lustum, Volume 22, No. 1, January 2015, p. 88-89
12 Ibid., p. 89

is the same as what is regulated in the Ambon City Regional Regulation Number 13 Year 2012 concerning Retribution for Permits for Selling Alcoholic Drinks.

Liquor is a classic theme, people know that consuming alcohol is consumption that has negative consequences. Based on the medical also the same, even excessive alcohol consumption can cause death. The government has issued regulations regarding the circulation of liquor. In Article 204 paragraph (2) of the Criminal Code it is stated that someone who sells something that is dangerous and causes death will be sentenced to imprisonment of up to 20 years.¹³

Non-penal Measures Against the Circulation of Traditional Liquor Sopi in Negeri Zeith, Negeri Asilulu, and Negeri Kaitetu During the Covid-19 Pandemic

Deviant behavior that is not good, especially the habit of consuming alcohol in excess, causes a loss of self-control, or is often said to be drunk, which in the end gives birth to violations or even criminal acts that are very disturbing to the community. So that alcohol can be concluded as part of the source of actions that violate applicable laws, traffic accidents, rape, murder, theft, persecution, and even acts of violence in the family.

Alcoholic beverages contain alcohol with various groups, especially ethanol (CH3CH2OH) with certain levels that can make the drinker drunk or lose consciousness if drunk in excessive amounts. Chemically, alcohol is a substance that contains an -OH group in its functional group. Alcohol is obtained from the process of fermenting substances containing carbohydrate compounds such as sugar, honey, wheat, fruit juice or tubers. The type and class of alcohol that will be produced depends on the material and the fermentation process. From this fermentation, alcohol content is obtained up to 15%, but through the distillation process it is possible to obtain alcohol with higher levels even up to 100%.¹⁴

Alcohol can help maintain health. However, if consumed in excess, this drink can cause poisoning. Alcohol can also cause addiction or addiction and tolerance for use is increasing day by day. Even though a person already has a tolerance for a certain volume, chronic side effects of alcohol still occur.¹⁵

Table 1 Year 2019¹⁶

	real 2019		
No.	Criminal Act	Number of Cases	
1.	Mutual violence against people	5 case	
2.	Persecution	10 case	
3.	Threats	3 case	
	Total	18 case	

Table 2 Year 2020¹⁷

No.	Criminal Act	Number of Cases
1.	Mutual violence against people	6 case
2.	Persecution	4 case
	Total	10 case

Table 3 Year 2021¹⁸

No.	Criminal Act	Number of Cases
1.	Mutual violence against people	4 case
2.	Persecution	4 case
3.	Threats	1 case
	Total	9 case

¹³ Khairu Nasrudin, Penegakan Hukum Secara Terpadu Terhadap Tindak Pidana Peredaran Minuman Keras, *Jurnal Hukum Khaira Ummah*, Vol. 12, No. 4, 2017, p. 933

¹⁴ Harris Y. P. Sibuea, Penegakan Hukum Pengaturan Minuman Beralkohol, *Jurnal Negara Hukum*, Volume 7, No. 1, June 2016, p. 133

¹⁵ Muliadi, Penanggulangan Peredaran Minuman Keras Oplosan (Studi Kasus Kecamatan Sirenja Kabupaten Donggala), *Maleo Law Journal*, Volume 3, Issue 2, October 2019, p. 126

¹⁶ Document Data from Leihitu Sector Police

¹⁷ Document Data from Leihitu Sector Police

¹⁸ Document Data from Leihitu Sector Police

Based on the data above, it can be concluded that the number of cases that occurred in 2019 could be seen quite a lot, although there was a decrease in cases in 2020. Then in 2021 the number of cases that occurred decreased to 9 cases, compared to 2019 which was 18 cases.

Efforts to control the circulation of traditional liquor through non-penal facilities in the negeri Zeith, Negeri Asilulu, and Negeri Kaitetu during the Covid-19 pandemic by the authorized officers in this case are the Leihitu Sector Police officers assisted by the local government and leaders-community or religious leaders as well as the entire community who participate in it are through three efforts, namely as follows:¹⁹

1. Pre-Emtif Effort

Pre-Emtif Efforts are the initial efforts made by the Polsek police officers to prevent the occurrence of criminal acts. Efforts are made to prevent crime pre-emptively are to instill good values or norms so that these norms are internalized in a person. Even if there is an opportunity to commit an offense or crime but there is no intention to do so, then there will be no crime. So, in a pre-emptive effort, the intention factor is lost even though there is an opportunity.²⁰

Efforts made in pre-emptive crime prevention for the circulation of traditional liquor in Negeri Leihitu are to instill good values or norms in the Negeri Leihitu community so that these values can be instilled in society, especially in Negeri Leihitu. Although there is an opportunity to commit a crime, but because the intention is not there because good values have been instilled in him, then a person will not commit the crime.

In the context of the Covid-19 pandemic, the state's obligations include ensuring that preventive measures, equipment, services and information are available and accessible to everyone. Within the right to health, health equipment, facilities and services must be available in sufficient quantities; accessible to all without discrimination; respect medical ethics; as well as scientifically and medically appropriate and of good quality. Health equipment and services must be accessible to all, especially the most vulnerable or marginalized groups in society; within safe physical reach for all communities without exception; and affordable for all while considering special needs due to gender, age, disability. This right also includes accessibility of health-related information (In the context of the Covid-19 pandemic, state obligations include ensuring that preventive measures, equipment, services and information are available and accessible to everyone, health facilities and services must be available in sufficient quantity; accessible to all without discrimination; respecting medical ethics; and scientifically and medically appropriate and of good quality. Health devices and services must be accessible to all, especially to the most vulnerable groups or marginalized in society; within safe physical reach for all communities without exception; and affordable for all and while considering special needs due to gender, age, disability. This right also includes accessibility of health-related information).²¹

The efforts made by Bripka Ibrahim Ningkeula in tackling the circulation of traditional liquor in Leihitu District through pre-emptive efforts are:²²

- 1) Provide legal counseling in schools both at the junior high schools and senior high school levels regarding the dangers of drinking alcohol.
- 2) Cooperating with schools, parents, religious leaders, community leaders and youth leaders as well as local communities involved in preventing the circulation of liquor by providing direction or advice on the impact of liquor itself; and
- Install billboards and flyers in strategic places where many people can see the dangers of drinking alcohol.

The pre-emptive efforts carried out by the Lehitu Police Chief include providing socialization related to the laws and regulations regarding the circulation of liquor and the dangers of consuming liquor and its impact on the people of Negeri Lehitu.²³

2. Preventive Efforts

Preventive efforts are in the form of outreach to the community, schools, and communities that are prone to consuming these drinks. In addition, by holding cross-sectoral meetings with community leaders to discuss the dangers of alcohol and its prevention. Police members can visit the community to provide information about the dangers of alcoholic beverages and the consequences for the environment so that people can think about avoiding alcoholic beverages. This effort can not only

¹⁹ Interview with Bripka Ibrahim Ningkeula (Bhabinkamtibmas Negeri Zeith) on May 14, 2021

²⁰ Jimly Asshiddiqie, Penegakan Hukum, *Journal Hukum Konstitusi*, Jakarta, 2006, p. 2

²¹ Margie G. Sopacua, et.al., The Effectiveness of Parole for Prisoners during the Covid-19 Pandemic, *Journal of Advances in Education and Philosophy*, Vol. 4, Issue 11, 2020, p. 478

²² Margie Gladies Sopacua, Criminology Studi on The Sopi Tradisional Liquor in The Zeith, Asilulu, and Kaitetu During the Covid 19-Pandemic, *Law Reform*, Volume 17, No. 2, 2021, p. 177

²³ Interview with Iptu Julkisno Kaisupy (the Head of Leihitu Police Department) on May 13, 2021

encourage residents not to drink alcoholic beverages, but also prevent the younger generation who have never tried alcoholic beverages from doing so. This can then form an anti-alcohol culture in the community. When the anti-alcohol culture has been formed, social control efforts can be carried out not only by the Police but also by the community. This situation will make it easier to overcome the circulation of alcoholic beverages in the community. Furthermore, by supervising the sale of materials or chemical substances sold in pharmacies or chemical stores that are prone to abuse. In particular, those used as a mixture of oplosan liquor.²⁴

This preventive effort places more emphasis on eliminating opportunities to commit crimes. Even if someone has malicious intent, but the opportunity to commit a crime is removed then the crime will not occur. Preventive efforts carried out by the Leihitu Police Department are:²⁵

- 1) Carry out investigative operations in places suspected of being places of sale or production of traditional liquor, as well as places that are often occupied for drinking traditional liquor;
- 2) Cooperating with the community to report in case of circulation of liquor, be it people who sell, produce, or consume liquor; and
- 3) Provide reasonable supervision by means of regular patrols in every place that is considered prone to the circulation of traditional liquor in Leihitu District through kamtibmas.

3. Repressive Efforts

Repressive efforts in the form of crackdown and control operations. The targets were stalls, cafes, and shops suspected of selling traditional alcoholic beverages (sopi). One of the efforts that the Indonesian National Police can do to reduce the number of alcoholic beverages circulating in the community is to conduct raids on illegal alcoholic beverages.²⁶ This control task is in accordance with what is mandated by the Food Law, where the Police are entitled and obliged to control illegal alcoholic beverages without a permit in accordance with the applicable laws and regulations. illegally without permission in accordance with applicable laws and regulations.²⁷

This repressive effort is the last resort that is carried out when a crime occurs whose actions are in the form of law enforcement. If Pre-emptive and Preventive efforts have been carried out and the expected efforts have not occurred, it will be carried out with repressive efforts. People who commit crimes of liquor circulation, especially in Leihitu District, will be given strict sanctions in accordance with existing Regional Regulations regarding the prohibition of the circulation of alcoholic beverages in Leihitu District.

CONCLUSION

Non-penal means for overcoming the circulation of traditional liquor in Negeri Zeith, Negeri Asilulu, and Negeri Kaitetu during the covid-19 pandemic can be done in three ways, namely as follows pre-emtive efforts, preventive efforts, and repressive efforts. Henceforth, the Governments in these three countries can cooperate with traditional leaders and religious leaders, to convince the public in terms of instilling good values where these values have been displaced by a bad culture and the police need to increase their surveillance efforts against circulation of traditional alcoholic beverages (sopi).

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²⁴ Abintoro Prakoso, Kriminologi dan Hukum Pidana, Laksbang Grafika, Yogyakarta, 2013, p. 170

²⁵ Margie Gladies Sopacua (2021), Loc. Cit., p. 177

²⁶ Muhammad Mulyadi, Darurat Miras Oplosan, Journal No. 24/IIP3DI/December, 2014.

²⁷ Mahmud Mulyadi, Kepolisian Dalam Sistem Peradilan Pidana, USU Press, Medan, 2009, p. 40

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