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**DISTRIBUTION AND SALE OF ALCOHOLIC DRINKS IN REGIONAL
REGULATION OF KAPUAS REGENCY NUMBER: 3 OF 2011
(STUDY OF SHARIA ECONOMIC LAW ANALYSIS)**

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Abstrak

Penelitian ini memiliki latarbelakang oleh karena peredaran minuman alkohol di Indonesia yang semakin marak dan meluas. Tidak jarang keberadaan minuman beralkohol kerap menimbulkan permasalahan di masyarakat, Jenis penelitian merupakan penelitian kepustakaan (library research), Jenis data yang digunakan penelitian ini ialah kualitatif. Hasil penelitian ini adalah Islam melarang atau mengharamkan jual beli atau perdagangan minuman beralkohol. Bahkan Allah swt pun melaknat bagi peminum, pelayan, penjual, bahkan pembeli minuman beralkohol tersebut. Meskipun dalam Peraturan Daerah Kabupaten Kapuas Nomor: 3 Tahun 2011, telah memberikan izin terhadap individu atau kelompok tertentu untuk menjual atau memperdagangkan minuman beralkohol tersebut. Pengharaman jual beli minuman beralkohol tersebut disebabkan oleh, barang tersebut diperjualbelikan atau diperdagangkan tergolong ke dalam barang yang diharamkan untuk dijadikan bisnis dalam Islam

Kata kunci: Minuman Beralkohol; Peraturan Daerah; Jual Beli.

Abstract

This research has a background because the circulation of alcoholic beverages in Indonesia is increasingly widespread and widespread. Not infrequently the existence of alcoholic beverages often causes problems in society. The type of research is library research. The type of data used in this research is qualitative. The results of this study are that Islam prohibits or forbids the sale and purchase or trade of alcoholic beverages. Even Allah swt cursed drinkers, waiters, sellers, and even buyers of these alcoholic drinks. Even though in the Kapuas Regency Regional Regulation Number: 3 of 2011, it has given permission to certain individuals or groups to sell or trade these alcoholic drinks. The prohibition of buying and selling alcoholic beverages is due to the fact that the goods traded or traded belong to goods that are forbidden to be used as a business in Islam.

Keywords: Alcoholic beverages; Regional Regulations; Buy and sell.

INTRODUCTION

Today, the economy in Indonesia is growing very rapidly, this brings fresh air to the people of Indonesia, where the majority of the population is Muslim. Islam is one of the religions adopted by the world's population, in which its teachings strongly encourage economic development, including various innovations in the trading system.(Huda & Komarudin, 2022). Likewise with the development of Islamic economics, not only in Indonesia but also developing throughout the world, therefore it is only natural that Islamic economics has become an important part of the global economy.(Komarudin & Hidayatullah, 2021)

There are two original legal rules applied in Islam. First, in matters of worship, the rule of law that applies is that everything is prohibited, unless there are provisions based on the Qur'an and hadith. Whereas in the case of muamalah, everything is permissible unless there is an argument against it. This means that when new transactions emerge and have not previously been recognized in Islamic law, these transactions can be accepted. Unless, there are implications in the arguments of the Qur'an and hadith which prohibit it, either explicitly or implicitly. Thus, in the field of muamalah all transactions are permitted except those which are prohibited by reason of the prohibition.

As one aspect of the rule of law contained in the Qur'an is about the prohibition of drinking khamr or liquor. Liquor (khamr) is all kinds of drinks that are intoxicating and can eliminate the drinker's consciousness.(Fu'ad, 2015) Types of liquor (alcohol) with various variations can be found in any society in the world. Throughout the history of pre-Islamic Arab society, they have also known this type of drink.(al-Anshari & Madjrie, 2005)

At this time the circulation of alcoholic beverages in Indonesia is expanding, where alcoholic drinks can be found and can be purchased easily from small shops to large shops, cafes and entertainment venues. It seems that the circulation of alcoholic beverages never ends, this is due to the demand for purchasing alcoholic beverages itself to continue to meet consumer demand. Not infrequently the existence of alcoholic beverages often causes problems in society, because for the majority of Indonesian people alcoholic beverages are one of the causes of crime which results in losses for drinkers and for society. In Islam, alcoholic beverages are prohibited. This is stated in the word of Allah SWT in the Al-Qur'an surah al-Maidah verses 90-91, which reads as follows:(Al-Quran Kemenag RI, 2015)

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْمَجُ رَجَسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ

It means: "O you who believe! In fact, drinking alcohol, gambling, (sacrifice to) idols, and raffle fate with arrows, are abominable acts and include the deeds of satan. So stay away from those (deeds) so that you will be lucky. With liquor and gambling, satan only intends to create enmity and hatred among you, and hinder you from remembering Allah and performing prayers, so don't you want to stop"

Alcohol is an addictive substance, meaning that it can cause addiction and dependence.(Hawari, 2009) Alcohol creates tolerance, physical dependence, and psychological dependence which ends in alcoholism, a social disease that is difficult to treat and takes many victims.(Mursyidi, 2002)

Legal events that occur in society are often out of sync between regulations, society and law enforcement officials in law enforcement. Legal objectives can only be achieved by implementing legal rules that are in line with the legal objectives. The purpose of law is contained in written legal rules, but that does not mean that legal objectives that are not contained in written legal rules such as public order, justice, legal certainty and other legal principles are not as important. Legal regulations that conflict with law enforcement and law enforcement against all types of alcoholic beverages, including traditional Indonesian alcoholic beverages, can lead to legal problems.(Serfiyani et al., 2020)

From a social perspective, alcoholic beverages have a negative impact on people who consume them. But in reality this drink is still widely traded, produced and even imported very freely. Meanwhile, law enforcement on the issue of alcoholic beverages is still weak. This causes most people to push the government to regulate the production, distribution and sale of alcoholic beverage products. In the Regional Regulation (Perda) of Kapuas Regency Number: 3 of 2011 concerning Certain Licensing Fees, Licensing Fees for the Sale of Alcoholic Beverages. Then, in CHAPTER III Article 4 Paragraph 1, the object of retribution is the granting of permits to sell alcoholic beverages in certain places. Then in Paragraph 2, the subject of retribution is an individual or entity that obtains a license to sell alcoholic beverages. Then in the Kapuas Regency Regional Regulation, alcoholic beverages are classified into three groups based on their alcohol/ethanol content. (*Kapuas Regency Regional Regulation Number: 3 of 2011 Concerning Certain Licensing Fees*)

Based on the description of the problem above, there are two main problems in this study, namely (1) how to regulate the licensing fees for alcoholic beverages in the Kapuas Regency Regional Regulation Number: 3 of 2011, (2) How to trade alcoholic beverages in the perspective of sharia economic law. From the formulation of the problem, of course the author also has objectives in this study, (1) To find out the arrangements for licensing fees for alcoholic beverages in the Kapuas Regency Regional Regulation Number: 3 of 2011, (2) To find out a review of sharia economic law regarding the trade of alcoholic beverages.

As for previous research that can support the urgency of this research, namely from Yuanita Sholikhah entitled "Review of Islamic Criminal Law on Regional Regulations concerning the Supervision and Control of Alcoholic Beverages in Madiun Regency". Yuanita emphasized that regarding the prohibition contained in the Madiun Regency Regional Regulation No. 8 of 2006 concerning the Supervision and Control of Alcoholic Beverages, cannot be said to be in line with Islamic criminal law, because there is a government policy that still allows the circulation of alcoholic beverages even at very low levels.(Sholikhah, 2020) then research from I Nyoman Sadhu Bramanta, et al. Entitled "Granting Permits for Circulation of Alcoholic Drinks Based on Governor of Bali Regulation Number 1 of 2020" Bramarta emphasized that with this Governor's Regulation, artisans or farmers have legal certainty and business certainty in carrying out activities for the production of Balinese fermented and distillate drinks. In contrast to before the existence of this Governor Regulation, before the existence of this Governor Regulation, artisans were often raided by the police because they were considered to be carrying out illegal or unlawful activities.(Bramanta et al., 2020) From these two studies, it becomes a benchmark in this research where every rule must be made in accordance with the conditions of society, so that all actions of the community have an umbrella of law and do not violate applicable norms.

MATERIALS AND METHODS

Types of library research (library research). Library research is research conducted by collecting data from various literature that can support research. (Wasito, 1992)

Information search is normatively based on government regulations that focus on alcoholic beverages as the object and the analysis in the information obtained is conceptually related to this writing. Normative legal research is the law of literature which refers to the legal norms contained in the laws and regulations.(Waluyo, 2002)

The type of data in this research is qualitative data. Qualitative data is data in the form of descriptions aimed at all existing problems, in which the description is explanatory in nature relating to the problem to be studied.(Lakitan, 1998) In this study, the data sources used were secondary data sources, namely supporting data obtained from; Primary legal materials, namely materials obtained directly from the source such as: Al-Qur'an and Hadith and Kapuas Regency Regional Regulation Number: 3 of 2011 concerning Certain Licensing Retribution; Secondary legal material is legal material collected through literature and documentation which is quoted from books that have a relationship with the problems in the research; Tertiary legal materials, are legal materials that provide instructions and explanations of primary legal materials and secondary legal materials, for example newspapers, magazines and the internet.

RESULTS AND DISCUSSION

Basic Rules of Muamalah

Business is one of the supports of a country's economy. Everyone will compete to get the maximum results or profit. However, in carrying out these activities, there are laws that apply to be able to prevent tyranny against one party. (Syantoso, 2018)

In human life in muamalah, qawa'id fihiyyah has a very important role. Along with the times, the need for more qaidah seems unavoidable. (Andiko, 2011) More and more human effort associated with activities with goods and services. Of course, with the development of science and technology, as well as the increasing demands of society, the transaction model was born which is in accordance with the needs of the leftists who demand settlement from the side of Islamic law by using qawa'id fihiyyah.

The solution is Islamic and able to solve real life problems, of course, the method is to use these rules. (Djazuli, 2006)

الأَصْلُ فِي الْمُعَامَلَةِ الْإِبَاحَةُ إِلَّا أَنْ يَدُلَّ دَلِيلٌ عَلَى تَحْرِيمِهَا

"The original law in all forms of muamalah is permissible unless there is an argument that forbids it"

The explanation of the rules above is:

The law of the origin of a muamalah contract, regardless of the form/model, is permissible (permissible), as long as there is no argument that expressly/strictly prohibits it, or that the contract transaction does not conflict with the concept and rules of the contract. common arguments. The purpose of these rules is that in every muamalah transaction it is basically permissible to carry out, such as buying and selling, cooperation (mudharabah or musyarakah), pawning, leasing, and others, unless there is an argument that is expressly prohibited such as causing a loss/loss such as fraud (tadlis), uncertainty (gharar), gambling (maisir), and usury. (Djazuli, 2006)

The Legal Basis of Buying and Selling

Humans are inseparable from business activities or buying and selling and muamalah, because to meet the needs and needs of human life need other people. Humans help each other in meeting the necessities of life by buying and selling as one example. The basis of buying and selling in Islam is also very clearly stated in the bookullah of the Al-Quran, namely in surah al-Baqarah verse 275, which reads:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

Meaning: "Even though Allah has justified buying and selling and forbidding usury". (QS. Al-Baqarah: 275)

In the verse above, Allah SWT says that buying and selling is permissible and riba is prohibited. Fiqh scholars also mention the verse above as the basis for buying and selling which then concludes that buying and selling is permissible. Buying and selling can be obligatory if it occurs in certain situations as stated by Imam ash-Syatibi .(Hasan, 2003)

Pillars and Terms of Sale and Purchase

Buying and selling in Islam also has pillars and conditions such as prayer and fasting, which pillars and conditions must exist and be fulfilled when a sale and purchase transaction occurs so that a contract can be said to be valid. There are differences of opinion regarding the provisions of the pillars of buying and selling from the Hanafi School of Scholars and the majority of scholars .(*Ensiklopedi Hukum Islam, Jilid III*, 2001) Dalam Mazhab Hanafi disebutkan bahwa rukun dalam jual beli hanya terdapat satu rukun yaitu, adanya kerelaan antara si penjual dan pembeli. Yang kemudian diperlukan indikator untuk mengukur seperti apa kerelaan yang harus tergambar ketika terjadinya ijab dan qabul, kerelaan tersebut ditunjukkan dengan cara si pembeli membayar dengan uang yang dimiliki sedangkan si penjual memberikan barang yang dijualnya dan mendapatkan uang.(Suhandi et al., 2022)

Meanwhile, according to the majority of scholars, there are four pillars of buying and selling, this is of course different from what was stated by the Hanafi school of thought. The pillars of buying and selling according to the majority of scholars are as follows: The person who enters into the contract (in this case is the seller and the buyer), Siqat (pronunciation of the consent), the goods purchased, reimbursement of the exchange value of the goods purchased. This is different from the opinion of the majority of scholars who state that the person who makes the contract, the goods and the exchange value of the goods are in harmony. However, the Hanafi school of thought gives a different opinion, this is included in the terms of sale and purchase. Below are the pillars of buying and selling according to the majority of scholars in accordance with the pillars of buying and selling mentioned above:

1. The terms of the person doing the contract must fulfill the following conditions; (a) Reasonable, (b) Those who perform the contract are different people.
2. The condition for doing consent granted is the willingness of the seller and the buyer.
3. Terms of goods being traded.
4. Terms of the exchange rate or the price of the goods themselves.

The Prophet's Hadith on the Sale and Purchase of Alcohol

The Prophet Muhammad saw said what was narrated by Sayyidah 'Aisyah radhiyallahu 'anha. At that time, the final verses of Surah Al Baqarah came down which contained the prohibition of khmr. The hadith is as follows:

حَدَّثَنَا مُسْلِمٌ، حَدَّثَنَا شُعْبَةُ، عَنِ الْأَعْمَشِ، عَنْ أَبِي الضُّحَى، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ. رَضِيَ اللَّهُ عَنْهَا. لَمَّا نَزَلَتْ آيَاتُ سُورَةِ الْبَقَرَةِ عَنْ آخِرِهَا خَرَجَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " حُرِّمَتِ التِّجَارَةُ فِي الْخَمْرِ ".

"Has told us Muslims, has told us Syu'bah, from A'masy, from Abi Dhuha, from Masruqin, from 'Aisyah radhiyallahu 'anha. When the last verse of Surah Al-Baqarah was revealed, the Holy Prophet came out (from his house to the Mosque) and said, "Trade in alcohol has become haraam." (HR. Bukhari no. 2226)

Then in another hadith the Prophet also said about the prohibition of khamr during the conquest of Mecca, which was narrated by Jabir from Jabir bin Abdillah as follows :

حَدَّثَنَا قُتَيْبَةُ، حَدَّثَنَا اللَّيْثُ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ. رَضِيَ اللَّهُ عَنْهُمَا. أَنَّهُ سَمِعَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ عَامَ الْفَتْحِ، وَهُوَ بِمَكَّةَ " إِنَّ اللَّهَ وَرَسُولَهُ بَيَعَ الْخَمْرَ وَالْمَيْتَةَ وَالْخَنَزِيرَ وَالْأَصْنَامَ ". فَقِيلَ يَا رَسُولَ اللَّهِ، أَرَأَيْتَ شُحُومَ الْمَيْتَةِ فَإِنَّمَا يُطْلَى بِهَا السُّفُنُ، وَيُدْهَنُ بِهَا الْجُلُودُ، وَيَسْتَصْبَحُ بِهَا النَّاسُ. فَقَالَ " لَا، هُوَ حَرَامٌ ". ثُمَّ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عِنْدَ ذَلِكَ " قَاتَلَ اللَّهُ الْيَهُودَ، إِنَّ اللَّهَ لَمَّا حَرَّمَ شُحُومَهَا جَمَلُوهُ ثُمَّ بَاعُوهُ فَأَكَلُوا ثَمَنَهُ ". قَالَ أَبُو عَاصِمٍ حَدَّثَنَا عَبْدُ الْحَمِيدِ، حَدَّثَنَا يَزِيدُ، كَتَبَ إِلَيَّ عَطَاءٌ سَمِعْتُ جَابِرًا. رَضِيَ اللَّهُ عَنْهُ. عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ.

"Has told us Qutaibah, from Yazid ibn Abi Habib, from Atha' ibn Abi Rabah, from Hajar ibn Abdullah radhiyallahu 'anhuma. He heard the Messenger of Allah say during the year of conquest, namely in Mecca. "Indeed, Allah and His Messenger have forbidden the buying and selling of intoxicants, carrion, pigs and statues." Someone asked, "O Messenger of Allah, what do you think about buying and selling carrion fat, considering that carrion fat is used to patch boats, oil skin, and is used as oil for lighting?" The Prophet sallallahu 'alaihi wa sallam said, "No! Buying and selling carrion fat is haram." Then, Rasulullah shallallahu 'alaihi wa sallam said, "May Allah curse the Jews. Indeed, when Allah forbids carrion fat, they melt it and then sell the oil from the carrion fat, then they eat the proceeds from the sale." (HR. Bukhari no. 2236)

Then in another hadith of the Prophet, it is explained that Allah swt cursed alcoholic beverages. Allah also curses the drinker, the person who serves him, the buyer, the extortionist or the person who produces the alcoholic drink.

حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكِيعٌ بْنُ الْجَرَّاحِ، عَنْ عَبْدِ الْعَزِيزِ بْنِ عُمَرَ، عَنْ أَبِي عُلْقَمَةَ، مَوْلَاهُمْ وَعَبْدُ الرَّحْمَنِ بْنِ عَبْدِ اللَّهِ الْغَفَاقِيُّ أَهْمَا سَمِعَا ابْنَ عُمَرَ، يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " لَعَنَ اللَّهُ الْخَمْرَ وَشَارِبَهَا وَسَاقِيَهَا وَبَائِعَهَا وَمُبْتَاعَهَا وَعَاصِرَهَا وَمُعْتَصِرَهَا وَحَامِلَهَا وَالْمَحْمُولَةَ إِلَيْهِ

Have told us Uthman ibn Abi Syaibah, have told us Wakii' ibn Hajar, from Abdul Aziz ibn Umar, from Abi Alqamah, their master and Abdurrahman ibn

Abdillah al-Ghifari said that hearing Ibn Umar, the Prophet Muhammad said: Allah cursed the wine, the drinker, the servant, the seller, the buyer, the extortionist, the extortionist, the distributor, and the one delivered.(HR. Sunan Abi Dawud no. 3674)

From some of the hadiths of the Prophet above it is very clear that alcohol is haram. The prohibition of alcohol has also been stated in the word of Allah in the Koran, one of which is in surah al-Maidah verse 90. The Prophet Muhammad also explained that, not only people who consume alcohol but those who sell it will also receive anathema from Allah.

Alcohol is said to have several benefits, starting from its use to warm the body when the weather is cold. Related to current issues, alcohol may be able to increase investment to absorb labor. However, the benefits still outweigh the disadvantages. Not infrequently alcohol causes problems in society, not infrequently because of the influence of alcohol a person can commit crimes that can harm himself or even those around him. The Al-Qur'an explicitly views that drinking alcohol is one of Satan's activities that must be avoided by Muslims. Enmity can arise through drinking, because in a state of intoxication the drinker cannot control himself.

Licensing fees for alcoholic beverages in the Kapuas Regency Regional Regulation Number: 3 of 2011

Kapuas Regency Regional Regulation Number: 3 of 2011 Concerning Certain Permits Retribution, in CHAPTER II Article 2 Paragraph 1 which reads, this Regional Regulation regulates certain Permits Retribution groups consisting of: a. Retribution for Permits for Sales of Alcoholic Beverages. Then in CHAPTER III Article 3 and Article 4 it reads as follows:

Article 3

- [1] With the name Retribution for Permits for Sales of Alcoholic Beverages, a levy is levied as payment for the issuance of Permit for Place of Sale of Alcoholic Beverages.
- [2] The procedure for granting permits is stipulated by a Regent's Regulation. (* 1)

Article 4

- [1] The object of Retribution is the granting of a permit to sell alcoholic beverages in a certain place.
- [2] Subjects of Retribution are individuals or entities that obtain Permits for Sales of Alcoholic Beverages.
- [3] The subject of Retribution as referred to in paragraph (2) is a Retribution Mandatory, including the collector or withholding Retribution.

Then in Article 5 Paragraph 2 it is explained that alcoholic beverages are classified based on the alcohol/ethanol content contained therein, namely: group A: ethanol content (C₂H₅OH) 1% to 5%, group B: ethanol content (C₂H₅OH) 5% s /d

20%, group C: ethanol content (C₂H₅OH) 20% to 55%. (Kapuas Regency Regional Regulation Number: 3 of 2011 Concerning Certain Licensing Fees)

Trade in Alcoholic Beverages in the Perspective of Sharia Economic Law

According to the 2003 MUI Fatwa, all types of intoxicating substances, namely those that cause loss of consciousness or block one's mind, are classified as khamr. All materials classified as khamr are unlawful for consumption, as well as classified as unclean. Therefore the use of khamr as a food ingredient even in small quantities is still forbidden. The Prophet Muhammad also said in a hadith narrated by Aisyah radhiyallahu 'anha, when the final verses of Al Baqarah (about the prohibition of khamr) came down, the Prophet sallallaahu 'alaihi wa sallam came out and then said,

حَدَّثَنَا مُسْلِمٌ، حَدَّثَنَا شُعْبَةُ، عَنِ الْأَعْمَشِ، عَنْ أَبِي الصُّحَيْ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ. رَضِيَ اللَّهُ عَنْهَا. لَمَّا نَزَلَتْ آيَاتُ سُورَةِ الْبَقَرَةِ عَنْ آخِرِهَا خَرَجَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ " حُرِّمَتِ التِّجَارَةُ فِي الْخَمْرِ ".

"Has told us Muslims, has told us Syu'bah, from A'masy, from Abi Dhuha, from Masruqin, from 'Aisyah radhiyallahu 'anha. When the last verse of Surah Al-Baqarah was revealed, the Holy Prophet came out (from his house to the Mosque) and said, "Trade in alcohol has become haraam." (HR. Bukhari no. 2226).

From the above hadith it is explained that trading in alcohol is forbidden, even though initially trading or buying and selling was allowed in accordance with the rules of muamalah,

الْأَصْلُ فِي الْمُعَامَلَةِ الْإِبَاحَةُ إِلَّا أَنْ يَدُلَّ دَلِيلٌ عَلَى تَحْرِيمِهَا

"The original law in all forms of muamalah is permissible unless there is an argument that forbids it"

Then the trade or buying and selling of alcoholic beverages is prohibited, because there is evidence that prohibits it, in another narration the Prophet SAW also said that Allah cursed the drinker, the drinker, the servant, the seller, the buyer, the extortionist, the one who was extorted, the one who distributed it, and the one who delivered it. The hadith reads:

حَدَّثَنَا عُثْمَانُ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكِيعُ بْنُ الْجَرَّاحِ، عَنْ عَبْدِ الْعَزِيزِ بْنِ عُمَرَ، عَنْ أَبِي عُلْقَمَةَ، مَوْلَاهُمُ وَعَبْدُ الرَّحْمَنِ بْنِ عَبْدِ اللَّهِ الْغَفَاقِيُّ أَهْمَا سَمِعَا ابْنَ عُمَرَ، يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " لَعَنَ اللَّهُ الْخَمْرَ وَشَارِكَهَا وَسَاقِيَهَا وَبَائِعَهَا وَمُبْتَاعَهَا وَعَاصِرَهَا وَمُعْتَصِرَهَا وَحَامِلَهَا وَالْمَحْمُولَةَ إِلَيْهِ

"Have told us Uthman ibn Abi Syaibah, have told us Wakii' ibn Hajar, from Abdul Aziz ibn Umar, from Abi Alqamah, their master and Abdurrahman ibn Abdillah al-Ghifari said that hearing Ibn Umar, the Prophet Muhammad said: Allah cursed the wine, the drinker, the servant, the seller, the buyer, the extortionist, the extortionist, the distributor, and the one delivered." (HR. Sunan Abi Dawud no. 3674)

The Prophet saw in the hadith above has stated that any type of buying and selling or trade transaction that is indicated to lead people to immoral acts, then it is unlawful. Selling wine to someone we suspect will make khamr or alcoholic beverages, then that is not permissible. Indeed, as is known that basically transacting or buying and selling wine is permissible, but if this is done with people who are suspected of making something that is forbidden in religious teachings such as intoxicants with wine, then the law becomes unlawful.

From some of the explanations of the hadith above, it is very clear that Islam prohibits or forbids the sale and purchase or trade of alcoholic beverages. Even Allah swt cursed drinkers, waiters, sellers, and even buyers of these alcoholic drinks. Even though the Kapuas Regency Regional Regulation Number: 3 of 2011 has given permission to certain individuals or groups to sell or trade these alcoholic drinks. The prohibition of buying and selling alcoholic beverages is due to the fact that the goods being traded or traded are items that are forbidden in Islam.

Prohibition of drinking alcohol is actually based on the nature of alcohol which can damage the mental health of those who consume it, which of course is a negative aspect of consuming alcohol. People who consume alcohol will usually get intoxicating effects from the alcohol itself. Most of the cases of crime violations that occur today are caused by alcohol, because the drinker will lose self-control which can cause harm to those around him and even himself. People who are in a drunken state will lose their awareness of self-control.

Based on the explanation above, the granting of permits for the circulation of alcoholic beverages based on the Kapuas Regency Regional Regulation Number: 3 of 2011 which states that alcoholic beverages can be traded in certain places that have been granted permits by the local government, is clearly not in accordance with Islamic law. The prohibition of alcohol is very clear in the Qur'an and in the hadith of the Prophet.

CONCLUSIONS AND RECOMMENDATIONS

Kapuas Regency Regional Regulation Number: 3 of 2011 concerning Certain Licensing Levies, in CHAPTER II Article 2 Paragraph 1 which reads, this Regional Regulation regulates the category of Certain Licensing Levies consisting of: a. Retribution for Sales of Alcoholic Beverage Permits. Then in CHAPTER III Article 3 and Article 4 as follows: A levy for a permit to sell alcoholic beverages is levied as payment for granting a permit for the sale of alcoholic beverages. The object of the levy is the granting of a permit to sell alcoholic beverages somewhere, the subject of the levy is an individual or entity obtaining a permit to sell alcoholic beverages.

According to the 2003 MUI Fatwa, all types of substances that can intoxicate, namely those that cause loss of consciousness or block the mind, are classified as khamr. All materials classified as khamr are forbidden for consumption, and they are also classified as unclean. Islam prohibits the sale of alcohol, as the words of the

Prophet Muhammad narrated by Aisha. Even though the Kapuas Regency Regional Regulation has given permission to groups or individuals to sell alcoholic beverages. As Muslims, we should stay away from things that are prohibited by Allah and His Messenger, such as staying away from liquor, both for consumption and for trading.

Suggestions for stakeholders to be able to review the rules regarding Retribution for Licensing Sales of Alcoholic Beverages, because the author considers these rules to be inconsistent with the norms that apply in society, besides alcohol having a bad impact on health it also has the potential to lead to unfavorable behavior for the consumer.

DAFTAR RUJUKAN

- al-Anshari, F., & Madjrie, A. (2005). *Hukuman Bagi Konsumen Miras dan Narkoba*. Khairul Bayan Press.
- Al-Quran Kemenag RI. (2015). *Al-Qur'an dan Terjemahnya*. Lajnah Pentashihan Mushaf Al-Qur'an.
- Andiko, T. (2011). *Ilmu Qawa'id Fiqhiyyah: Panduan Praktis dalam Merespon Problematika Hukum Islam*. Teras.
- Bramanta, I. N. S., Widiati, I. A. P., & Suryani, L. P. (2020). *PEMBERIAN IZIN PEREDARAN MINUMAN BERALKOHOL BERDASARKAN PERATURAN GUBERNUR BALI NOMOR 1 TAHUN 2020*. 1(1).
- Djazuli, A. (2006). *Kaidah-Kaidah Fikih*.
- Ensiklopedi Hukum Islam, Jilid III*. (2001). PT. Ichtiar Baru Van Hoeve.
- Fu'ad, S. (2015). Implementasi Perda Pamekasan tentang Larangan Miras dalam Prespektif Siyasa Shar'iyyah. *Jurnal Al-Qanun*, 18(1).
- Hasan, M. A. (2003). *Berbagai macam transaksi dalam islam (Fiqh Muamalah)*. PT. Raja Grafindo Persada.
- Hawari, adang. (2009). *Penyalahgunaan dan Ketergantungan NAZA (Narkotika, Alkohol dan Zat Adiktif)*. FKUI.
- HR. Bukhari no. 2226.
- HR. Bukhari no. 2236.
- HR. Sunan Abi Dawud no. 3674.
- Huda, R., & Komarudin, P. (2022). *PEMBERDAYAAN MASYARAKAT DESA ANJIR SERAPAT TENGAH TENTANG ETIKA BISNIS ISLAM DALAM TRANSAKSI JASA TITIP*. *Jurnal Pengabdian Al-Ikhlas*, 8(1).
<https://doi.org/10.31602/jpaiuniska.v8i1.7327>

- Komarudin, P., & Hidayatullah, M. S. (2021). Alur Legislasi dan Transformasi Hukum Perbankan Syariah di Indonesia. *Mizan: Journal of Islamic Law*, 5(1), 133. <https://doi.org/10.32507/mizan.v5i1.868>
- Lakitan, B. (1998). *Metodologi Buku Panduan Mahasiswa*. Universitas Sriwijaya.
- Mursyidi, A. (2002). *ALKOHOL DALAM OBAT DAN KOSMETIKA*.
- Peraturan Daerah Kabupaten Kapuas Nomor: 3 Tahun 2011 Tentang Retribusi Perizinan Tertentu*. (n.d.).
- Serfiyani, C. Y., Hariyani, I., & Rahmati Serfiyani, C. (2020). Pelindungan Hukum terhadap Minuman Alkohol Tradisional Khas Indonesia (Legal Protection towards Indonesian Traditional Alcoholic Beverages). *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan*, 11(2), 267–287. <https://doi.org/10.22212/jnh.v11i2.1672>
- Sholikhah, Y. (2020). *Tinjauan Hukum Pidana Islam terhadap Peraturan Daerah tentang Pengawasan dan Pengendalian Minuman Beralkohol di Kabupaten Madiun*. 23(1).
- Suhandi, E., Hasan, M., & Hakimah, N. (2022). *TINJAUAN YURIDIS"TERHADAP DISPENSASI KAWIN DI BAWAH"UMUR*. 02.
- Syantoso, A. (2018). *TAFSIR EKONOMI ISLAM ATAS KONSEP ADIL DALAM TRANSAKSI BISNIS*.
- Waluyo. (2002). *Hak Penguasaan Tanah Land Reform*. Wacana Pustaka.
- Wasito, H. (1992). *Pengantar Metodologi Penelitian Buku Panduan Mahasiswa*. Gramedia Pustaka Umum.