

Consumer Protection Against the Production and Distribution of Traditional Liquor

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Abstract

Article 28 H, paragraph 1, of the 1945 Constitution of the Republic of Indonesia states: Everyone has the right to exist in physical and spiritual prosperity, to have a home and a good living environment, and to receive health care. Article 4 paragraphs (3) and (4) of Presidential Regulation No. 74 of 2013 on the Control and Supervision of Alcoholic Beverages state that alcoholic beverages may only be turned off after obtaining a distribution permit from the Food and Drug Supervisory Agency and can only be issued by business actors who already have a license to trade alcoholic beverages according to the regulated classification. The state ensures the safety of consumers and the preservation of their health when consuming traditional alcoholic beverages through Law No. 8 of 1999 concerning Consumer preservation. Because the distribution of alcoholic beverages in society must be of concern, as this condition is inversely proportional to the actual situation on the ground, as alcoholic consumers continue to experience health issues. Traditional liquor's impact on the market necessitates clear and firm regulations to ensure that these products satisfy the health and safety standards established by laws and regulations.

Keywords: Production; Distribution; Traditional Liquor

1. Introduction

The production of traditional liquor is regulated in the Tuban Regency Regional Regulation Number 9 of 2016 concerning Control, Supervision of the Distribution and Sales of Alcoholic Beverages. However, this regional regulation does not regulate production, because the scope of this regional regulation covers the class of alcoholic beverages, distribution of alcoholic beverages, sale and licensing of alcoholic beverages, prohibition, guidance, control and supervision, as well as the role of the community. The production of traditional alcoholic beverages is actually regulated in the Regulation of the Minister of Industry Number 63 of 2014 concerning Control and Supervision of the Industry and Quality of Alcoholic Beverages in Article 10. However, this ministerial regulation is not taken into account considering that in Tuban Regency Regional Regulation Number 9 of 2016 concerning Control,

Indonesia as a rule of law requires that all parties when taking action must be based on law, including business actors who are involved in the alcoholic beverage business. The production and distribution of traditional liquor is not strictly controlled in many areas, and there are health risks associated with production practices that do not meet strict hygiene standards (Lestari, 2019). Unsafe additives or excessive alcohol content can also be a serious problem for consumers. The widespread circulation of alcoholic beverages, which have a very wide marketing and weak supervision of alcoholic beverages, has resulted in many business actors or sellers of alcoholic beverages committing fraud. One of them is by mixing alcoholic beverages with ingredients that consumers should not consume, so that many consumers have their lives threatened as a result of consuming these adulterated alcoholic beverages. (Dermawan, 2021).

The production of traditional liquor is regulated in the Regional Regulation concerning the Control, Supervision of the Distribution and Sales of Alcoholic Beverages. However, this regional regulation does not regulate production, because the scope of this regional regulation covers the class of alcoholic beverages, distribution of alcoholic beverages, sale and licensing of alcoholic beverages, prohibition, guidance, control and supervision, as well as the role of the community. The production of traditional alcoholic beverages is actually regulated in the Regulation of the Minister of Industry Number 63 of 2014 concerning Control and Supervision of the Industry and Quality of Alcoholic Beverages

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in Article 10. However, this ministerial regulation is not taken into account considering that the Regional Regulations scope is not on production but on the circulation of alcoholic beverages (Alfianti, 2018).

Therefore, it is important to carry out in-depth research regarding "Consumer Protection Against Traditional Liquor Production and Distribution". This study aims to identify the risks associated with traditional liquor and analyze the effectiveness of existing regulations in protecting consumers. In addition, this research will pay attention to legal aspects related to consumer protection, as well as provide recommendations for better regulatory improvements in various regions. The implication of this research is to evaluate the extent to which the production and distribution of traditional liquor complies with existing rules and regulations. This research will examine whether traditional liquor producers and distributors meet the legal requirements set by the government regarding hygiene, quality, and product labeling. As well as ensuring adequate protection of consumer rights in the production and distribution of traditional liquor. This research will analyze the current implementation of consumer rights and provide views on the efforts needed to strengthen legal protection for consumers.

2. Literature review

2.1. Arrangements for the Production and Distribution of Traditional Liquor in Various Regions in Indonesia

2.1.1. Regulation of Traditional Liquor in Tuban

a. Production Arrangements

Production of traditional alcoholic beverages is regulated in Bantul Regency Regional Regulation Number 4 of 2019 concerning Control, Supervision of Alcoholic Beverages and Prohibition of Mixed Beverages. Article 8 of this regional regulation states that traditional alcoholic beverages must meet product quality standards and testing of product quality standards is carried out by agencies that have duties and functions in the fields of medicine and food. In Chapter IV, part one regulates procurement in which the production of traditional alcoholic beverages is included. Procurement itself is the activity of supplying alcoholic beverages originating from domestic production or imported origin. In this procurement, the producer is required to put a label on each package of alcoholic beverages, both class A, B, and B. and C according to what is stated in Article 21 of Bantul Regency Regional Regulation Number 4 of 2019 concerning Control, Supervision of Alcoholic Drinks and Prohibition of Mixed Drinks. In accordance with what is stated in Article 18 of this regional regulation, companies that produce traditional alcoholic beverages must have a permit from the Regent.

b. Circulation Settings

Regarding the provisions for the circulation of traditional alcoholic drinks themselves, they are regulated in Article 25 of the Bantul Regency Regional Regulation Number 4 of 2019 concerning Control, Supervision of Alcoholic Beverages and Prohibition of Mixed Beverages. The article states that the distribution of traditional alcoholic beverages can be carried out if they have a distribution permit from the agency that organizes supervision in the field of medicine and food, for cultural purposes, customs, religious ceremonies and circulated in the regions. In addition, Article 7 also emphasizes that traditional alcoholic beverages are drinks used for the purposes of cultural, customary and religious ceremonies. The system for selling traditional alcoholic drinks in the Tuban regional regulation is regulated in Article 26 which states that the sale of alcoholic drinks, both class A, B and C can be done with drinking systems in place and in retail. The definition of a retailer is a company that sells alcoholic beverages to final consumers in packaged form at a predetermined place.

2.1.2. Regulation of Traditional Liquor in Bali

a. Production Arrangements

The production of Balinese fermented and/or distillate drinks is specifically regulated in: CHAPTER II in Article 5 paragraph (4) of this governor regulation, states that in the process of making Balinese fermented and/or distillate drinks do not use raw materials from alcohol. Article 7 also states that artisans produce raw materials for Balinese fermented and/or distillate drinks using traditional and natural technologies. Balinese fermented and/or distillate drinks intended for religious ceremonies are given a red label that reads "only for religious ceremonies" and packaged in jerry cans with a maximum size of 1 liter.

b. Circulation Settings

Regarding the distribution of Balinese-style fermented and/or distillate drinks, this is clearly regulated in Article 12 of Bali Governor Regulation Number 1 of 2020 concerning the Management of Balinese Fermented and/or Distilled Beverages, which states that Balinese fermented and/or distillate drinks can only be sold in places certain places in Bali, outside Bali and/or for export in accordance with the laws and regulations. Sales of Balinese typical fermented and/or distilled drinks are also prohibited from being sold in places such as youth arenas, street vendors, inns, campgrounds, places close to places of worship, educational institutions, government institutions and health facilities and other places regulated in the provisions legislation.

3. Research methods

In analyzing the problems contained in this study, researchers used a type of normative legal research. Normative law is problem solving (Efendi & Ibrahim, 2021), meaning identifying problems and finding effective solutions to overcome them. This activity spawns a new argument. In carrying out this activity, legal science requires legal sources, namely legal materials, such as laws and regulations and legal decisions related to regulations and regulations for the distribution of traditional liquor in the Tuban area and the Bali area. The preparation of this research uses legal materials consisting of materials primary law and secondary legal material. The technique that researchers use in collecting legal materials is the literature study technique, namely by studying legal materials that intersect and then categorizing or classifying and archived, written down, quoted, summarized, investigated as needed with a qualitative approach (Tan, 2021).

4. Results and Discussion

4.1. Responsibilities of Business Actors If the Traditional Liquor in Production and Distribution Causes Health Losses for Consumers.

a. The responsibility of business actors if the traditional liquor they produce and distribute causes harm to the health of consumers in Law Number 8 of 1999 concerning Consumer Protection.

Indonesia is one of the producers of alcoholic beverages with various types of traditional alcoholic beverages. Bali with its wine, which is packaged and used as souvenirs by foreign tourists. East Java with palm wine made from Siwalan fruit. Manado with the traditional stamp rat spirit from the Sagoer distillation process. Sopi, a typical Maluku drink made from fermented palm trees. Ciu, a typical liquor from Banyumas, Bekonang and Sukoharjo. On the other hand, sales of alcoholic beverages are currently increasing rapidly due to the growth of the tourism industry which is accompanied by increasing consumer demand for foreign tourists. Similar to the Bali region, which is one of the largest foreign exchange earning regions, sales of food and beverages in Bali reach IDR 7 trillion per year and 30% of them come from sales of alcoholic beverages. (Bramanta et al., 2020).

Business actors according to Article 1 point 3 of the Consumer Protection Law No. 8 of 1999, namely individuals or business entities, whether in the form of legal entities or not legal entities that are established and domiciled or carry out activities within the jurisdiction of the Republic of Indonesia, both individually and jointly through agreements to carry out business activities in various economic fields. This definition can be broken down into several elements, viz (Tunardy, 2016): the shape or form of business actors, business activities must be based on the existence of an agreement. In various economic fields, it is not only about production but also about circulation.

Business actors are not only burdened with rights and obligations in carrying out their business activities, but also the Consumer Protection Law No. 8 of 1999 explicitly states several activities that are prohibited for business actors in the distribution and trading of goods or services (Hamid & SH, 2017; Kristiyanti, 2022). The distribution, offering, advertising and commercialization of the goods or services they produce must be carried out by business actors in accordance with the actual conditions and quality of the goods or services. Business actors must be honest and open to information on prices or tariffs, by providing guarantees or compensation rights for the products offered to consumers (Setyawati et al., 2017).

The relationship between consumers and business actors results in losses due to the use and utilization and use of certain goods produced by business actors, so that in this case consumers have the right to be heard. Consumers are also entitled to compensation and vice versa business actors are obliged to listen to consumer complaints and pay compensation for losses suffered by consumers (Rianti, 2017). The responsibilities of business actors are clearly regulated in Article 19

on Law Number 8 of 1999 concerning Consumer Protection, which in this article states that business actors are responsible for providing compensation for damage, pollution or loss to consumers as a result of consuming the goods or services that have been produced. The compensation in question can be in the form of a refund or replacement of goods or services of the same or equivalent value or health care and the provision of compensation in accordance with applicable regulations. In addition, Law Number 36 of 2009 concerning Health in Article 111 paragraph (6) stipulates that food and drinks which endanger health are prohibited from being distributed, withdrawn from circulation, distribution permits revoked and confiscated for destruction in accordance with applicable regulations.

b. Responsibilities of Business Actors for Traditional Liquor Products Circulated Not in Accordance with Standardization in the Regulation of the Minister of Industry Number 63 of 2014 concerning Control and Supervision of Industry and Quality of Alcoholic Beverages.

Products are generally interpreted as material goods that can be seen and stored (tangible goods), both tangible and personal. Product liability or product liability are terms that translate to product liability. Product responsibility refers to the responsibility of producers or business actors. The definition of product responsibility among experts and some regulations can be interpreted differently. However, product liability is often referred to as defective product liability. Product responsibility is legal responsibility imposed on business actors, distributors or suppliers. Product responsibility is defined as the responsibility of the producer for the product he distributes causing losses due to defects that occur in the product. Therefore, (Ikhsani & Amir, 2022).

Manufacture of Traditional Alcoholic Beverages in the Regulation of the Minister of Industry Number 63 of 2014 concerning Control and Supervision of the Industry and Quality of Alcoholic Beverages is the activity of making alcoholic beverages traditionally and from generation to generation through a process of fermentation and distillation or fermentation without distillation, packaged simply and carried out at any time. Meanwhile, Article 10 states that traditional alcoholic beverages must be processed through fermentation and distillation or fermentation without distillation which is carried out simply, packaged simply and used for cultural, customs and religious ceremonies. The Head of the Regency or City Office is required to collect data on the business activities of making traditional alcoholic beverages. This data will be reported to the Governor. (Rusli, 2012).

The technical provisions regarding raw materials, manufacturing processes and equipment for traditional liquor are regulated in Appendix II to the Regulation of the Minister of Industry Number 63 of 2014 concerning Control and Supervision of the Industry and Quality of Alcoholic Beverages. The technical provisions in this ministerial regulation regulate raw materials, manufacturing processes, manufacturing equipment, container washing, container materials, quality control, and product types. Quality control itself is aimed at ensuring the consistency of product quality from traditional liquor. Quality control is carried out by organoleptic tests carried out by the health department. In CHAPTER III concerning Safety Standards in BPOM Regulation No. 14 of 2016 states that alcoholic beverages circulating in the territory of Indonesia, whether produced domestically or of imported origin, must comply with established safety standards. The safety standard referred to is the maximum limit for methanol content, microbial contamination, chemical contamination and food additives. The maximum limit of methanol content in alcoholic beverages may not be more than 0.01%. In addition, labels and advertisements for alcoholic drinks must comply with statutory provisions. In Article 11 of BPOM Regulation No. 14 of 2016 states that labels on alcoholic beverages must include the words "ALCOHOLIC DRINKS" and the name of the type according to the food category, "UNDER THE AGE OF 21 YEARS OR PREGNANT WOMEN ARE PROHIBITED TO DRINK", "Contains Alcohol %". The safety standard referred to is the maximum limit for methanol content, microbial contamination, chemical contamination and food additives. The maximum limit of methanol content in alcoholic beverages may not be more than 0.01%. In addition, labels and advertisements for alcoholic drinks must comply with statutory provisions. In Article 11 of BPOM Regulation No. 14 of 2016 states that labels on alcoholic beverages must include the words "ALCOHOLIC DRINKS" and the name of the type according to the food category, "UNDER THE AGE OF 21 YEARS OR PREGNANT WOMEN ARE PROHIBITED TO DRINK", "Contains Alcohol %". The safety standard referred to is the maximum limit for methanol content, microbial contamination, chemical contamination and food additives. The maximum limit of methanol content in alcoholic beverages may not be more than 0.01%. In addition, labels and advertisements for alcoholic drinks must comply with statutory provisions. In Article 11 of BPOM Regulation No. 14 of 2016 states that labels on alcoholic beverages must include the words "ALCOHOLIC DRINKS" and the name of the type according to the food category, "UNDER THE AGE OF 21 YEARS OR PREGNANT WOMEN ARE PROHIBITED TO DRINK", "Contains Alcohol %". labels and advertisements for alcoholic drinks must comply with the provisions of the legislation. In Article 11 of BPOM Regulation No. 14 of 2016 states that labels on alcoholic beverages must include the words "ALCOHOLIC DRINKS" and the name of the type according to the food category, "UNDER THE AGE OF 21 YEARS OR PREGNANT WOMEN ARE PROHIBITED TO DRINK", "Contains Alcohol %". labels and

advertisements for alcoholic drinks must comply with the provisions of the legislation. In Article 11 of BPOM Regulation No. 14 of 2016 states that labels on alcoholic beverages must include the words "ALCOHOLIC DRINKS" and the name of the type according to the food category, "UNDER THE AGE OF 21 YEARS OR PREGNANT WOMEN ARE PROHIBITED TO DRINK", "Contains Alcohol %".

In regional regulations, as in Article 18 paragraph (1) of Bantul Regency Regional Regulation Number 4 of 2019 concerning Control, it is emphasized that in order for there to be product consistency from traditional liquor, traditional liquor business actors are burdened with having to carry out a licensing mechanism to the regent. Therefore, every product circulating in the community has obtained permission from the regent. If a product has received a permit, it means that the product is in accordance with the quality set by the laws and regulations.

Permission in the concept of constitutional law is an act that is actually prohibited by law, but if it complies with statutory provisions, the act is permissible as long as it meets the applicable provisions. (Sugiarto, 2021). The responsibility of the business actor is that if the traditional liquor distributed does not comply with the provisions in Law Number 8 of 1999 concerning Consumer Protection, then the business actor is required to provide compensation. Apart from that, they can also be subject to imprisonment or a fine as stipulated in Article 204 of the Criminal Code if business actors distribute alcoholic beverages without a permit. A violation will be dealt with by confiscating and imposing administrative sanctions including warnings, imprisonment and/or confinement and fines (Alin, 2017; DP, 2018). As stated in Article 17 of Ministerial Regulation Number 63 of 2014 concerning Control and Supervision of Industry and Quality of Alcoholic Beverages, for alcoholic beverage industry companies that violate the provisions of this ministerial regulation are subject to administrative sanctions in the form of revocation of industrial business permits or other sanctions in accordance with statutory provisions. The regulation regarding sanctions in the Regulation of the Head of the Drug and Food Control Agency Number 14 of 2016 concerning Safety and Quality Standards for Alcoholic Drinks in Article 13 states that violations of this regulation can be subject to administrative sanctions in the form of written warnings, withdrawal from distribution, destruction, temporary suspension of production activities, import and distribution as well as revocation of distribution permit.

In the Bantul area, the responsibilities of traditional beverage business actors who do not comply with the provisions are regulated in accordance with what is stated in Article 43 of the Bantul Regency Regional Regulation Number 4 of 2019 concerning Control, Supervision of Alcoholic Beverages and Prohibition of Mixed Beverages, namely for anyone who violates the provisions of the regional regulation This can be punished with imprisonment for a maximum of 3 months or a maximum fine of IDR 50,000,000.00. In addition, in the Tuban area regarding the responsibilities of traditional liquor entrepreneurs who do not comply with the provisions stated in Articles 24 and 26 of the Tuban Regency Regional Regulation Number 9 of 2016 concerning Control, Supervision of the Distribution and Sales of Alcoholic Beverages, namely for any retailer or direct seller of alcoholic beverages who violates the provisions stipulated in this regional regulation shall be subject to administrative sanctions. Administrative sanctions in the form of verbal warnings, written warnings, temporary suspension of activities, permanent suspension of activities, temporary revocation of permits, permanent revocation of permits, and administrative fines of up to IDR 25,000,000.00. While the criminal provisions in this regional regulation, namely for anyone who violates the provisions that have been regulated can be punished with imprisonment for a maximum of 3 months or a fine of up to Rp. 50,000,000.00. permanent revocation of permits, and an administrative fine of up to IDR 25,000,000.00. While the criminal provisions in this regional regulation, namely for anyone who violates the provisions that have been regulated can be punished with imprisonment for a maximum of 3 months or a fine of up to Rp. 50,000,000.00. permanent revocation of permits, and an administrative fine of up to IDR 25,000,000.00. While the criminal provisions in this regional regulation, namely for anyone who violates the provisions that have been regulated can be punished with imprisonment for a maximum of 3 months or a fine of up to Rp. 50,000,000.00.

4.2. Construction of legal arrangements, where on the one hand, traditional liquor has become part of certain communities but on the other hand threatens public health.

a. Legal construction in Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages Against Traditional Liquor.

Legal construction is a method of legal discovery activities. According to Achmad Ali, there are two theories of legal discovery that can be carried out by judges in judicial practice, namely the method of interpretation or interpretation and the method of construction (Ali, 2012). Interpretation or interpretation is carried out when there is legal ambiguity or the law is unclear, while construction is carried out when there is a legal vacuum (Al-Zahra, 2019; Edwinar et al., 2023). According to Jazim Hamidi, legal construction is a method that is carried out without regulation. In other words,

it is called a legal vacuum (legal vacuum) or more precisely called a legal vacuum (wet vacuum). Legal discovery has a very wide area, because it can be done by anyone, including individuals, scholars, legal researchers, law enforcement agencies (judges, prosecutors, police and lawyers), lecturers, notaries and others. Law discoveries by law enforcers (judges) produce laws while legal discoveries by scientists and researchers produce doctrines (Mawar, 2020). The legal method proposed by JJH Bruggink today includes the interpretation and construction of law or reasoning. In addition, the legal construction method consists of similar arguments, the appropriate *acontririo* (*spiegelbeeld*) (Weruin, 2017).

According to Rudolf von Jhering, legal construction has three important prerequisites. That is, legal construction must be able to cover all areas of positive law. Second, the structure must not contain logical contradictions or must not contradict itself. Third, construction reflects an element of beauty, namely construction must be able to provide a clear picture so that it is possible to combine various regulations and create new meanings. As for legal discovery through legal construction, there are 4 (four) known (Tutik & SH, 2016), namely as follows:

1) *Method of Argumentum Per Analogium (Analogie)*

Analogy is a legal discovery method in which judges look for a more general essence of a legal event or legal action, whether regulated by law or not yet.

2) *Argumentum a Contrario method*

This method provides an opportunity for judges to make legal discoveries with the consideration that if the law determines certain things for certain events, it means that the regulations are limited to that particular event and for events outside it the opposite applies. Because there are times when an event is not specifically regulated by law, but the opposite of the event is regulated by law. So, the essence of this method is to put forward a way of interpretation that is opposite in meaning between the concrete events faced and the events regulated in the law. The *argumentum a contrario* method focuses on the dissimilarity of events (AR, 2019). Here the negative side of a law is treated.

In fact, if the *argumentum a contrario* method is linked to the legal systems of Anglo Saxon and Continental Europe, this method is in line with the method of thinking of judges in Continental Europe. Judges tend to think inductively, in the Anglo Saxon legal system, that is, from particular events to general events. Judges seek and find regulations as the basis for their decisions through a series of previous decisions, so they are reasoning from case by case or reasoning by analogy. As for the Continental European legal system, judges tend to think deductively, that is, to think from general events to special events, which bind judges to laws which are general regulations so that certain groups of events that are the same can be decided by the same thing. So,

3) *The method of narrowing or concretizing the law*

The method of concretizing law (*rechtsvervijsnings*) aims to concretize or narrow down a rule of law that is too abstract, passive and very general so that it can be applied to a particular event. It is said to be abstract because legal rules are general in nature (broad norms) and are said to be passive because these legal rules will not cause legal consequences if no concrete events occur. In this method, exceptions or new deviations from general rules are formed. These general regulations are applied to special legal events or relationships with explanations or constructions by giving characteristics.

4) *Legal Fiction*

The essence of legal fiction is a method of legal discovery that presents new facts, so that a new personification appears before us. The function of legal fiction besides fulfilling the desire to create legal stability, is also mainly to fill the void in the law. In other words, legal fiction seeks to address conflicts between new demands and the existing legal system (Mertokusumo & Pitlo, 2013).

Satjipto Rahardjo and Paul Scholten have different opinions regarding this legal fiction, where according to Satjipto Rahardjo, legal fiction is part of legal construction, while according to Paul Scholten, legal construction and legal fiction are different. The difference lies in the simplification which is done for the sake of construction, then some of the facts are omitted, and conversely in fiction, facts that are not stated by events can only be added. Thus, every construction may contain elements of fiction, but construction may never become fiction, and construction becomes fiction as soon as construction assumes the facts are true.

Based on some of the meanings described above, what is meant by legal construction in this study is an effort to find laws regarding the regulation of traditional liquor to realize just people's welfare in accordance with the ideals of Indonesian law. The legal construction used in this study is the method of narrowing or concretizing law. Thus, the author looks at the legal construction of specific laws and regulations and the characteristics of laws and regulations

that have been passed regarding alcoholic beverages. This is considering that until now there is no regulation that specifically regulates the distribution of traditional liquor in Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages.

b. The Legal Construction of Restricting the Freedom of Business Actors in Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages for traditional liquor.

The principle of democracy implies that everyone has the right to have an opinion, to have a certain ideology and identity and to respect every opinion that arises from everyone's mind (Latuconsina, 2013). Freedom of opinion or expression is the right of every Indonesian citizen guaranteed by the 1945 Constitution of the Republic of Indonesia, even the right to freedom of opinion occupies the highest position in the principles of democracy and liberalization, it's just that the law still has corridors or legal boundaries (Jailani, 2015; Kurniawan et al., 2022). The existence of human rights in the conception of a rule of law in Indonesian democracy is the most fundamental. However, the concept of regulating human rights by the state does not mean that there is a limitation of human rights by the state, in its conception it is regulated by the state because the implementation of democracy and human rights with the sovereignty of the people is the ideal that the state wants to achieve. (Nuna & Moonti, 2019).

The State of Indonesia, as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia, aims to create a just and prosperous society which must be realized through national development, namely the Indonesian government to protect the entire Indonesian nation and all of Indonesia's bloodshed to promote general welfare, educate the nation's life, and to implement world order based on freedom, eternal peace and social justice. The formulation contained in the Preamble to the 1945 Constitution of the Republic of Indonesia is the ideal basis for all activities in carrying out the life of the nation and state, both in the economic, political, social and cultural fields; while the 1945 Constitution of the Republic of Indonesia is used as its constitutional basis (Wignjosoebroto, 1995). The 1945 Constitution of the Republic of Indonesia besides being a political constitution; can also be referred to as the Economic Constitution, namely the constitution which contains the idea of a Welfare State which grows and develops due to the influence of socialism (Pujiono et al., 2021). The form of this welfare state is specifically stated in Article 33 of the 1945 Constitution of the Republic of Indonesia.

In addition, in Law no. 36 of 2009 concerning Health Article 7 also states that the Government is in charge of organizing health efforts that are equitable and affordable to the community and Article 9 states that the Government is responsible for improving the degree of public health. Thus, the government as the organizer of the state has the responsibility and power to protect the rights of its citizens. This power is solely to advance and realize the fulfillment of human rights. The government must not only ensure that a person's rights are not violated or violated, but also must respect those rights. Likewise, the right to health is the responsibility of the government to fulfill it (Lestari, 2019).

Therefore, the government has an obligation to provide health services to take preventive measures to protect the health of its people. Without health, one cannot obtain other rights. Sick people automatically have limited rights to life because they cannot obtain and carry out a decent job, cannot enjoy the rights to freedom of association, assembly and expression, and cannot obtain education for their future. In essence, you cannot fully enjoy life as a person if you are not healthy. This is a manifestation of the government's obligation to carry out government functions on the basis of good governance. This concept is also in line with the concept of the right to optimal health according to WHO,

Business actors in Indonesia in carrying out their business activities are required to adhere to the principles of economic democracy and pay attention to the balance between the interests of business actors and the public interest. Public interest as law over personal interests or the interests of producers, the interests of producers must comply with laws and regulations such as Law Number 36 of 2009 concerning Health, Law Number 8 of 1999 concerning Consumer Protection, and Presidential Regulation Number 74 of 2013 regarding the Control and Supervision of Alcoholic Beverages. As stated in Article 1 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection which states that consumer protection is an effort to guarantee legal certainty to provide protection to consumers as fulfillment of the public interest in the principle of economic democracy. In addition, the freedom of business actors is limited as stated in Article 7 of Law Number 8 of 1999 concerning Consumer Protection which states that business actors are required to act in good faith, provide true, clear and honest information regarding the condition of goods or services, treat or serve consumers correctly and honest and non-discriminatory, guaranteeing the quality of goods or services in accordance with the provisions of quality standards, giving consumers the opportunity to test the products or services to be traded,

Restrictions on the freedom of alcoholic beverage business actors in Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages as stated in Article 4 states that alcoholic beverages

originating from domestic production can only be produced by business actors who already have industrial and alcoholic beverage business licenses that are traded also has a distribution permit. Article 5 also states that alcoholic beverages originating from domestic production or imports must meet production quality standards and food safety standards as stipulated in Article 21 paragraph (1) Government Regulation Number 28 of 2014 concerning Food Quality and Nutrition Safety.

Apart from that, the restrictions for liquor business actors are also contained in Article 7 which regulates distribution or sales limits. Where in this article it states that alcoholic drinks both from groups A, B and C can only be sold in places such as hotels, bars, restaurants that meet the requirements, duty-free shops and other designated places. However, Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages does not specifically regulate traditional liquor business actors. So business actors in terms of production of goods follow existing laws and regulations such as the 1945 Constitution of the Republic of Indonesia, Law Number 36 of 2009 concerning Health, Law Number 8 of 1999 concerning Consumer Protection,

According to Sudikno Mertokusumo, a legal entity is a unit consisting of elements that interact and work together to achieve the goals of the unit. This unity applies to complex legal elements such as legal regulations, legal principles and understandings of law (Is & S HI, 2017; Marzuki & Sh, 2021). Thus, the 1945 Constitution of the Republic of Indonesia, Law Number 36 of 2009 concerning Health, Law Number 8 of 1999 concerning Consumer Protection, Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages, Regional Regulation of Tuban Regency Number 9 of 2016 concerning Control, Supervision of Distribution and Sales of Alcoholic Beverages, Bantul Regency Regional Regulation Number 4 of 2019 concerning Control, Supervision of Alcoholic Beverages and Prohibition of Mixed Beverages, and Bali Governor Regulation Number 1 of 2020 concerning Management of Balinese Fermented and/or Distilled Beverages is one unit which complement each other for traditional liquor to make society orderly.

5. Conclusion

The form of responsibility of business actors if the traditional liquor produced and distributed causes harm to consumer health according to Law Number 8 of 1999 concerning Consumer Protection regulated in Article 19, business actors are responsible for providing compensation for damage, pollution or loss to consumers as a result of consuming the goods or services that have been produced. In addition, Law Number 36 of 2009 concerning Health in Article 111 paragraph (6) stipulates that food and drinks which endanger health are prohibited from being distributed, withdrawn from circulation, distribution permits revoked and confiscated for destruction in accordance with applicable regulations. According to Rudolph von Jhering, there are three main requirements for carrying out legal construction, namely: first, legal construction must be able to cover all areas of positive law concerned. Second, in making legal constructions there must not be logical contradictions in it or it cannot contradict itself. Third, construction reflects the factor of beauty, namely construction is not something that is artificial and construction must be able to provide a clear picture of something so that it is possible to combine various regulations, create new meanings and so on.

References

- Al-Zahra, F. (2019). Konstruksi Hukum Pengaturan Bank Tanah Untuk Mewujudkan Pengelolaan Aset Tanah Negara Berkeadilan. *Keadaban*, 1(1), 18–48.
- Alfianti, L. (2018). Upaya Pemerintah Daerah Dalam Pengendalian Produksi Minuman Beralkohol Tradisional. *Yuridika*, 33(1), 93–117.
- Ali, A. (2012). *Menguak Tabir Hukum Suatu Kajian Filosofis dan Sosiologis*.
- Alin, F. (2017). Sistem Pidana dan Pemidanaan di dalam Pembaharuan Hukum Pidana Indonesia. *JCH (Jurnal Cendekia Hukum)*, 3(1), 14–31.
- AR, N. P. E. M. (2019). Pewarisan Saham Warga Negara Asing Pada Perseroan Terbatas Penanaman Modal Asing (PT PMA). *Acta Comitatus: Jurnal Hukum Kenotariatan*, 4(3).
- 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. *Jurnal Preferensi Hukum*, 1(1), 120–127.
- Dermawan, R. (2021). Perlindungan Konsumen terhadap Konsumsi Minuman Beralkohol. *Opini Hukum Dan Hak Asasi Manusia*, 1, 17–24.

- DP, S. H. (2018). Pelaksanaan pidana bersyarat dalam sistem pemidanaan di Indonesia. *PALAR (Pakuan Law Review)*, 4(1).
- Edwinar, D., Hakim, L., & Sirajuddin, S. (2023). Pengaturan dan Pengelolaan Aset Tanah Negara dengan Lahirnya Badan Bank Tanah. *Legal Spirit*, 7(1), 83–98.
- Efendi, J., & Ibrahim, J. (2021). *Metode Penelitian Hukum Normatif dan Empiris*.
- Hamid, A. H., & SH, M. H. (2017). *Hukum Perlindungan Konsumen Indonesia* (Vol. 1). SAH MEDIA.
- Ikhsani, D. V., & Amir, D. (2022). Tanggung Jawab Pelaku Usaha Terhadap Konsumen Atas Iklan Yang Menyesatkan Ditinjau Dari Undang-Undang Perlindungan Konsumen. *Zaaken: Journal of Civil and Business Law*, 3(1), 76–91.
- Is, M. S., & S HI, M. H. (2017). *Pengantar Ilmu Hukum*. Kencana.
- Jailani, J. (2015). Sistem Demokrasi di Indonesia Ditinjau Dari Sudut Hukum Ketatanegaraan. *INOVATIF| Jurnal Ilmu Hukum*, 8(1).
- Kristiyanti, C. T. S. (2022). *Hukum perlindungan konsumen*. Sinar Grafika.
- Kurniawan, B., Purbosari, N., & Isnaini, F. (2022). *Sistem Demokrasi Di Indonesia Ditinjau Dari Sudut Hukum Ketatanegaraan*.
- Latuconsina, N. (2013). Perkembangan demokrasi dan civil society di Indonesia. *Jurnal Populis*, 7(2).
- Lestari, T. R. P. (2019). Menyoal pengaturan konsumsi minuman beralkohol di Indonesia. *Aspirasi: Jurnal Masalah-Masalah Sosial*, 7(2), 127–141.
- Marzuki, P. M., & Sh, M. S. (2021). *Pengantar ilmu hukum*. Prenada Media.
- Mawar, S. (2020). Metode Penemuan Hukum (Interpretasi Dan Konstruksi) Dalam Rangka Harmonisasi Hukum. *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial*, 1(1), 22–38.
- Mertokusumo, S., & Pitlo, A. (2013). Bab-Bab tentang Penemuan Hukum, Cet. Ke-2. *PT. Citra Aditya Bakti, Bandung*.
- Nuna, M., & Moonti, R. M. (2019). Kebebasan Hak Sosial-Politik Dan Partisipasi Warga Negara Dalam Sistem Demokrasi Di Indonesia. *Jurnal Ius Constituendum*, 4(2), 110–127.
- Pujiono, B., Bahroni, A., Kustanto, K., & Sulisty, H. (2021). Hukum Perlindungan Konsumen. *Transparansi Hukum*, 4(2).
- Rianti, N. K. A. N. R. (2017). Tanggung Jawab Pelaku Usaha Terhadap Konsumen Dalam Hal Terjadinya Hortweighting Ditinjau Dari Undang-Undang RI No 8 Tahun 1999 Tentang Perlindungan Konsumen. *Jurnal Magister Hukum Udayana*, 6(4), 521–537.
- Rusli, T. (2012). Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen. *Pranata Hukum*, 7(1).
- Setyawati, D. A., Ali, D., & Rasyid, M. N. (2017). Perlindungan Bagi Hak Konsumen dan Tanggung Jawab Pelaku Usaha Dalam Perjanjian Transaksi Elektronik. *Syiah Kuala Law Journal*, 1(3), 46–64. <https://doi.org/10.24815/sklj.v1i3.9638>
- Sugiarto, U. S. (2021). *Pengantar Hukum Indonesia*. Sinar Grafika.
- Tan, D. (2021). Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum. *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8(8), 2463–2478.
- Tunardy, W. T. (2016). Pengertian Pelaku Usaha Serta Hak dan Kewajiban Pelaku Usaha. *Jurnal Hukum*.
- Tutik, T. T., & SH, M. H. (2016). *konstruksi hukum tata negara Indonesia pasca amandemen UUD 1945*. Prenada Media.
- Weruin, U. U. (2017). Logika, Penalaran, dan Argumentasi Hukum. *Jurnal Konstitusi*, 14(2), 374–395.
- Wignjosubroto, S. (1995). *Dari hukum kolonial ke hukum nasional: suatu kajian tentang dinamika sosial-politik dalam perkembangan hukum selama satu setengah abad di Indonesia, 1840-1990*. RajaGrafindo Persada.