

Revisiting Local Regulation of Sukabumi Regency No. 7 of 2015 Concerning the Prohibition of Alcoholic Drinks

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Abstract: *Revisiting Local Regulation of Sukabumi Regency No. 7 of 2015 Concerning the Prohibition of Alcoholic Drinks.* This study discusses the Regional Regulation of Sukabumi Regency Number 11 of 2005 concerning the Control of Alcoholic Beverages and analyzes it through universal human rights principles as stated in the International Covenant on Civil and Political Rights (ICCPR). The aim is to examine whether the regulation is in line with basic human rights principles. This research is a case study using a normative approach. Data were obtained from available documents which then are compared one to another. Based on the results of the study, it is found that the Regional Regulation of Sukabumi Regency tends to be discriminatory, in the sense that it only accommodates the interests of certain religious or belief groups and ignores the interests of other religious or belief groups. The results of this study conclude that the Regional Regulation referred to is not following universal human rights principles as stated in the ICCPR and which has also been ratified by the Government of the Republic of Indonesia through Law No. 12 of 2005 concerning freedom of religion or belief. The government should pay more attention to other crucial issues such as education, health, and public welfare, rather than getting lost in unimportant issues.

Keywords: freedom of religion or belief, sharia regional regulations, alcoholic beverages

Abstrak: *Meninjau Kembali Peraturan Daerah Kabupaten Sukabumi Nomor 7 Tahun 2015 Tentang Larangan Minuman Beralkohol.* Penelitian ini membahas Peraturan Daerah Kabupaten Sukabumi Nomor 11 Tahun 2005 tentang Pengawasan Minuman Beralkohol dan menganalisisnya melalui prinsip-prinsip Hak Asasi Manusia yang universal sebagaimana tertuang dalam International Covenant on Civil and Political Rights (ICCPR). Tujuannya adalah untuk menguji Peraturan tersebut apakah telah selaras dengan prinsip-prinsip dasar HAM. Penelitian ini merupakan studi kasus yang menggunakan pendekatan normatif. Data diperoleh dari dokumen yang tersedia kemudian dibandingkan satu dengan yang lainnya. Berdasarkan hasil kajian yang telah diperoleh ditemukan fakta bahwa Peraturan Daerah Kabupaten Sukabumi tersebut cenderung diskriminatif, dalam artian hanya mengakomodasi kepentingan kelompok agama atau kepercayaan tertentu saja serta mengabaikan kepentingan kelompok agama atau kepercayaan yang lain. Hasil studi ini menyimpulkan bahwa Peraturan Daerah dimaksud tidak sesuai dengan prinsip-prinsip HAM yang universal sebagaimana tertuang dalam ICCPR dan telah diratifikasi pula oleh Pemerintah Republik Indonesia melalui Undang-Undang Nomor 12 Tahun 2005 tentang Kebebasan Beragama atau Berkeyakinan.

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Pemerintah seharusnya lebih memperhatikan isu-isu lain yang lebih penting dan krusial seperti pendidikan, kesehatan dan kesejahteraan publik, daripada hanyut dalam isu yang tidak begitu penting itu.

Kata kunci: kebebasan beragama atau berkeyakinan, peraturan daerah syariah, minuman beralkohol

Introduction

In Indonesia, from 1998 to 2013 there were as many as 443 regional regulations at the regional/city level, both Sharia and Bible regulations. Within the span, West Java Province is the province that has the greatest amount of sharia regulations, amounting to 103 regional regulations.¹ Regional regulations with religious nuances (Shari'a and Bible) began to emerge when the discourse on regional autonomy grew stronger, which was marked by the issuance of Law Number 22 of 1999 which was later revised into Law Number 32 of 2004 concerning Regional Government. Although the law emphasizes that religious policies are under the authority of the central government, the spirit of regional autonomy makes each region feel that it has the authority to make regulations based on the aspirations of the majority of residents in the region. In addition, the wave of reforms also gave birth to a special autonomy status for Aceh Province through Law no. 44/1999, Law no. 18/2001, and Law no. 11/2006. This Aceh precedent became a strong trigger for the emergence of demands for the implementation of special rules for regions that adhere to Islamic law.² Moreover, sharia is considered part of the democratization and decentralization of power in the Reformation era and part of the so-called "conservative cycle".³

The rise of the movement for the application of Islamic law has led to pro and contra attitudes, not only from the non-Muslim communities but also among the Muslims. For people who support this movement,

¹ Michael Buehler, *The Politics of Shari'a Law Islamist Activists and the State in Democratizing Indonesia* (Cambridge University Press, 2016) <<https://doi.org/10.1017/CBO9781316417843>>.

² Ihsan Ali-Fauzi and Saiful Mujan, *Gerakan Kebebasan Sipil: Studi dan Advokasi Kritis Atas Perda Syariah* (Jakarta: Nalar, 2009).

³ Martin van Bruinessen, *Contemporary Developments in Indonesian Islam Explaining the 'Conservative Turn'* (ISEAS–Yusuf Ishak Institute, 2013).

it is natural that Indonesia, whose population is predominantly Muslim, applies Islamic law. not merely a formalization, but a religious obligation for Muslims. For those who are cons, there are concerns about the consequences of implementing Islamic law which is considered to be a threat to the nation's disintegration. The application of Islamic law, according to this group, does not have to go through legislation. On the other hand, there is a misconception and application of this movement, which always links the application of Islamic law to the establishment of an Islamic state.⁴

Among members of parliament, the discourse on the implementation of Islamic Sharia in Indonesia through this Regional Regulation has also received a lot of criticism, especially from non-Muslims and moderate Muslims. One of the groups that objected to the formalization of Islamic Sharia was the Prosperous Peace Party (PDS). PDS, which is supported by a number of legislators from the PDIP, Golkar, and PKB parties, demands that the government revoke a number of regional regulations that are religious (Islamic). They argue that the implementation of Islamic law or the Jakarta charter will create the possibility of division of the nation and threaten the unity and sovereignty of the country. Apart from that, in fact, Islamic Sharia regulations contain many problems, both in terms of the drafting process and the consequences.⁵

Responding to the many problems with regional regulations, Gina Sabrina, Project Officer of LBH Indonesia, emphasized the importance of the oversight role of the Directorate of Regional Legal Products of the Ministry of Home Affairs for the issuance of each regional regulation. He stated that: “The Directorate of Regional Legal Products of the Ministry of Home Affairs has a strategic role to prevent the issuance

⁴ Ali Sodikin, ‘Genealogi Gerakan Penegakan Syari’at Islam di Indonesia’, *Al-Mazaahib: Jurnal Perbandingan Hukum*, 3.1 (2015) <<http://ejournal.uin-suka.ac.id/syariah/almazahib/article/view/1378>>.

⁵ M. Zainal Anwar, ‘Formalisasi Syari’at Islam di Indonesia: Pendekatan Pluralisme Politik dalam Kebijakan Publik’, *Millah*, 10.2 (2011) <https://www.researchgate.net/publication/277128698_Formalisasi_Syari'at_Islam_di_Indonesia_Pendekatan_Pluralisme_Politik_dalam_Kebijakan_Publik>.

of local regulations that do not have urgency and locality through the authority to facilitate the formation of local regulations.⁶

The rise of the movement for the formalization of Islamic law in various regions in Indonesia into the form of local regulations based on Islamic law is not without a certain context. A search of the various trends that occurred in Indonesia shows that the birth of this movement is related to the poor state service as a result of the reform process which is decaying from within. Therefore, when the offer of an alternative ideology based on Islam emerged that was able to intertwine with the spirit of local identity, the discourse on the application of Islamic Shari'a was responded to as an antithesis to the hegemony of the state after the New Order which began to decrease in intensity over civil society.⁷ Moreover, it is also assumed that the rise of formalization of the Syari'ah movement has to do with a political issue, In addition, it also assumed that the rise of formalization of the Shari'ah movement has to do with the political issue, which politicians take advantage of public religious sentiment for the short-term political interests to perpetuate their power in each of these regions.⁸

In Sukabumi Regency itself, which is part of West Java Province, there are a number of regulations with Shari'a nuances, such as Regional Regulation No. 12 of 2005 concerning Management of Zakat, Decree of the Regent No. 114 of 2003 concerning Organizational Structure and Staffing of Islamic Sharia Sukabumi; Islamic Shari'ah Research and Development Agency (BPPSI); Regent's Instruction No. 04 of 2004 concerning Wearing Muslim Clothing for Students in Sukabumi; including Perda No 7/2015 which regulates the prohibition of alcoholic beverages.⁹ The Regent of Sukabumi, Marwan Hamid, in his speech on

⁶ Gina Sabrina Project Officer of LBH Indonesia, The Importance of the Oversight Role of the Directorate of Regional Legal Products of the Ministry of Home Affairs, 2020.

⁷ Noor irfan, 'Perda Syari'at Islam (Kajian Tentang Geneologi Penerapan Syari'at Islam di Indonesia)', *Syariah: Jurnal Ilmu Hukum*, 1, 2005 <<https://idr.uin-antasari.ac.id/7108/>>.

⁸ Cholida Hanum, 'Analisis Yuridis terhadap Asas-Asas Pembentukan dan Asas-Asas Materi Muatan Peraturan Daerah: Kajian Perda Syariah di Indonesia', *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia*, 7.1 (2017) <<https://doi.org/10.14421/inright.v7i1.1457>>.

⁹ Farkhani Farkhani, 'Sejarah Formalisasi Syari'at Islam di Indonesia', 2008 <<http://publikasiilmiah.ums.ac.id/handle/11617/1019>>

the 17th anniversary of the enactment of the 2018 Sharia Regulation, said that in an effort to make Islamic Shari'a a *Manhajul Hayyah* (guideline for life) as well as to create a Religious and independent Sukabumi Regency, the Ulema Council, BPPSI [The Agency for the Study and Development of Islamic Shari'ah] and all components of religious organizations will be encouraged to conduct various studies in order to find patterns/methods so that Islamic Shari'ah can be implemented properly and be able to provide solutions in answering the problems of the *ummah* (Muslim people).¹⁰

The study of Perda Syari'at (Regional Regulations on Sharia) have been conducted by many researcher, among others are: Ali Sodiqin who studied the genealogy of the movement for the enforcement of Islamic Sharia in Indonesia;¹¹ Delfi Suganda who researched Pancasila and Islamic Shari'ah as the basis for the formation of *Qanuns* (Islamic regulation) in Aceh¹²; Syamsul Bahri who discussed the implementation of Islamic Sharia in Aceh within the framework of the territory of the Unitary State of the Republic of Indonesia (NKRI)¹³; Lindra Darnela who studied the Role of Islamic Boarding Schools in the Stipulation of Sharia Regional Regulations in Tasikmalaya¹⁴; M. Zainal Anwar who discussed the formalization of Islamic law in Indonesia through a political pluralism approach in public policy¹⁵; and many more researchers who study the same problem from different perspectives and approaches. This study focuses on Regional Regulation of Sukabumi Regency Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks to illustrate the public respond to the regulations, both individually and institutionally.

¹⁰ 'Milad Penegakan Syariat Islam Ke-17 | Portal Resmi Pemda Kabupaten Sukabumi'.

¹¹ Sodiqin.

¹² Delfi Suganda, 'Pancasila dan Syariat Islam sebagai Asas pembentukan Qanun Aceh', *Jurnal Ilmiah Peuradeun*, 2.1 (2014), 149–64 <<https://journal.scadindependent.org/index.php/jipeuradeun/article/view/17>>.

¹³ Syamsul Bahri, 'Pelaksanaan Syariat Islam di Aceh Sebagai Bagian Wilayah Negara Kesatuan Republik Indonesia (NKRI)', *Jurnal Dinamika Hukum*, 12.2 (2012), 358–67 <<https://doi.org/10.20884/1.jdh.2012.12.2.62>>.

¹⁴ Lindra Darnela, 'Penetrasi Pesantren Terhadap Penetapan Perda Syari'ah di Tasikmalaya', *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 4.1 (2015) <<https://doi.org/10.14421/sh.v4i1.1974>>.

¹⁵ Anwar.

Method

This research is qualitative using a case study approach. It aims at analyzing the Regional Regulation of Sukabumi Regency Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks through a human rights perspective, especially regarding the right to freedom of religion and belief. Data were obtained from two sources, namely primary sources in the form of interviews and documentation, and secondary sources in the form of laws and literature related to the topics studied.

Freedom of Religion or Belief in ICCPR

Freedom of religion or belief in international human rights documents, as stated in the International Covenant on Civil and Political Rights (ICCPR), includes freedom of thought, belief, and religion. In Indonesia, freedom of thought, belief, and religion is condensed into just freedom of religion or belief. This rule does not accommodate people who choose not to choose any religion.¹⁶ ICCPR is important in Indonesia because Indonesia has ratified the ICCPR into law, namely Law no. 12/2005, which has been in effect nationally in Indonesia since the law was passed.¹⁷

The general concept in the ICCR is as follows:

- (i) Human rights are universal. Regardless of the background and system of a country, the state must protect human rights and basic freedoms for every human being.
- (ii) Human rights cannot be divided or separated because they are interdependent and interrelated.
- (iii) Non-discrimination. Human rights must be upheld without discriminating, limiting, excluding, and prioritizing one group or class over another.

¹⁶ Ram Kakarala Samsu Rizal Panggabean, Mohammad Miqdad, Asfinawati, *Mengelola Keragaman dan Kebebasan Beragama: Refleksi Atas Beberapa Pendekatan Advokasi*, ed. by Zainal Abidin Bagir (CRCS-UGM, 2014).

¹⁷ NA Norway NA Norway, *Facilitating Freedom of Religion or Belief: A Deskboo* (Brill, 2004).

- (iv) The owner of the rights is any person. That is, not only citizens but also residents or people residing in the area who are not citizens.
- (v) The state is obliged to respect and guarantee rights, including freedom of religion and belief.
- (vi) The State is obliged to make laws and regulations if they do not already have them so that the rights in the present Covenant are implemented.
- (vii) States must ensure effective remedies for victims if the rights or freedoms guaranteed in the present Covenant are violated - including ensuring that victims' rights are competent to claim their rights and the rights they determine as remedies are enforceable regarding the right to freedom of thought, conscience, and religion.

There are two aspects, in particular, that can be understood from the ICCPR. First, freedom of religion or belief does not defend certain ideologies or views, what is maintained is none other than freedom itself; Second, internal religious rights or beliefs cannot be restricted at all.¹⁸

Freedom of religion or belief is a human right that applies universally and is codified in international human rights instruments. At the normative level, freedom of religion or belief is a fundamental right and is one of the most important fundamental rights. This is authoritatively articulated in the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights (ICCPR) which is the normative substance based on General Comment of the United Nations Human Rights Committee No. 22 (48).¹⁹

ICCPR is a part of universal human rights that are fundamental to freedom of religion or belief. The ratification of the ICCPR by the Indonesian government in 2005 to Law No. 12/2005 made its existence even stronger in the Indonesian legal hierarchy. The position of the law is much higher than local regulations at the regency or city level and should not conflict with the regulations above it (UU). In conclusion, universally,

¹⁸ NA Norway,.

¹⁹ NA Norway,.

the ICCPR is the key way to guarantee freedom and equality of religion or belief. Also, it is legal at the national level based on Law No. 12/2005.

According to Lindholm et al., the most authoritative article in the ICCPR²⁰ is article 18:

1. Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or adopt a religion or belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observation, practice, and teaching;
2. No one shall be subject to coercion that would impair his freedom to have or to adopt a religion or belief of his choice;
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others;
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their convictions.

The normative core of human rights to freedom of religion or belief has eight components:

1. Internal freedom: Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom for all to have, adopt, maintain or change religion or belief.
2. External freedom: Everyone has the freedom, either alone or in community with others, in public or private, to manifest his or her religion or belief in teaching, practice, worship, and observance.
3. Noncoercion: No one shall be subject to coercion that would impair his or her freedom to have or adopt a religion or belief of his or her choice.

²⁰ NA Norway,.

4. Nondiscrimination: States are obliged to respect and ensure to all individuals within their territory and subject to their jurisdiction the right to freedom of religion or belief without distinction of any kind, such as race, color, sex, language, religion or belief, political or other opinions, national or other origins, property, birth or another status.
5. Rights of parents and guardians: States are obliged to respect the liberty of parents, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their convictions, subject to protect the rights of each child to freedom of religion or belief consistent with the evolving capacities of the child.
6. Corporate freedom and legal status: A vital aspect of freedom of religion or belief, particularly in contemporary settings, is for religious communities to have standing and institutional rights to represent their rights and interests as communities. That is, religious communities themselves have freedom of religion or belief, including a right to autonomy in their affairs. At the same time, Religious communities may not wish to avail themselves of formal legal entity status. However, it is now widely recognized that they have a right to acquire legal entity status as part of their right to freedom of religion or belief. In particular, as an aspect of the freedom to manifest religious beliefs individually and in community with others.
7. Limits of permissible restrictions on external freedom: Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, morals, or the fundamental rights of others.
8. Nonderogability: States may make no derogation from the right to freedom of religion or belief, not even in times of public emergency.

These norms may require further interpretation and elaboration if they are to be applied to a particular context and for practical purposes.

Promoting Sharia by Prohibiting Alcoholic Drinks in Sukabumi Regency

The enforcement of Islamic law in Sukabumi has begun to be realized through a set of regulations; one of which is Regional Regulation Number 11 of 2005 concerning Control of Alcoholic Drinks, which was replaced by Regional Regulation of Sukabumi Regency Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks.

In article 5 of the Regional Regulation of Sukabumi Regency Number 7 of 2015, it is expressly stated that:

1. Any person or entity is prohibited from producing, mixing, distributing, selling/trading, storing, controlling, and distributing alcoholic beverages free of charge.
2. Everyone is prohibited from drinking/consuming alcoholic beverages.
3. Excepted from the provisions as referred to in paragraph (1) and paragraph (2), use for treatment on medical instructions and/or for other purposes that can be accounted for.

The Regional Regulation of Sukabumi Regency Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks is part of the promotion of Sharia in the Sukabumi Regency. This has been carried out through a number of programs and cultural movements, namely:

1. Mosque-Based Community Management Movement (GMUBM);
2. *Diniyah Takmiliah Awaliah* Revitalization Movement (GRDTA);
3. *Diniyah Takmiliyah Wustha* Revitalization Movement (GRDTW);
4. All-Syar'ah Movement. (GSS);
5. Professional Zakat Movement (GZ. Profession);
6. Veiled Employees Movement (GPJ);
7. Muslim/Muslimah Dressed Students Movement (GSBM);
8. Zakat Civilization Movement (GPZ);
9. Movement of the Qoryah Mubarakah Association (G-Iqomah);
10. Apparatus Taklim Assembly Movement (GMTA);
11. Movement 10 Habituation of Noble Morals. G10 PAM or Iqomah Scout Movement (GPI);

- 12 Early Infak Movement (GISD);
- 13 Indonesian Shari'ah Economist Miniature Sukabumi Movement (G-SIMESI Sukabumi);
- 14 Maghrib Recitation Community Movement (G-M3);
15. A Million Al-Qur'an Waqf Movement (G-WSA);
16. Turn off TV (G-MTV) gesture;
17. Haji Maburur Sukabumi Movement (G-HMS);
- 18 Sukabumi Mubarakah Movement (. GSM);
19. Zakat Movement to Build Civilization (GZMP);
- 20 The Thousand Infaq Movement (GIS);
- 21 Movement for the Rise of Madrasah Diniyyah Takmiliah (GBMDTA);
22. Movement for the Rise of Islamic Boarding Schools (GBPP);
23. Mosque Prosperity Movement (GMM);
24. Company Taklim Council Movement (GMTP);
25. Movement for Care for Madrasas Diniyyah Takmiliah Awaliyah (GPMDTA);
- 26 Movement of the Mosque-Based Zakat Service Unit (GUPMZ);
- 27 Movement for School-Based Zakat, Infaq, and Sadaqah Service Units (GUPZS);
28. Anti Apostasy Movement and Heresies (GAPAS);
29. Munajat Movement (GM);
30. Movement to Build Syi'ar Muharram (GEBYAR Muharram);
31. Reading, Writing, Memorizing, Understanding, and Practicing Al-Qur'an Movement (G-M5A))²¹

Unfortunately, the enforcement of alcoholic beverage services, which actually has a good goal to prevent and protect young people from the dangers of alcohol, has in fact caused a negative impact which is marked

²¹ Suganda.

by the emergence of a group of people acting on behalf of certain religious groups carrying out sweeping and other violent actions in stalls/shops selling liquor.²² This anarchic act not only causes harm and fear among certain groups of citizens but also violates the applicable laws in Indonesia because normatively only the police have the authority to carry out such actions.

Reviewing the Regional Regulation of Sukabumi Regency Number 7 of 2015 Concerning the Prohibition of Alcoholic

As it is mentioned above, the enforcement of alcoholic beverage services is aimed at, preventing and protecting people from the dangers of alcohol. However, one thing that seems to have been away from the local government's consideration when drafting the regulation is the fact that Sukabumi Regency is not only inhabited by Muslims but also inhabited by other people such as Hinduism, Buddhism, Christianity, Catholicism, and other faiths. According to a report from the Central Statistics Agency (BPS) based on the report from the Population and Civil Registration Office of Sukabumi Regency in 2018, the population of Sukabumi Regency was 2,543,277 consisting of 2,351,440 Muslims, 5,570 Protestants, 1,815 Catholics, 52 Hindus. There are 694 Buddhists, 12 Confucians, and 20 believers.²³

Even though Muslims are the majority group in Sukabumi Regency, it does not mean that the local government may automatically issue Regional Regulations without considering the voices or interests of other religious communities. This is because not all religions or beliefs forbid their followers to drink alcohol. As emphasized by the Community Legal Aid Institute, alcoholic beverages can be said to be inherent in Indonesian society. Many traditional rituals and certain socio-cultural lives still associate drinking alcohol in some of their activities. One example

²² Syahdan Alamsyah, 'Ormas Islam Gerebek Penjual Miras di Sukabumi, Ratusan Botol Diamankan', *detiknews* <<https://news.detik.com/berita-jawa-barat/d-5018457/ormas-islam-gerebek-penjual-miras-di-sukabumi-ratusan-botol-diamankan>>.

²³ 'Badan Pusat Statistik Kabupaten Sukabumi' <<https://sukabumikab.bps.go.id/staticable/2020/01/30/189/jumlah-penduduk-berdasarkan-agama-yang-dianut-menurut-kecamatan-di-kabupaten-sukabumi-semester-2-tahun-2018-registrasi-.html>>.

is the Hindu. people.²⁴ In almost every ceremony held by Hindus, from the smallest to the largest, it always uses alcohol, although in limited quantities." Moreover, in Balinese customs, there is a purification ritual called *BhuyaYadnya* which is a ritual to exorcise the power of the evil spirit *bhutakala* believed to often cause chaos, illness, or even death. The ritual requires Balinese wine and *brem* in the ritual procession. The existence of regulations that prohibit alcoholic beverages, therefore, may disrupt traditional processes and religious rituals, as well as threaten freedom of religion or belief for non-Muslims.

Furthermore, as added by the leadership of the Community Legal Aid Institute, regulations prohibiting alcoholic beverages directly violate human rights²⁵, in particular, the rights of minorities to carry out their religious and cultural rituals as stated in Article 27 of the International Covenant on Civil and Political Rights (ICCPR).²⁶ The covenant has been ratified by the Republic of Indonesia. through Law no. 12 of 2005 which also represent freedom of religion or belief as contained in articles 28E and 28I of the constitution of Indonesia.

According to Ali-Fauzi & Mujani, this shari'ah-inspired regional regulation undermines freedom of religion or belief and even civil liberties for several reasons, first of all, the regulation does not apply the principle of equal treatment in society and the eyes of the law. Although, normatively, the rules are only applied specifically to Muslims, considering that there is no single region in Indonesia where the population is homogeneous. So that the existence of a regional regulation that favors the majority group will cause discomfort for the minority (non-Muslim). Second, this regional regulation limits the freedom to choose religion or belief, or certain schools of thought. That is, in other schools that have a different view of a legal issue, their existence and rights are ignored. Third, the regulation limits the freedom of a person or group to worship according

²⁴ LembagaHu, 'Kebijakan Minuman Beralkohol', *LBH Masyarakat*, Narkotika dan Alkohol, 2015.

²⁵ Okezone, 'Pemuka Agama Tak Setuju "Larangan" Minuman Alkohol: Okezone Nasional', *Https://Nasional.Okezone.Com/*, 2016 <<https://nasional.okezone.com/read/2016/01/23/337/1295126/pemuka-agama-tak-setuju-larangan-minuman-alkohol>>.

²⁶ Okezone.

to their religion or belief. Fourth, discriminatory. Human Rights Law no. 39 of 1999 defines discrimination as “any limitation of harassment or exclusion which is directly or indirectly based on human differences based on religion, ethnicity, race, class, social status, economic status, gender, language, political beliefs, resulting in the reduction, deviation, or elimination of the recognition, implementation, or use of human rights and basic freedoms in life, both individually and collectively in the political, economic, legal, socio-cultural and other aspects of life.”²⁷

In line with the above thought, Mahsun Fuad views the regional regulation of sharia which is part of the implementation of Islamic law, if implemented in a hurry, will only create paradoxes and conflicts between Muslims and the Indonesian people in general. Forcing its implementation, without considering its visibility and viability will only make Islamic Shari'a counterproductive for the community.²⁸ He also added that philosophically Islamic law will exist and be more useful if it is allowed to live and develop in a society with its various forms. The face of the plurality of Islamic law is the ideal embodiment of this legal system, as a reflection of the abstract face of the plurality of human reason created/God's will. Therefore, legislation as a form of formalization of Islamic law in the format of state regulations can be considered to have violated the rights and exclusive character of Islamic law considering that when viewed from a social-historical perspective, Islamic law always appears in heterogeneous and plural forms according to the mindset of each thinker.²⁹ With regard to the existence of the Sukabumi District Regulation Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks, Sabrina stated that it violated human rights norms that should be guaranteed by the government. She also questioned the urgency of the Regional Government to take care of the private sphere that is consumed by citizens, and the mechanism to control Law enforcement. Even if the Perda is enforced, she believes that the target group is the

²⁷ Ali-Fauzi and Mujan.

²⁸ Mahzum Fuad Mahzum Fuad, *Hukum Islam Indonesia dari Nalar Partisipatoris Hingga Emansipatoris* (Yogyakarta: LKIS, 2005).

²⁹ Mahzum Fuad.

lower middle class, not the middle class or big businessmen. Whereas the lower middle class in certain areas are producers of local alcoholic beverages. Apart from that, Sabrina added, if it is related to freedom of religion or belief, what if there is a religion and belief that uses alcohol as a means of worship? Isn't this a threat because the provisions can target anyone. If alcoholic beverages are required as one of the elements that must be fulfilled in the ritual or worship in a certain religion or belief, then the existence of a regional regulation that prohibits it will certainly violate human rights values and principles. especially ICCPR.³⁰

Apart from that, Sabrina also reminded us that the Regional Regulation on the Prohibition of Alcoholic Drinks could become a justification for certain organizations to take vigilante actions, as happened in the month of Ramadan, or to be precise 15 May 2020, when the Muslim Awakening Rescue Movement (Moslem Salvation Movement of Faith) raided alcoholic beverage sellers in the area. area of Nagraksari Village, Jampang Kulon District, Sukabumi Regency.³¹ Using a different perspective, Cholida Hanum views that the regulation was issued only for political purposes, namely to attract Muslim voters, the majority of whom are in the Sukabumi Regency.³² Based on the above opinion, it is evident that the prohibition of alcoholic beverages as regulated in the Regional Regulation of Sukabumi Regency Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks has many problems, especially those related to freedom of religion or belief in Sukabumi Regency.³³ On that basis, it is not an exaggeration if many writers view the formalization of the Shari'ah will only bring threats or even violations of civil liberties, especially to women's rights, and Non-Muslim. Such an effort is like swinging on a broken branch. A pattern of life that rests on a handle that is not sturdy so it is easy to fall and even hurt oneself.³⁴

³⁰ Ali-Fauzi and Mujan.

³¹ 'Ormas Islam Gerebek Penjual Miras di Sukabumi, Ratusan Botol Diamankan'.

³² Hanum.

³³ Ali-Fauzi and Mujan.

³⁴ Tedi Kholiludin, 'Syarat Simbolik Dan Islamisasi Negara: Eksperimentasi Perda Syari'at Sebagai Jalan Baru Menuju Negara Islam', *Iqtisad: Reconstruction of Justice and Welfare for Indonesia*, 7.1 (2020) <<https://doi.org/10.31942/iq.v7i1.3746>>.

Conclusion

The issuance of the Sukabumi Regency Regional Regulation Number 7 of 2015 concerning the Prohibition of Alcoholic Drinks which replaced the Sukabumi Regency Regional Regulation Number 11 of 2005 concerning the Supervision of Alcoholic Drinks, is part of the promotion of Sharia in Sukabumi Regency. Viewing from the interest of the majority population, this regional regulation is conducive; from the interest of minority groups, however, the regulation is problematic as the Regional Regulation also tends to be discriminatory, in the sense that it only accommodates the interests of certain religious or belief groups and ignores the interests of others. Thus it contradicts universal human rights norms especially regarding freedom of religion or belief as stated in the ICCPR.

In the context of political pluralism, the aspirations for the formalization of Islamic Sharia which are echoed by a group ideally should be dialogued in a space that brings together all interested groups. The government, in this case, should not support a group and must be able to protect all groups to express opinions without any fear. In other words, the emergence of aspirations to implement Islamic Shari'ah must be positioned as a public discourse that is open to be discussed in the public sphere, both groups who are pro and contra on this issue. The government should not insist on making it a public policy but must be able to position itself as a facilitator who can accommodate the aspirations and interests of all groups so that there is no domination of one group over another. The government, therefore, should pay more attention to other crucial issues such as education, health, and public welfare, rather than getting lost in sensitive and crucial issues.

Bibliography

- Alamsyah, Syahdan, 'Ormas Islam Gerebek Penjual Miras di Sukabumi, Ratusan Botol Diamankan', *detiknews* <<https://news.detik.com/berita-jawa-barat/d-5018457/ormas-islam-gerebek-penjual-miras-di-sukabumi-ratusan-botol-diamankan>>
- Ali-Fauzi, Ihsan, and Saiful Mujan, *Gerakan Kebebasan Sipil: Studi dan Advokasi Kritis Atas Perda Syari'ah*. Jakarta: Nalar, 2009.

- Anwar, M. Zainal, 'Formalisasi Syari'at Islam di Indonesia: Pendekatan Pluralisme Politik dalam Kebijakan Publik', *Millah*, 10.2 (2011) <https://www.researchgate.net/publication/277128698_Formalisasi_Syari'at_Islam_di_Indonesia_Pendekatan_Pluralisme_Politik_dalam_Kebijakan_Publik>
- 'Badan Pusat Statistik Kabupaten Sukabumi' <<https://sukabumikab.bps.go.id/statictable/2020/01/30/189/jumlah-penduduk-berdasarkan-agama-yang-dianut-menurut-kecamatan-di-kabupaten-sukabumi-semester-2-tahun-2018-registrasi.html>>
- Bahri, Syamsul, 'Pelaksanaan Syariat Islam di Aceh Sebagai Bagian Wilayah Negara Kesatuan Republik Indonesia (NKRI)', *Jurnal Dinamika Hukum*, 12.2 (2012), 358–67 <<https://doi.org/10.20884/1.jdh.2012.12.2.62>>
- Bruinessen, Martin van, *Contemporary Developments in Indonesian Islam Explaining the 'Conservative Turn'*. ISEAS–Yusof Ishak Institute, 2013.
- Buehler, Michael, *The Politics of Shari'a Law Islamist Activists and the State in Democratizing Indonesia* (Cambridge University Press, 2016) <<https://doi.org/10.1017/CBO9781316417843>>
- Darnela, Lindra, 'Penetrasi Pesantren Terhadap Penetapan Perda Syari'ah di Tasikmalaya', *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 4.1 (2015) <<https://doi.org/10.14421/sh.v4i1.1974>>
- Farkhani, Farkhani, 'Sejarah Formalisasi Syari'at Islam di Indonesia', 2008 <<http://publikasiilmiah.ums.ac.id/handle/11617/1019>>.
- Hanum, Cholida, 'Analisis Yuridis terhadap Asas-Asas Pembentukan dan Asas-Asas Materi Muatan Peraturan Daerah: Kajian Perda Syariah di Indonesia', *IN RIGHT: Jurnal Agama dan Hak Azazi Manusia*, 7.1 (2017) <<https://doi.org/10.14421/inright.v7i1.1457>>
- Irfan, Noor, 'Perda Syari'at Islam (Kajian Tentang Geneologi Penerapan Syari'at Islam di Indonesia)', *Syariah: Jurnal Ilmu Hukum*, 1, 2005 <<https://idr.uin-antasari.ac.id/7108/>>.
- Kholiludin, Tedi, 'Syarat Simbolik Dan Islamisasi Negara: Eksperimentasi Perda Syari'at Sebagai Jalan Baru Menuju Negara Islam', *Iqtisad:*

- Reconstruction of Justice and Welfare for Indonesia*, 7.1 (2020) <<https://doi.org/10.31942/iq.v7i1.3746>>
- LembagaHu, 'Kebijakan Minuman Beralkohol', *LBH Masyarakat*, Narkotika dan Alkohol, 2015.
- Mahzum Fuad, Mahzum Fuad, *Hukum Islam Indonesia dari Nalar Partisipatoris Hingga Emansipatoris*. Yogyakarta: LKIS, 2005.
- 'Milad Penegakan Syariat Islam Ke-17 | Portal Resmi Pemda Kabupaten Sukabumi'.
- NA Norway, NA Norway, *Facilitating Freedom of Religion or Belief: A Deskboo*. Brill, 2004.
- Okezone, 'Pemuka Agama Tak Setuju "Larangan" Minuman Alkohol: Okezone Nasional', *Https://Nasional.Okezone.Com/*, 2016 <<https://nasional.okezone.com/read/2016/01/23/337/1295126/pemuka-agama-tak-setuju-larangan-minuman-alkohol>>.
- 'Ormas Islam Gerebek Penjual Miras Di Sukabumi, Ratusan Botol Diamankan'
- Project Officer of LBH Indonesia, Gina Sabrina, *The Importance of the Oversight Role of the Directorate of Regional Legal Products of the Ministry of Home Affairs*, 2020
- Samsu Rizal Panggabean, Mohammad Miqdad, Asfinawati, Ram Kakarala, *Mengelola Keragaman Dan Kebebasan Beragama: Refleksi Atas Beberapa Pendekatan Advokasi*, ed. by Zainal Abidin Bagir. CRCS-UGM, 2014.
- Sodiqin, Ali, 'Genealogi Gerakan Penegakan Syari'at Islam di Indonesia', *Al-Mazaahib: Jurnal Perbandingan Hukum*, 3.1 (2015) <<http://ejournal.uin-suka.ac.id/syariah/almazahib/article/view/1378>>.
- Suganda, Delfi, 'Pancasila dan Syariat Islam sebagai Asas pembentukan Qanun Aceh', *Jurnal Ilmiah Peuradeun*, 2.1 (2014), 149–64 <<https://journal.scadindependent.org/index.php/jipeuradeun/article/view/17>>.