LEGALITY OF ALCOHOLIC BEVERAGES IN INDONESIA: BETWEEN POLITICAL ECONOMY AND HIFZ AL-ʿAQL PERSPECTIVE

Beni Firdaus, Busyro, Ismail, Rahmiati, Pendi Hasibuan, Selfia Marlina
Faculty of Sharia of State University of Islamic Studies (UIN) Sjech M. Djamil Djambek Bukittinggi
Kampus Kubang Putih, Kabupaten Agam Sumatera Barat 26181
Email: beni.firdaus1979@gmail.com;

accepted: 30/08/2022; Revision: 17/08/2023; Approved: 28/08/2023

DOI: https://doi.org/10.24815/kanun.v25i2.27843

ABSTRACT

Legalizing alcoholic beverages under Indonesian Presidential Decree Number 10 of 2021 concerning to Investment Business raises conflicting view with Islamic norms in Indonesian as religious state. Under Islamic norm such prohibition intended to maintaining of reason (ḥifẓ al-ʿaql), while on the one hand it is for the improvement of the country's economy (ḥifẓ al-mal). This paper measures such contradictory under maqasid Syariah auspice. The method used is a normative research with a content analysis approach. This paper found that the legalization of investment in alcoholic beverages has not reached to the stage of necessity (ḍaruriyya), while the acquisition of property (ḥifẓ al-mal) was obtained through the legalization of alcoholic beverage investments, only at the level of (taḥsiniyyah). Therefore, something related to the tahsiniya level should not negate the position of ḍaruriyya of ḥifẓ al-ʿaql. Eliminating the potential of greater mafsadah must be put forward by the Indonesian government rather than producing uncertain maslahah.

Keywords: Legality of alcoholic beverages; religious state, political economy.

INTRODUCTION

Responsibility of government to manage the life of its citizens, either individually or socially is indispensable (Hatta, 2009). A person is a legal subject when he meets certain conditions, with exceptions to people who are drunk or insane (Alfianti, 2018). Some provisions of the law may eliminate the status of a person either subject or object of law, such as mental disorder, someone under amnesty, etc. From the medical point of view, a person with a mental disorder is judged unable to comprehend his actions (Polihu, 2017). Similarly, consuming liquor (alcoholic beverages) and similar substances is an act that makes one drunk and thus unable to control himself (Lestari, 2016).

The risks and dangers of the alcoholic beverage industry and similar substances should be limited by an adequate set of legal rules (Ananti &Ernawati, 2017). This is also true especially for the context of the state, for one must be bound by the rule of law. Article 1 paragraph 3 of the 1945 Indonesia's constitution states that Indonesia is a legal state. This means that in organizing the country, the Indonesian government must provide and ensure a set of law enforcement facilities for the citizens (Rori, 2015).

The system and political power are important things that every citizen strives for (2018). Presidential Regulation (Perpres) No. 10 of 2021 on Business Investment (Bidang Usaha Penanaman Modal), is oriented towards efforts to legalize liquor/alcoholic beverages which in Islamic terminology are referred to as *khamr.* This policy has generated controversy among the political elites, Islamic law academics, and the Indonesian people; a repercussion of the disputes about the relationship between religion and the legal system in the Indonesia (2016). The arrangement regarding alcoholic beverages has been regulated in various laws and regulations. The arrangements for alcoholic beverages are indeed not specifically mentioned. Yet, at the lower level, there is artcicle 7 of the Presidential Regulation No. 74 of 2013 which rules that alcoholic beverages group A (those with ethyl or ethanol levels up to 5 percent), group B (levels 5-20 percent), and group C (levels 20-55 percent) can only be sold in hotels, bars, and restaurants that meet the requirements in accordance with the laws and regulations in the field of tourism. These regulations seem to control the circulation of alcoholic beverages in Indonesia and it does not legalize investments in alcoholic beverages.

Indonesia choose (agreed) to compromise religion with the state (*din wa dawlah*). This is seen from the consistency of Indonesia in placing the supreme divinity in the first principle of Pancasila as the spirit of the state as well as the citizens to carry out their life, either individually or socially, regionally, nationally, or internationally (Rofiah, 2016). The two aspects above (*din wa dawlah*), which in the context of Indonesia are used as the fundamental principle that base the country, is certainly in need of justification from the proper academic, methodological, and philosophical foundation (Hairi et al., 2019).The reason being is that ignoring such a foundation would leave each axis uncompromised to each other and further would give rise to potential political, social, economic conflicts (Rajamuddin, n.d). More significantly, the demography of Muslims out numbered of other faith in Indonesia. The

argument put forward by the President of Indonesia in the issue of alcoholic beverages (khamr) is economic considerations (Yudhistira, 2021).

One of the legal maxims in Islam states that everything is in principle is permitted unless a dalil (law) forbids it. Khamr in Islamic law is something that is forbidden to be consumed. Historically the prohibition of khamr in Islamic law is something that falls into *ḍarūriyāt* (necessity). In the study of maqāṣid sharia, the necessity of khamr prohibition is to maintain (the sanity) of human reason (*ḥifẓ al-ʿaql*) (Toriquddin, 2014).

This paper measures the objectives of maintenance of reason (*ḥifẓ al-ʿaql*) as a very important part in maqaṣid sharia when dealing with the economic policy of the Indonesian government when the inisiative to legalize the investment of alcoholic beverages contained in attachment III of Presidential Decree No. 10 of 2021 on the Field of Investment Business, which is also aimed at the welfare of the people (*ḥifẓ al-mal*).

RESEARCH METHOD

This paper follows the qualitative research methodology, namely a study that relies on content analysis. Content analysis is a research method used in the fields of social sciences, one of them is written regulation text in Presidential Decree number 10, 2021. The goal of content analysis is to uncover patterns, themes, and trends within the collected content, which can then be used to draw meaningful insights and conclusions about the subject matter being studied. Qualitative content analysis, is more interpretive and seeks to understand the deeper meanings and contexts within the content (Harwood and Garry, 2003).The sources are gathered from primary documents such as Presidential Decree number 10, 2021 on BUPM and authoritative books on *ḥifẓ al-ʿaql*. For this reason, previous studies that are relevant to the theme of this discussion are also used as secondary references. With this method, this paper is able to answer the problem, as well as be able to conclude the political economy perspective and *ḥifẓ al-ʿaql* on the topic of legality of alcoholic beverages in Indonesia.

RESEARCH OUTCOME AND DISCUSSION

1. Indonesia as a Religious State

Muslims' views with regards to the duality of *din wa dawlah* in Indonesia place both of them as unseparated axes. Historically, the Unitary State of the Republic of Indonesia (NKRI)

has always been preoccupied with the prolonged discussion about *din wa dawlah*, ranging from the role and participation of Islamic figures in initiating Indonesian independence which then also dominated the birth and enactment of the policy of a godly state, the existence of Islamic leadership, and social issues, welfare, and justice issues (Nasrudin, 2017).

Indonesia embraces the compromised position between religion and state. This compromise is experiencing in this 21st-century globalization. A number of issues that attract public attention have always been about the intersection of these two axes lately, such as radicalism, terrorism, etc. Law enforcement for the realization of a sense of social justice is also increasingly becoming politically biased (Nasrudin, 2017). In the legal aspect, friction between religious interests and that of the state, especially those concerning the economy, also encounter ripples and public outbursts (Qibtiyah, 2019). Ideally, such kind of friction could be properly managed if the government is consistent with the Indonesian constitution. Moreover, at the age of 75 years on August 17, 2020, Indonesia should have reached conformity with regard to the ideology of state and religion in order to advance its people and nation.

Kuntowijoyo states that religion cannot be governed by political forces. Religion grows not with the logic of power but by the logic of belief. The appeal of religion is different from that of the politic so that the suppression of religion often in fact nourishes it. The guarantee of the Indonesian state to religious people in his country is an ideological wealth that should continue to be cared for by the state government. As the executor of the state policies, the Indonesian government must strictly comply with the constitution as a consensus in the country.

Article 28J paragraph 2 states that the law must have an orientation to protecting such rights of the citizens. In addition, article 29 paragraph 1 of the 1945 Constitution necessitates every policy of the Indonesian state to be based on the principle of supreme divinity (religion). Religion holds a critical and fundamental role in the system of Indonesian governance to achieving other goals in state life. Kuntowijoyo explains that religion has a vitality (force) that is different from politics. If not on the surface, religion will thrive underground. Religion is like water; it cannot be contained. When blocked, religion would always look for a way to flow. One of the fiqh maxims states that the leader (ruler) of a country must govern his country by complying with the interests (*maṣlaḥa*) of the people he leads (Mutakin, 2017).

As far as the alcoholic beverage is concerned, the social context of Muslim communities in Indonesia is bound by the provisions of religion (Islamic sharia). In the Quran (al-Baqara: 219) states that the law of consuming khamr or alcoholic beverages is haram and accounted as a major sin. The consequences of the prohibition of consuming khamr or alcoholic beverages are mentioned in the Quran (al-Nisa: 43) which states that a Muslim should not perform prayer when drunk, a kind of worship that distinguishes between a Muslim and a non-Muslim. In addition, the Quran (al-Maida: 90) mentions that the activity of consuming alcoholic beverages is an act of Satan, would destroy humans, and sets one far from the luck of living in the world let alone the hereafter.

2. Alcoholic Beverages in Economic Policies Perspective

Theories and approaches of ideology in the study of the world economy are influenced by Western ideas, such as liberals and socialists. Today, those economic ideologies are in control of the world economic system. Nevertheless, the Islamic economic system actually has its own appeal as an alternative economic system with all its potential and advantages. Moreover, Indonesia as a country whose majority population is Muslims is need of the Islamic economic system to enrich the religiosity of the Muslim community in Indonesia. (Kadir 2016)

The basic principle of value contained in the Islamic economic system is the existence of the bond to aspects of Islamic business law and ethics (Yenti & Alwana, 2020). Ahmad Azhar Basyir plains the philosophy of the Islamic economic system on several principles, namely; the principle of worship (*tawḥid*), the principle of equality (*musawah*), the principle of freedom (*ḥurriya*), the principle of justice (*ʿadl*), the principle of help (*taʿawun*), and the principle of tolerance (*tasamuḥ*) (Sudiarti, 2016). These principles are the fundamental foothold in the practice of the Islamic economic system.

When referring to the principles offered by Ahmad Azhar Basyir above, efforts to legalize alcoholic beverages in Indonesia are a deviant policy. Islamic business ethics does not recognize the practice of monopoly, exploitation, and discrimination. The rejection of the Islamic economic system that regulates its economic ethics in general against this policy is so that there is no social inequality in society (Maghfur, 2016). Of course, it can be understood that if the gap is getting clearer and insurmountable, then peace will also not be achieved. Therefore, the legal ties held in the Islamic economic system are a wealth owned by Islamic economic ideology.

On issues in economic policies to which intersect two seemingly conflict legal rulings, a careful and thorough understanding of the boundaries of each is needed. Laws are often suspected of giving a rigid touch on something, so the development of an economic system that requires flexibility of creation and innovation is considered contrary to legal principles. But do not forget also that the effectiveness of the economic development system is highly dependent on the strength of the legal guarantee, which means the effective law would give birth to optimal economic development (Rori, 2015).

The politic of economic law in a country must be oriented towards the welfare of its people. That is also true for Indonesia, whose founding ideal as stated in the fifth principle of Pancasila is social justice (prosperity) for all Indonesian people. To make this happen, Indonesia's politic of economic law should be in line with this interest. However, from the medical perspective, alcoholic beverages are not worth consuming (Test et al., 2017). Upon consuming alcoholic beverages, a person would lose some of his potential well-being. Some of the symptoms caused by alcoholic beverages consumption in a person are the feeling of being threatened, considering oneself as an evil person, self-loathing, tangled across the body, delirious and experiencing self-disorientation, heavy drunkenness to unconsciousness, and death (Abrori, 2016). Thus, the economic arguments with regards to the legalization of alcoholic beverages become illogical and irrational when confronted with the medical theories for that drinking alcohol.

Alcoholic beverages consumption is prevalent in society. It is for some reasons (Siswayanti, 2016), including individual and social factors. These factors might develop within the specific social and cultural context. The connection between the social context and the economic burden might make the practice of production, distribution, and consumption of alcoholic beverages a public issue, let alone if the alcoholic beverage is used as an open field of business.

Family well-being is also a factor that greatly influences a person's involvement with alcoholic beverages. Even article 116 of the Compilation of Islamic Law (KHI) explicitly states that alcoholic beverages can damage the integrity of a person's household. There is enough evidence that the circulation and consumption of alcoholic beverages in a family can be a reason (*ʿillat*) divorce cases (Alwana, 2020). If the welfare of the family as the smallest unit of the social structure of society is threatened by the activities of alcoholic beverages, then it will

have a widespread impact on the midst of society, and then contribute to national economic activities (Hakimah, 2019).

Modern lifestyle due to globalization also indirectly intervenes in Islamic civilization, including local customs that have been institutionalized in each indigenous group in Indonesia. This pluralistic lifestyle at least divides the human outlook on life into Islamism, secularism, and reformism (Mudzakkir, 2016). This is a challenge to the approach of Islamic thought that is increasingly degraded by the times. Therefore, existing legislation as a positive law of the state ensures the protection of an item that will be distributed to consumers, whether the goods or products are safe for consumption or not. This is regulated in Law No. 8 of 1999 on Consumer Protection in Article 8(a). Thus, in the Consumer Protection Act, any product distributed must be safe for consumption and should be accompanied by a detailed explanation of the dose of use or the dangers or adverse effects that can be caused by the product. Article 28 H paragraph 1 of the 1945 Constitution states that a person is entitled to a prosperous life physically and mentally, proper shelter and healthy living environment, and entitled to health services (Lestari, 2016).

Presidential Regulation No. 76 of 2007 and Presidential Decree No. 44 of 2016 place the liquor industry as one of the closed business fields for investment. Nevertheless, the president's latest policy changes the policy based on the economic interests that become the cornerstone of Presidential Decree No. 10 of 2021 on the Field of Investment Business (BUPM). Attachment III of that decree introduces the business of liquor as a business field that is open to investment.

3. *Hifẓ al-ʿAql* as The Purpose of Islamic Law

Islamic law is the rules or norms that bind Muslims in their lives. In this life, the rule of Islamic law has a purpose. In this case, theories and concepts that detail the objectives of Islamic law are called 'maqasid sharia'. It is an important theory found in the study of Uṣul al-Fiqh (Islamic Jurisprudence). The terminology *maqaṣid* is the plural form of the *maqṣud*, which mean aim, intentionality, or purpose. While sharia is a law (wisdom) formulated by Allah as *shariʿ* (law-maker) in order to achieve protection for mankind in the context of the world and the hereafter (2016). One of the most important initiators of the maqaṣid sharia theory is Imam al-Sḥaṭibi (Saputra, 2018). He already talked a lot about this theory in the 8th century Hijri, as reflected in his book *al-Muwafaqat fī Uṣul al-Sharia*. Contemporary Islamic jurists such as

Jasser Auda also talks about it in his book *Maqasid al-Shariʿah as Philosophy of Islamic Law: A Systems Approach*. It can be concluded that the theory of the purpose of Islamic law (maqaṣid sharia) is a presentation of consideration of the purpose of law in the process of establishing a rule of law.

Considering the purpose of the establishment of the law by Allah (*Shariʿ*) as a law-maker is due to several reasons. *First*, this theory positions the law as a divine product. *Second,* Allah as the Mighty Knowing guarantees the salvation of mankind's life if they follow the laws of God. *Third*, this theory provides rational arguments about the wisdom behind every regulation in Islamic teachings. This concept may also be used as an effort to integrate Islamic law with Islamic values in Indonesia (al-Asyari et al., 2016). The foundation of the theory of the purpose of Islamic law is that it has the orientation to the protection of five fundamental aspects, namely maintaining religion (*ḥifẓ al-din*), maintaining the soul (*ḥifẓ an-nafs*), maintaining property (*ḥifẓ al-māl*), maintaining offspring (*ḥifẓ an-nasb*), and maintaining reason (*ḥifẓ al-ʿaql*).

The purpose of the protection of these five fundamental aspects, based on Islamic law, is in order to guarantee the interests of the people. al-Shaṭibi views that *sharīa* has the purpose of *taḥqiq maṣaliḥ al-khalq* (realizing the welfare of beings) so that the protections upon those aspects is a fundamental obligation of the establishment of the law. The closely attached nature in Islamic law is the will of Allah to take good and reject harm (*jalb al-maṣaliḥ wa dar al-mafasid*) (R & Noor, 2014).

Mind/reason is a characteristic that humans have that distinguishes them from animals. Humans live with the mind, think with the mind, seek a way out of their problems with the mind in addition to the various other functions of the mind. When reason is disturbed, then the course of a person's life as a human being is disturbed. A person who does not nurture reason will not experience the same life as a person who has the reason. In this context, sometimes a person loses his mind altogether (insane), or has the mind but inadequate (stupid), and so on. In his life, a person like this will not be happy, or the order of his life is broken. Therefore, for the purpose of protecting and maintaining the human mind, Allah makes certain rules, both in the form of commandments and prohibitions. In this regard, maintaining mind can be divided into three degrees:

a. Maintaining mind at the degree of necessity (*ḍaruriyya*). It is like the necessity for one to have common sense. There is an order to learn, that is for strengthening the quality of intellect and mind. On the contrary, several things can reduce the functionality of the mind, for which reason, are forbidden by the law. For example, drinking liquor and other objects that have the same effect. Violating this rule will threaten the existence of the human mind. People who violate this rule would get sanctioned in the world in the form of punishment 80 times and get the threat of punishment in the hereafter as well.
b. Maintaining reason at the level of *ḥajjiya*, such as establishing a school for the means of learning, as conveyed by Amir Syarifuddin (1999). Likewise, damaging the means prepared for learning, such as burning books, damaging school buildings, blocking others from gaining knowledge, and so on, is prohibited. Included in this is facilitating someone to drink liquor and making rules to legalize the investment and circulation of liquor. Ignoring these rules will not damage the existence of reason, but can prevent a person from gaining knowledge and ultimately affect the difficulties in life.
c. Maintaining reason at the level of *taḥsiniyya,* such as the advice to study in quality schools and avoid non-useful activities such as fantasizing and listening or watching something that is not useful. These activities do not directly add to the quality of human reason nor does it threaten the existence of reason. But when these recommendations and prohibitions are followed, one would have a high-quality mind and be free from thoughts that pollute it.

The Islamic law to protect the human mind can be linked to the leadership of the family according to Islam. In the context of fiqh munakaḥat, a man is given the greater responsibility in leading the family consisting of his wife, children, and parents is because he has a superior mind that is required to organize and support his family. It is as explained by al-Zamkhasyari in his *al-Kashshafʿan Haqaʾiq Ghawāmiḍ al-Tanzīl.* In addition to the danger and threat of man, if there is interference with his mind (Ismail, 2016), Islamic law requires believers to seek and explore knowledge, as the Prophet Muhammad (peace be upon him) said that demanding knowledge is mandatory for believers. It, therefore, appears clearly that the protection of the human mind is an important part of humanity and the life of the universe in general because if a man lives under threat, it will have an impact on other lives in this nature.

4. Weighing Ḥifẓ al-ʿAql in the Legality of Alcoholic Beverages

Legal system in Indonesia adheres to a democratic system of governance, which is divides power into several institutions and the establishment of legal rules is held through legislative and executive institutions. This system in principle provides opportunities for the involvement of many stakeholders to jointly formulate the law. But these expectations are often found far from reality. For example, the Omnibus law No. 11 of 2020 on Job Creation in Indonesia which gives the president as the head of government the authority to form derivative regulations in the form of Government Regulations (PP) raises several problems.

Presidential Decree (Perpres) Number 10 of 2021 on Investment Business (BUPM) is one form of the derivative issue due to the promulgation of Law No. 11 of 2020 on job creation. This law issues the legalization of investment in liquor in Indonesia. The policy even has the potential to make Indonesia the largest producer and consumer of alcoholic beverages, given the wide demographics of Indonesian society (Solihah, 2016). The majority of Indonesian citizens who are Muslim will feel threatened by the policy. Moreover, according to Indonesian Muslim scholars, the policy hurts the religious sensitive of Muslims that are guaranteed in the 1945 Constitution (Sulaiman, 2019).

The politics of law which is something that cannot be separated from the state and democracy system in Indonesia must be addressed by Muslims through the Islamism movement (Yenti et al., 2020). The involvement of Islamic political figures in the government must increasingly show a clear and measured spirit in the public sphere. In a democratic system that gives freedom to political winners to articulate their political interests, Indonesian Muslims must also make state politics become the focus of the struggle (jihad).

The Presidential Decree to open the possibility of investment in the alcoholic beverage business that was initially closed contradicts the ideals that political Islam has struggled for. The efforts of Islamism, which is *raḥmatan lil ʿalamīn* as believed by Muslims upon Islamic teachings, must be pursued by Islamic political figures to fulfill their responsibility to enact the mission of the holy heavens. Only then the political direction of democratic Indonesia is not solely concerned with worldly political interests. The contribution of the theory of maqaṣid sharia can actually be used by Islamic political figures in order to control, or maybe even form the substance of every legislative product of the state. If so, the legalization of alcoholic beverages contained in Presidential Decree No. 10 of 2021 concerning BUPM as in its

attachment should not be repeated, because *ḥifẓ al-ʿaql* must be put forward as evidence of the rationality of Islamic teachings. The reason is a special gift of God to mankind. Mind is a characteristic of human beings as well as a fundamental feature that distinguishes them from other creatures of God. Even, if a person's mind does not function as it should be, he can be categorized as an animal. The urgency of protecting reason in humans greatly affects the happiness of one's life, as much as facilitating the efforts to avoid the damages that could potentially befall him/her.

The importance of maintaining reason can be categorized at the following levels (Busyro, 2017). In the *ḍaruriya* level, a person must ensure his mind remains healthy and protected from things that interfere with his normality. For this reason, the sharia obliged one to activities that maintain mind, such as seeking knowledge, whereas things that may cause damage to reason such as consuming khamr or alcoholic beverages are forbidden by God. Second, at the level of *ḥajjiya,* one must provide facilities to ensure the implementation of learning activities with which the interest of maintenance of reason can be pursued. On the contrary, the preparation for facilities that may damage people's minds is forbidden. Third, the maintenance of reason at the level of *taḥsiniyya,* which is concerned with the improvement of the quality of education and the quality of learning in every educational institution. It is also a form of refinement of human efforts in maintaining the human mind (Busyro, 2020).

The existence of regulations in Indonesia that legalize alcoholic beverages, let alone that opens the opportunity for investment in the alcoholic beverages industry, certainly interferes with the maintenance of reason on the side of *ḥājiya.* The logic of the politics of the economy is basically also intended for the benefit of the Indonesian people. The legalization of alcoholic beverages and the investment of alcoholic beverages in Indonesia will of course increase the country's economic income and lead to the welfare of the people. In the study of maqāṣid sharia, the effort to obtain property to improve the economy is also a command of Allah that should not be ignored. Thus, there is a conflict between *ḥifẓ al-mal* and *ḥifẓ al-ʿaql*. In the other words, behind the legalization of alcoholic beverages that is aimed at obtaining people's welfare (*ḥifẓ al-mal*), there is a basic human need that may be significantly disrupted, namely the maintenance of their minds (*ḥifẓ al-ʿaql*).

the needs in the *ḍaruriya* level should take precedence over the interests of *ḥajiya*, and the interests of *ḥajiya* take precedence over the interests of *taḥsiniyya*. In this case, *ḥifẓ al-mal*'s

interest in the legalization of alcohol investment seems to be only a tertiary economic strategy to gain income instead of belonging to a fundamental and significant economic sector for the prosper of the Indonesian people. On the contrary, the disruption against the maintenance of reason (*ḥifẓal-ʿaql*) caused by the liquor industry can be classified to the level of *ḥajiya*. In theory, maqaṣid al-sharia would, of course, prioritize the maintenance of *ḥajiya's* needs over *taḥsiniyya*.

In this case, ʿIzz al-Din ibn ʿAbd al-Salam (d. 660 H) gives a general standard that is, if in one case there is *maṣlaḥa* and *mafsada* at once, then the priority is given to maintaining good whenever possible. If *mafsada* is greater than the *maṣlaḥa* that is intended to be achieved, so it is preferred to avoid *mafsada*. For this statement, ʿIzz al-Din (d. 660 H) gives an example with benefits gained from drinking khamar and gambling, but the sin from both is greater than the benefits (al-Salam, n.d.). The same is true of the legalization of alcoholic beverages. There are indeed economic benefits from the policy for the people of Indonesia, but the destruction of *ḥifẓal-ʿaql* in this context is much more dangerous than not gaining the economic benefits from it.

If Islamic political figures begin to be concerned with the understanding of law based on maqaṣid sharia such as the concept of *ḥifẓ al-ʿaql* (Busyro, 2017), the efforts of state Islamism and Islamization of the law in Indonesia will be inherent with political struggles oriented to the welfare of the *ummah*, especially in realizing the principle of supreme divinity, as desired by founding fathers as contained in the opening of the 1945 Constitution. Additionally, it also symbolizes the progress of the nation's civilization.

CONCLUSION

The efforts to legalize alcoholic beverages through Presidential Regulation (Perpres) No. 10 of 2021 contradict the ideological principles of the state embraced by Indonesia, where the government of the Indonesian must be based on the main values of the supreme divinity. the policy stands on an unjustified premise and has the potential to cause new social problems, such as chaos, crime, extortion, theft, and other problems that are related to the damage to the human's mind. Islamic law, which is the religion with the majority of the population enriched values, the protection of reason (*ḥifẓ al-ʿaql*) is a matter of necessity (*ḍaruriyya*), so it must be protected by religion and also the state. On the contrary, the investment in alcoholic beverages

has not reached the stage of *ḍaruriyya*, because it is not the only way to prosper the people. The acquisition of property (*ḥifẓ al-mal*) obtained through the legalization of investment in alcoholic beverages is only at the level of *taḥsiniyya*. Therefore, something that is only at the *taḥsiniyya* level should not negate the position of *ḍaruriyya* that exists in *ḥifẓ al-ʿaql*. Thus, eliminating the potential of greater *mafsadah* must be put forward by the Indonesian government rather than producing in significant *maṣlaḥa*. This becomes increasingly relevant considering that the Indonesian state is not a country that negates the rules of religion but instead makes religion with the principles of the supreme divinity as the basis of its country.

BIBLIOGRAPHY

Journal Article

Abrori, M. (2016). Model Matematika Minuman Keras. *Jurnal Fourier*, *5*(1), 1–9.

Al-Asyari, M. K. H., Muhaimin, & Ainiyah, Q. (2016). Objektifikasi Hukum Perkawinan Islam Di Indonesia Perspektif Maqasid Syar'iyyah Upaya Dari Integrasi Keilmuan Keislaman. *Yudisia Jurnal Pemikiran Hukum Dan Hukum Islam*, *7*(1), 199-237.

Al-Salam, M. `Izz al-Din ibn, (n.d). *Qawaid Al-Ahkam Fi Mashalih Al-Anam*. Dar Al Kutb Al-Ilmiyah.

Alfianti, L. (2018). Upaya Pemerintah Daerah Dalam Pengendalian Produksi Minuman Beralkohol Tradisional. *Yuridika*, *33*(1), 93–117. Https://Doi.Org/10.20473/Ydk.V33i1.5671

Alwana, H. A. (2020). Aliran Pemikiran Ushul Fiqh Dan Pengaruhnya Terhadap Pendekatan Hukum Islam. *Juris Iain Batusangkar*, *19*(2), 147–62.

Ananti, Y., & Ernawati, E. (2017). Perilaku Seks Pranikah Pada Remaja Sebagai Dampak Konsumsi Minuman Beralkohol. *Prosiding Seminar Nasional Ikakesmada*, 165–70.

Busyro. (2016). Bom Bunuh Diri Dalam Fatwa Kontemporer Yusuf Al-Qaradawi Dan Relevansinya Dengan Maqashid Al-Shari`Ah. *Ijtihad Jurnal Wacana Hukum Islam Dan Kemanusiaan*, *16*(1), 85-103. https://Doi.Org/10.18326/Ijtihad.V16i1

Busyro. (2017). *Dasar-Dasar Filosofis Hukum Islam*. Ponorogo: Wade.

Busyro. (2017). Female Imam And Khatib The Progressive Tradition Of Gender-Responsive Practices In Balingka, West Sumatera. *Journal Of Indonesian Islam*, *11*(02), 531–550. https://Doi.Org/10.15642/Jiis.2017.11.2.531-550

Busyro. (2017). *Maqashid Al-Syari`ah Pengetahuan Mendasar Memahami Maslahah*. Ponorogo: Wade.

Busyro. (2020). *Pengantar Filsafat Hukum Islam* (1 Ed.). Jakarta: Prenadamedia Group.

Hairi, P. J., Hantoro, N. M., & Latifah, M. (2019). *Politik Hukum Pengaturan Minuman Beralkohol Di Indonesia* (1 Ed.). Jakarta: Pusat Penelitian Badan Keahlian DPR RI.

Hakimah, N. (2019). Pengaruh Minuman Keras Terhadap Tingkat Perceraian Di Kabupaten Bone (Studi Kasus Di Pengadilan Agama Watampone). *Al-Maslahah*, *15*(2), 185–99.

Harwood, Tracy J & Tonny Garry. (2003). An Over View of Content Analysis. *The Marketting Review,* 3, 479-498.

Hatta, M. (2009). *Beberapa Masalah Penegakan Hukum Pidana Umum Dan Pidana Khusus*. Jakarta: Liberty.

Ismail. (2016). Eksistensi Rakyu Dalam Pengembangan Hukum Islam. *Alhurriyah : Jurnal Hukum Islam*, *01*(01), 45–56.

Kadir, MYA. (2016). The Application of the Law of Self-Determination in Postcolonial Context: A Guideline*, East Asia Journal and International Law,* Vol 9*,* (1).

Lestari, T. R. P. (2016). Questioning The Regulation On Consumption Of Alcoholic Beverages In Indonesia. *Aspirasi*, *7*(2), 129–33.

Maghfur, I. (2016). Peran Politik Ekonomi Islam Dalam Melaksanakan Globalisasi Masyarakat Ekonomi Asean (Mea). *Jurnal Hukum Islam*, *14*(2), 27-52.

Maulidi. (2015). Paradigma Progresif Dan Maqashid Syariah: Manhaj Baru Menemukan Hukum Responsif. *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum*, *49*(2), 251–64.

Mudzakkir, A. (2016). Islam Dan Politik Di Era Kontemporer. *Episteme*, *11*(1), 31–48. Https://Doi.Org/10.21274/Epis.2016.11.1

Murdan. (2016b). Hukum Islam Dalam Kerangka Sistem Hukum Masyarakat Modern. *Petita*, *1*(1), 24–26.

Mutakin, A. (2017). Teori Maqâshid Al Syarî'ah Dan Hubungannya Dengan Metode Istinbath Hukum. *Kanun: Jurnal Ilmu Hukum*, *19*(3), 547-70.

Nasrudin, K. (2017). Penegakan Hukum Secara Terpadu Terhadap Tindak Pidana Peredaran Minuman Keras. *Jurnal Hukum Khaira Ummah*, *12*(4), 933-42.

Noorhidayah. (2018). Efektivitas Peraturan Daerah (Perda) No. 23 Tahun 2014 Terhadap Pengendalian Peredaran Minuman Keras Di Kota Palangka Raya. *El-Mashlahah*, *8*(2), 146-61.

Polihu, R. M. (2017). Tindak Pidana Penganiayaan Akibat Pengaruh Minuman Beralkohol Menurut Kuhp Pasal 351. *Lex Crimen*, *Vi*(2), 114-20.

Qibtiyah, M. (2019). Tingkah Laku Ekonomi-Politik Dalam Hegemoni Agama Dan Budaya. *Jurnal Studi Sosial Dan Politik*, *3*(1), 55-68.

MR, Galuh Nasrullah Kartika & Hasni Noor (2014). Konsep Maqashid Al-Syariah Dalam Menentukan Hukum Islam (Perspektif Al-Syatibi Dan Jasser Auda). *Al-Iqtishadiyah*, *1*(1), 50-69.

Rajamuddin, A. (2014). Tinjauan Kriminologi Terhadap Timbulnya Kejahatan Yang Diakibatkan Oleh Pengaruh Minuman Keras Di Kota Makassar. *Al-Daulah*, *3* (2), 181–192.

Rofiah, K. (2016). Teori Sistem Sebagai Filosofi Dan Metodologi Analisis Hukum Islam Yang Berorientasi Maqashid Al- Syari'ah (Telaah Atas Pemikiran Jasser Auda). *Istinbath*, *15*(1), 83–106.

Rori, P. L. P. (2015). Pengaruh Penggunaan Minuman Keras Pada Kehidupan Remaja Di Desa Kali Kecamatan Pineleng Kabupaten Minahasa. *Jurnal Holistik*, *8*(16), 1–12.

Saputra, E., & Busyro. (2018). Kawin Maupah: An Obligation To Get Married After Talak Tiga In The Tradition Of Binjai Village In Pasaman District A Maqasid Al- Shari`Ah Review. *Qudus International Journal Of Islamic Studies*, *6*(2), 181–220.

Siswayanti, N. (2016). Haji Abdul Karim Amrullah Ulama Pembaharu Islam Di Minangkabau. *Dialog*, *39*(1), 33-42.

Solihah, R. (2016). Pola Relasi Bisnis Dan Politik Di Indonesia Masa Reformasi: Kasus Rent Seeking. *Jurnal Wacana Politik*, *1*(1), 41-52.

Sudiarti, S. (2016). Strategi Politik Ekonomi Islam. *Human Falah*, *3*(1), 52–73.

Sulaiman, S. (2019). Ekonomi Indonesia Antara Amanat Undang-Undang Dasar 1945 Dan Realita. *Jurnal Syariah*, *7*(2), 7–10.

Tes, A. A., Puspitawati, T., & Marlinawati, V. Utari. (2017). Fenomena Perilaku Mengkonsumsi Minuman Keras Mahasiswa Program Studi S-1 Kesehatan Masyarakat Universitas Respati Yogyakarta. *Jurnal Formil (Forum Ilmiah) Kesmas Respati*, *2*(1), 25-31.

Toriquddin, M. (2014). Teori Maqâshid Syarî'ah Perspektif Al-Syatibi. *Jurnal Syariah Dan Hukum*, *6*(1), 33-47.

Yenti, E., Busyro, Ismail, Rosman, E., & Wadi, F. (2020). A Set Of Prayer Outfits As A Mahar? Discrimination Against Women In The 'urf Reality Of The Archipelago's Fiqh. *Al-Risalah*, *20*(1), 17-30.

Yenti, E., Hasramita, & Alwana, H. A. (2020). Memaknai Perolehan Rezki Dalam Hukum Ekonomi Syariah. *Alhurriyah : Jurnal Hukum Islam*, *5*(2), 210–21.

Yudhistira, B. (2021). Dampak Investasi Miras Dinilai Kecil Pada Perekonomian. *Republika.Co.Id*.

Books

Al-Salam, Izz Al-Din Ibn, (1964). *Qawaid Al-Ahkam Fi Mashalih Al-Anam*. Dar Al Kutb Al-Ilmiyah.

Busyro. (2019). *Dasar-Dasar Filosofis Hukum Islam*. Purwokerto: Wade.

Busyro. (2017). *Maqashid Al-Syari`ah*. Purwokerto: Wade.

Busyro. (2020). *Pengantar Filsafat Hukum Islam* (1 Ed.). Jakarta: Prenadamedia Group.

Hatta, M. (2009). *Beberapa Masalah Penegakan Hukum Pidana Umum Dan Pidana Khusus*. Jakarta: Liberty.

Syarifuddin, A. (1999). *Ushul Fiqh* (1 Ed.). Jakarta: Logos Wacana Ilmu.

Newspaper Article

Yudhistira, B. (2021). Dampak Investasi Miras Dinilai Kecil Pada Perekonomian. *Republika.co.id*.