

## Review of Fiqh Siyasah on the Implementation of Mayor's Regulation No. 12 Year 2011 Concerning Retribution of Licenses at the Selling of Alcoholic Beverages in Medan City

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### ABSTRACT

*In Islam it is not very good and has an effect in the future. Therefore, both in essence and in use, alcoholic beverages are qat'i forbidden in the Qur'an and the sunnah of the Prophet SAW. Therefore beer and so on can be considered haram. That's why it can't be touched at all. The study of Fiqh Siyasah covers aspects of regulating the relationship between citizens and citizens, the relationship between citizens and state institutions, and the relationship between state institutions and state institutions. This study aims to review Fiqh Siyasah on the implementation of Mayor Regulation no. 12 of 2011 concerning Levies for Permits for Selling Alcoholic Drinks in Medan City. Using a descriptive method, the results of this study indicate that the Fiqh Siyasah review of the implementation of Mayor Regulation No. 12 of 2011 concerning the retribution for permits for selling alcoholic beverages Medan City, which has not been carried out in accordance with Fiqh Siyasah because Islam itself forbids alcoholic beverages because there are more bad things that caused by consuming alcoholic beverages rather than the good.*

### KEYWORDS

*Fiqh Siyasah; mayor regulation no. 12 of 2011; retribution; alcoholic drink*

## INTRODUCTION

Alcoholic beverages are drinks containing ethanol which are processed from agricultural products containing carbohydrates by means of fermentation and distillation or fermentation without distillation, either by pre-treatment or not, adding other ingredients or not or processed by mixing concentrate with ethanol derived from fermentation (Muhtar, 2005).

Some people who consume alcohol have made drinking alcohol a habit that is difficult to overcome. Alcohol consumption includes old, young, teenagers, and even children have started trying to drink it because of curiosity and environmental factors. Alcoholic beverages are now a big problem in Indonesia.

The rampant security stability disturbances that often occur in North Sumatra are generally dominated by people who consume alcoholic beverages (Presidential Regulation No. 74 of 2013). Although the government has issued several regulations regarding the circulation of alcoholic beverages, such as Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages, which regulates the control and supervision of the circulation of alcoholic beverages which are categorized as alcoholic beverages of class A and B, it is also regulated regarding permits. manufacture of

alcoholic beverages, where producers of local alcoholic beverages must have an industrial business license from the minister in charge of industrial affairs.

In Islam it is not very good and has an effect in the future. Therefore, both in essence and in use, alcoholic beverages are qat'i forbidden in the Qur'an and the sunnah of the Prophet SAW. But because at the beginning of Islam alcoholic beverages had become a habit or part of Arab society's life, the prohibition was carried out gradually. Yusuf Qardhawi explained about the problem of liquor that there is no more serious danger to humans than the danger of alcohol. If a careful investigation is carried out in hospitals, that most people who are crazy and get nervous disorders are caused by alcohol. And most people who commit suicide or who kill their friends are caused by alcohol (Aminuddin, 2010). Including most people who complain about themselves because they are overwhelmed by an atmosphere of anxiety, people who bring themselves to the valley of bankruptcy and spend their property, are caused by wine. Then he added the first proclaimed by the Prophet Muhammad s.a.w. Regarding the issue of wine, he did not look at it in terms of the ingredients used to make the wine, but he looked at it in terms of the effect it had, which was intoxicating. Therefore, any substance that is clearly intoxicating means that it is wine, regardless of the brand and name used by humans; and any materials used.

Therefore beer and so on can be considered haram. It is no longer considered the level of the drink, a little or a lot. May the wine be enough to derail human feet. That's why it can't be touched at all.

In Regional Regulation Number 9 of 2014 Medan City concerning the control and supervision of the circulation of alcoholic beverages:

- 1) Article 1 paragraph (47) distribution of alcoholic beverages is a business activity of distributing alcoholic beverages for domestic trade.
- 2) Article 1 paragraph (48) of alcoholic beverage trading business license, hereinafter abbreviated to SIUP-MB is a license to be able to carry out trading business activities specifically for class B and/or class C alcoholic beverages.
- 3) Article 36 paragraph (4) SIUP-MB cannot be granted to companies conducting distribution and/or sale of alcoholic beverages as referred to in paragraph (3), if the business location is adjacent to places of worship, schools, hospitals, residential areas and places of worship. other matters determined by the Mayor (Regional Regulation No. 9 of 2014 Medan City).

In our study of *Siyasah Duturiyah* we cannot be separated from the Qur'an and Hadith, therefore, the object of study of *Fiqh Siyasah* includes aspects of regulating the relationship between citizens and citizens, the relationship between citizens and state institutions, and the relationship between state institutions and state institutions. both internal relations of a country and external relations between countries, in various fields of life. From such problems, it appears that the study of *Siyasahh* focuses on the regulatory aspect (Djazuli, 2003). The regulation in question is an arrangement for the benefit of the people/people in each region within the State of Indonesia. Because basically every regulation issued by the leader/government is solely for the benefit of the state, region, and its people. The benefit referred to in the context of the *Siyasahh* is the concrete positive impact of the existence of government, state, and leadership for all the interests of the community, and shows that the regulations issued by the government must be obeyed and implemented.

Although the intended regulation is not based on the texts contained in the Qur'an or Sunnah, mainly because it relates to the problem of controlling social and state life, namely carrying out obligations and maintaining political rights between leaders and their people,

the benefit is an implication. from the implementation of the intended rights and obligations (Saebani, 2007).

Fiqh Siyasahh dusturiyah, which regulates the relationship between citizens and one state institution with citizens and other state institutions within the administrative boundaries of a country. Fiqh Siyasah dauliyah, which regulates between citizens and state institutions from one country with citizens and state institutions from other countries. Fiqh Siyasah maliyyah, which regulates the entry, management, and regulation of state-owned money. The problem in fiqh Siyasah dusturiyah is the development of science into a field of knowledge that discusses politics and the state (constitutional law). Of course, the scope of the discussion is very broad. In simple terms, this Siyasahh dusturiyah fiqh examines the regulations made by a leader/government for his people, all of which is nothing but the creation of the general benefit.

Therefore, the Siyasah principles that can support this are:

- 1) Principles of Adl (Principles of Justice)
- 2) The Principle of Deliberation
- 3) The principle of Amr Ma'ruf and Nahi Munkar.

Departing from this background the author is interested in discussing the review of fiqh Siyasah on the implementation of Mayor Regulation no. 12 of 2011 concerning Levies for Permits for Selling Alcoholic Drinks in Medan City.

## **LITERATURE REVIEW**

The definition of regional retribution according to Mardiasmo (2002) is a regional levy as payment for services or the granting of certain permits specifically provided and/or granted by the regional government for the benefit of individuals or entities.

Certain Licensing Retribution or levies on certain local government activities in the context of granting permits to individuals or entities intended for the guidance, regulation, control and supervision of space utilization activities, use of natural resources, goods, infrastructure, facilities or certain facilities in order to protect interests. public and protect the environment. Certain licensing fees are stipulated by a Government Regulation with the following criteria:

- a) Such licensing includes the authority of the government which is delegated to the regions in the context of decentralization.
- b) The permit is really needed to protect the public interest.
- c) The costs that become the burden of the region in administering the permit from the costs of overcoming the negative impacts of the permit are large enough so that it is feasible to be financed from licensing fees.

In determining the amount of each retribution, the principles and targets for determining regional levies are required. According to Mardiasmo, the principles and targets are:

- a. For public service retribution, it is based on regional policy taking into account the cost of providing the relevant service, community capacity, and aspects of justice.
- b. For business service retribution, it is based on the objective of obtaining a reasonable profit as well as the appropriate profit received by similar private entrepreneurs who operate efficiently and are oriented towards market prices.
- c. For certain licensing fees, it is based on the purpose of covering part or all of the costs of administering the granting of the relevant permit. Regarding the determination of the levy rate, it can be reviewed at the latest every 5 years (Mardiasmo, 2018).

Article 18 of the Minister of Trade Regulation Number 06/M-DAG/PER/1/2015 attaches that every company that acts as a Distributor, Subdistributor, Retailer, which

trades alcoholic beverages class B and C is required to have a Alcoholic Drinks Trading Business License (SIUP-MB) Article 22 paragraph (5) states that the SIUP-MB application can only be made by a company in the form of a Limited Liability Company (PT) and has a legal entity by attaching the required documents and showing the original.

The following is an attachment to the required documents:

- a. Photocopy of deed of establishment of PT and legalization of legal entity from authorized official and deed of amendment;
- b. Letter of appointment from IT-MB to TBB as Retailer of Alcoholic Beverages;
- c. Photocopy of Business Place Permit (SITU);
- d. Photocopy of TBB Permit from the Minister of Finance;

In the Minister of Industry and Trade (Menperindag) No.20/M-DAG/PER/4/2014 the parties allowed to sell alcoholic beverages are retailers consisting of minimarkets, supermarkets, hypermarkets and other retailers.<sup>60</sup> In this regulation, mimimarkets and retailers It is permissible to sell alcoholic beverages under the following conditions:

- a. Placement of class A alcoholic beverages is placed in a special place and separated from other products and given a sticker/mark of the buyer's age limit of 21 years or more;
- b. In placing class A alcoholic beverages, consumers are no longer allowed to take their own products but the cashier;
- c. Consumers are required to show an identity card (KTP) when making a transaction to purchase alcoholic beverages.
- d. A retail store selling liquor must have a sales floor area of at least 12 square meters.

Alcoholic drinks that are sold freely can cause damage to the nation's generation, because people or youth are very easy to get these drinks. There is no special supervision carried out by the government regarding the sale of alcoholic beverages, in Article 14 paragraph (1) alcoholic beverages sold in hotels, restaurants and bars must be drunk directly on the spot, in other words alcoholic beverages may not be taken home or taken outside the sales area.

Sales of alcoholic beverages in Indonesia are categorized as free sales, after the amendment to the Minister of Trade Regulation No. 20/M-DAG/PER/4/2014, sales of alcoholic beverages are not allowed to be sold in minimarkets or other retail stores, only Supermarkets or Hypermarkets are allowed in accordance with Article 14 paragraph (3) of the Minister of Trade Regulation No.06/M-DAG/PER/1/2015 Sales of alcoholic beverages must be in a place that has a special license or permit, and strict regulations are needed. So that minors cannot have the convenience of buying and there are strict sanctions in the form of revocation of business licenses or fines of billions of rupiah if the manager or owner of the minimarket ignores this violation.

In Islam there are several things that must be considered when discussing the issue of khamr. One of them is in the Qur'an regarding the prohibition of gradual drinking of khamr. In its history at the time of the Prophet, namely during the Jahiliyah period, there were only heavy drinkers (addiction). Even the companions of the Prophet who had converted to Islam were still affected by this room. To get rid of these bad habits at once, will feel heavy. So Allah, the All-Knowing, understands the nature of man. Therefore, the prohibition of khamr is carried out gradually.

Liquor and gambling contain great sins, because there are many harms to reason, property, reputation and religion. Besides that, it is also recognized that there are benefits contained in khamr, such as warming the body, sellers and buyers benefit materially. However, after being weighed, the harm of alcoholic beverages is greater.

Thus, there was a verse that clearly prohibits drinking khamr strictly, there is no other choice but to stay away from khamr as far as it is stated in Q.S. al-Ma'idah/5: 9, which means, O you who believe, Verily (drinking) wine, gambling, (sacrificing for) idols, drawing fate with arrows, are among the actions of the devil. So stay away from these actions so that you will get good luck.

The verse above can be understood that the main reason for the prohibition of alcohol is that the first to cause enmity and dispute and cause people to forget to pray and remember Allah.

## **RESEARCH METHODS**

The scientific method means that research activities are based on rational, empirical, and systematic scientific characteristics. Based on the explanation, it can be concluded that the research method is a scientific method used to obtain data in accordance with research with certain objectives and uses.

This type of research is descriptive, which means that this research describes information data based on facts (facts) obtained in the field (Sugiyono, 2007). Descriptive research itself is the most basic research, shown to describe or describe existing phenomena, both scientific phenomena or human engineering. Qualitative descriptive in this study was used to develop a theory that was built through the data obtained in the field.

In this study, researchers used observation guidelines so that it would be easier for researchers to observe and obtain data information. 12 of 2011 on the sale of alcoholic beverages Medan City.

Data analysis in qualitative research is defined as a description of what is happening (descriptive) accompanied by an interpretation of the meaning contained behind the appearance (interpretive). Data analysis is a process of organizing and sorting data into patterns, categories and basic units of description so that themes and places can be found to formulate working hypotheses as suggested by the data. The data analysis used in this research is descriptive analysis, where the purpose of this analysis is to describe systematically, factually and accurately about the facts and the relationship between the phenomena being investigated.

Data analysis is an ongoing process that requires continuous reflection on the data, asking analytical questions, and writing short notes throughout the study. The data that has been collected will be analyzed qualitatively, namely analyzing by describing and describing the case so that it can be concluded objectively, logically, consistently and systematically in accordance with the objectives to be achieved when the research is in progress.

## **RESULTS AND DISCUSSION**

Review of Fiqh Siyasahh on the Implementation of Mayor's Regulation No. 12 Year 2011 Concerning Retribution of Licenses at the Selling of Alcoholic Beverages in Medan City.

The problem of alcoholic beverages is undeniably very disturbing in social life. Alcoholic beverages are believed not only to harm the wearer, but also to have a negative impact on the community. Deviations of negative behavior, especially the habit of consuming alcoholic beverages in excess, cause a loss of self-control, which in turn leads to violations or even criminal acts that cause unrest in the community. So that alcoholic beverages can be concluded to be the cause of one of the emergence of actions that violate the rule of law, be it violence, traffic accidents or even murder.

Alcoholic drinks are basically all kinds of intoxicating drinks that result in loss of consciousness for the drinker. One form of unconsciousness is nagging to himself so he

doesn't know what he's done when he's drunk. In the long run, alcoholic beverages will damage the body of the drinker. Although the organs of the body can be affected by alcohol, the most affected are the nerves. In addition, the part of the brain will also weaken which will result in a reduced ability to think a person so that it will damage the mind. The organ affected by the consumption of alcoholic beverages is the mind. Intellect is a part of human being that distinguishes it from other creatures created by Allah. Intellect must always be guarded and protected and used as well as possible. One way to maintain and protect the mind is to stay away from and not drink alcoholic beverages. Maintenance of the mind will later bring people to benefit, both physically and spiritually.

In *Siyasahh Fiqh*, the issue of justice and equality of rights is non-negotiable. Every policy or rule that is made must breathe the values of justice and be carried out with full trust. This is as the word of Allah SWT, in the letter an-Nisa verse 58 which means:

Meaning: "Indeed, Allah commands you to convey the message to those who are entitled to receive it, and (orders you) when setting the law between people so that you judge with justice. Verily, Allah is All-Hearing, All-Seeing." (Q.S. An-Nisa '4: 58)

In this verse, Allah explains to us that the *Siyasah fiqh* that must be applied by a caliph of Allah on this earth is a *Siyasah* system built with the values of trust and justice. A leader or caliph must make the value of trust and justice in every policy made by him. Every task assigned to him must be completed with a full sense of responsibility without being based on justice and trust will be in vain will not be able to bring prosperity and success no matter how good the policy is made.

However, the fact is that Indonesia is an archipelagic country full of cultural diversity, ethnicity, race, ethnicity, religion, and regional languages. It is undeniable that the sale of alcoholic beverages is allowed by the state on condition that it fulfills a valid permit as stipulated in Mayor Regulation no. 12 of 2011 concerning levies for permits for selling alcoholic beverages in Medan City in Chapter II article 2, it is clearly written about the procedures for obtaining permits and the authority to sell alcoholic beverages.

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However, the government also stipulates regulations regarding places that are allowed to sell alcoholic beverages which are also explained in Mayor Regulation no. 12 of 2011 concerning levies for permits for selling alcoholic beverages in Medan City in Chapter IV article 6 regarding locations where permits for selling alcoholic beverages can be reported reads:

- a. 3 (three) star hotels up to 5 (five) star hotels.
- b. Bars, Discos, Karaoke, Pubs and Night Clubs (Medan Mayor Regulation Number 12 of 2011 concerning Implementation of Medan City Regional Regulation Number 15 of 1998 concerning Retribution for Permits for Selling Alcoholic Drinks).

Despite the facts on the ground, there are still many sellers of alcoholic beverages secretly or without permission and even haphazardly selling alcoholic beverages to anyone, be it teenagers and so on, regardless of the age of the buyer. And do not care about the location where they sell alcoholic beverages. In fact, it is not uncommon to find sellers of alcoholic beverages who are Muslim, who already know that alcoholic beverages are prohibited by religion.

Based on the above, the Mayor of Medan has actually made a Mayor Regulation properly and a lot of deliberation and consideration, to minimize the occurrence of bad things for the community, but the Mayor's Regulation itself is underestimated by alcoholic beverage retailers, in contrast to existing entertainment venues. Medan City, most of which already have permits in accordance with existing regulations.

With the implementation of the rules contained in the Mayor's Regulation, at least the government has minimized the circulation of alcoholic beverages Medan City, so that people consume alcoholic beverages in accordance with existing rules, but return to the community itself, namely the public's concern for government regulations.

## **CONCLUSION**

Based on the descriptions that have been described by the researchers, it can be concluded that the Fiqh Siyasahh review of the implementation of Mayor Regulation No. 12 of 2011 concerning the retribution for permits for selling alcoholic beverages Medan City is not yet running in accordance with Fiqh Siyasahh because Islam itself forbids alcoholic beverages due to more bad things. caused by consuming alcoholic beverages rather than the good things.

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