

Juridical Study Of The Application Of Law Number 18 Of 2012 Concerning Food (Study: Traditional Alcoholic Beverage Business Actors In Kambaniru Village, East Sumba-Ntt Regency)

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Abstract : This study aims to analyze the extent to which the effectiveness of the application of Law No. 18 of 2012 concerning Food to business actors producing traditional alcoholic beverages in Kambaniru Village. The type of research used is empirical normative the analytical-descriptive research uses a statutory approach and a conceptual approach. The results of the study show that Law number 18 of 2012 concerning Food is not implemented by business actors producing traditional alcoholic beverages in the Kambaniru village because production business actors do not know the A quo law and the manufacturing process is still a simple way and the equipment is not following the provisions normative rules.

Keywords: Juridical Studies, Traditional Alcoholic Beverages, Law no. 18 of 2012

INTRODUCTION

because as a basic human need that must be provided for his needs because it is part of everyone's human rights. Law Number 18 of 2012 concerning Food, states "everything derived from living things and water sources, including food supplements, foodstuffs, and other materials used in the preparation, processing, and/or production of food and beverages which are food, unprocessed and processed, intended for human consumption" ¹.

¹ Ahmad Zazili and Hartono Hartono, "Model Pemberdayaan Konsumen Terhadap Ancaman Bahaya Produk Pangan Tercemar Bahan Berbahaya Beracun Di Provinsi Lampung," *Jurnal Hukum IUS QUIA IUSTUM* 23, no. 3 (2016): 391-414.



Food production or food safety procedures for human consumption must meet hygiene requirements, regulations on food additives, genetically modified food products, irradiation, and packaging standards, packaging, quality assurance, food safety, and product halal assurance as required. In order not to cause harm and danger to human health, in the process of carrying out its production, actors in the food sector are obliged to comply with applicable laws related to the process or activities of food export production. If the food consumed can cause losses, health impacts, and deaths due to production, then food industry players must be held accountable for their actions.

According to Law Number 18 of 2012, what is meant by everything derived from biological sources of agriculture, plantation, forestry, fishery, animal husbandry, water, and water products, which are both processed and unprocessed and intended as food or drink for human consumption is food² The activity of preparing, processing, packaging, preserving and producing a product is food production. Under the above understanding, what is meant by food in this paper is a traditional alcoholic beverage in Kambaniru village. In the production process of traditional alcoholic beverages, the materials used to become human consumption are materials produced from biological sources of agricultural products (sugar), forestry products (wood roots), and water.

Alcoholic beverages are beverages that are processed with or without prior treatment through fermentation and distillation or fermentation without distillation mixed from agricultural products or made by blending concentrates, concentrates with ethanol, or thin drinks containing ethanol (C₂H₅OH)³. Alcoholic beverages are processed traditionally and passed down fashionably, packaged simply, and made when for traditional purposes or religious rituals the need is loan alcoholic beverages⁴. Article 109 of Law No. 36 of 2009 concerning Health specifies "Every person and/or legal entity who produces, processes, and distributes genetically modified assimilated food and beverages into circulation must ensure that it is safe

² Mohammad Reevany bin Bustami, "Halal Thayyib & Kosher Food in Legal Conceptual Framework Based on Social Study in Indonesia and America," in *2nd and 3rd International Conference on Food Security Innovation (ICFSI 2018-2019)* (Atlantis Press, 2021), 167-173.

³ Norbert Christoph and Claudia Bauer-Christoph, "Flavour of Spirit Drinks: Raw Materials, Fermentation, Distillation, and Ageing," in *Flavours and Fragrances: Chemistry, Bioprocessing and Sustainability* (Springer, 2007), 219-239.

⁴ Mac Marshall, *Beliefs, Behaviors, & Alcoholic Beverages: A Cross-Cultural Survey* (University of Michigan Press, 1979).



for human, animal and environmental consumption"⁵. Furthermore, Law No. 18 of 2012 concerning Food Article 135 stipulates: "Any person who carries out process activities that produce, store, transport, and/or distribute food that does not meet the requirements for food hygiene as referred to in Article 71 paragraph (2) shall be punished with a maximum imprisonment of 2 (two) years or a maximum fine of IDR 4,000,000,000,000.00 (four billion rupiah).

Government Regulation No. 86 of 2019 concerning Food Safety Article 4 paragraph (1) specifies "Every person who carries out the activities of the Food Production, Storage, Transportation, and/or Food Circulation process as referred to in Article 3 paragraph (2) shall: (1) meet Sanitary Requirements; and (2) ensure Food Safety and/or human safety.

Likewise, BPOM regulation Number 5 of 2021 concerning Standardization of Safety and Quality of Alcoholic Beverages Article 2 reads:

"Alcoholic beverages produced in Indonesia or imported for distribution in Indonesia must follow safety and quality standards".

Indonesian citizens have a different perspective on alcohol. In some areas producing alcohol is forbidden (such as Aceh and other areas with strong religious influences) but in other areas, it is considered common such as NTT province. Because producing traditional alcohol is part of economic activity. Like most areas in NTT, some legal subjects in Kambaniru Village, East Sumba Regency in maintaining their lives and livelihoods have a unique way and are different from other legal subjects. Activities to fulfill the daily needs of some of the communities mentioned above are by producing traditional alcoholic beverages. There are many reasons with all the complexity why business actors choose to produce traditional alcoholic beverages. Some are due to hereditary inheritance, there is no other alternative to maintain life (economic reasons), and the profit is large due to high market demand (profit). Even if the safety and hygiene factors in the production of traditional alcoholic beverages need serious attention from various circles. So the existence of traditional alcoholic beverage

⁵ Ahmad Baihaki, Rabiah Al Adawiah, and Naffa Rizky Hermawati, "Perlindungan Hukum Terhadap Konsumen Atas Jaminan Produk Halal Pada Makanan Dan Minuman UMKM Di Kota Bekasi," *KRTHA BHAYANGKARA* 16, no. 2 (2022): 315–338.



production tends to reap RPO and counter problems in the community itself.

The consequences of consuming alcoholic beverages are not only in terms of health that cause dizziness, vomiting, and damage to body organs but also excessive consumption of alcoholic beverages can cause death. Another impact of excessive consumption of alcoholic beverages is to cause social problems such as the emergence of actions that violate norms. Limiting production is a very complicated problem because the production of traditional alcoholic beverages in some communities has made it a livelihood for improving welfare⁶. Or in other words, traditional alcohol production is the "source of life"

Judging from the adverse effects of alcoholic beverages and there are still many business actors who produce, this is very concerning so there is a need for a comprehensive effort to involve the government and the community to deal with it seriously.

LITERATURE REVIEW

Law Number 18 of 2012 concerning Food

Law Number 18 of 2012 concerning Food is a very important legal foundation in Indonesia with a significant impact on the food sector. The main objective is to ensure the provision of safe, quality, and affordable food for all Indonesians. The law covers several key points, including food safety standards that food manufacturers are required to comply with, regulations regarding food labels and advertisements, and legal action that can be applied in cases of violation of this law⁷. In addition, this law also has an important role in protecting consumers from the risks of unsafe food and misleading information about food products.

Alcoholic Beverages in Sumba

Sumba, as one of the islands in Indonesia, has a strong tradition of drinking alcohol. Traditional alcoholic beverages such as sopi and madi became an integral part of the culture and social life of the Sumba people.

⁶ Reyzza Claudya Hidayah, S H Wardah Yuspin, and M Kn, "Tinjauan Yuridis Pengawasan Dan Pengendalian Serta Pemanfaatan Minuman Beralkohol Tradisional Yang Beredar Pada Konsumen Oleh Dinas Perdagangan Dan Kesehatan Kabupaten Sukoharjo (Studi Terhadap Minuman Keras Tradisional Ciu)" (Universitas Muhammadiyah Surakarta, 2017).

⁷ Ernawaty, Ernawaty and Mardiah Mardiah, "Implementation of Supervision of Imported Food Products by the Center for Drug and Food Control (BBPOM) in Pekanbaru City" (Riau University, 2014).



The process of making this drink is often done locally by fermentation method using natural ingredients such as coconut sap water or palm tree. This traditional alcoholic beverage has a high cultural value in Sumba⁸.

Behavior of Alcoholic Beverage Business Actors in Sumba

The behavior of business actors involved in the production of alcoholic beverages in Sumba reflects distinctive challenges and characteristics. One of them is the level of non-compliance with Law Number 18 of 2012 concerning Food. Studies show that these businesses often do not comply with such laws, and one of the main reasons is a lack of understanding of the content of the laws⁹. The production process of traditional alcoholic beverages in Sumba tends to still rely on simple traditional methods, which can create challenges in ensuring food safety and meeting standards set by law¹⁰. In addition, some businesses may not have the appropriate equipment to produce alcoholic beverages in accordance with the required safety standards. Local culture and traditions also play a big role in the behavior of these businesses, influencing the way traditional alcoholic beverages are produced, promoted, and distributed in Sumba.

RESEARCH METHODS

The research method is a scientific way to obtain information with certain uses and purposes. This research method is used as a means to obtain complete information and data and can be trusted to be true. Thus, success in compiling a thesis under the problems raised. This method includes Type of Research, Research Approach, Types and Sources of Data which are divided into sections, namely Primary Data and Secondary Data, Data Collection Methods, Data Management Methods, and Data Analysis Methods.

The type of research used is the type of empirical normative research. Empirical normative research is the application of normative rules in the behaviour of each particular legal event that occurs in society.

⁸ Parlindungan Tambunan, "Potensi Dan Kebijakan Pengembangan Lontar Untuk Menambah Pendapatan Penduduk," *Jurnal analisis kebijakan kehutanan* 7, no. 1 (2010): 27-45.

⁹ NATIONAL RESILIENCE INSTITUTE and REPUBLIC OF INDONESIA, "Synchronization of Laws and Regulations for the Effectiveness of Issuance of Business Licenses in the Mining Sector in the Framework of National Resilience" (2012).

¹⁰ Ambara Purusottama et al., *Recent Economic Business Phenomena: Capita Selecta Series 1 2021-2022*, vol. 1 (Prasetya Mulya Publishing, 2022).



(law in action). The nature of this research is analytical-descriptive. There are several approaches that researchers use in this study, so with this approach, researchers will get answers to questions that need to be answered. The approach that the author applies is legal, a sociological approach, and a conceptual approach (conceptual approach). Legal approach, examining all inherent laws and regulations as well as legal issues addressed. In this study, researchers dug into several laws related to the production of alcoholic beverages. Law No. 18/2012 on food, Law No. 36 of 2009 on Health, Government Regulation No 86/2019 on Food Safety. Furthermore, the conceptual approach, namely legal research offers an analytical perspective on problem solving seen from the perspective of underlying legal concepts. This approach will analyse the results of what has been researched and will provide a concept or value of the problem. And the sociological approach to how law in the social context of society.¹¹

The data and documents used are processed and then analysed to find out the answer to the research problem posed. In empirical normative legal research, the sources used are tracing various documents and laws related to this research and managing data obtained from research places and literature. The types of data used for penelitan are primary data and secondary data.¹² The analysis method is an analysis process where the data obtained is then processed to conclude the decision-making process. and finally produce an academic recommendation for follow-up by stakeholders and traditional alcoholic beverage business actors in Kambaniru Village. This research analysis is sourced from primer data and secondary data, The type of analysis is descriptive-analytical.

RESEARCH RESULT

Juridical Study of the Application of Law No. 18 of 2012 concerning Food to Traditional Alcoholic Beverage Business Actors in Kambaniru Village

Law No. 18 of 2012 regulates food in Indonesia, The law a quo states that food planning activities are carried out to meet basic human needs that provide benefits equally, adil, and sustainably based on food independence, sovereignty, and food security. Food administration aims to:

- (1) Able to process and make food independently.

¹¹ Widodo Dwi Putro, *Kritik terhadap Paradigma Positivisme Hukum*, (Jogjakarta: Genta Publishing, 2011), hlm. 1.

¹² Sulaiman, *Paradigma Dalam Penelitian Hukum*, *Kanun Jurnal Ilmu Hukum*, Vol. 20, No. 2 Agustus, (2018), 1



- (2) Provide diverse food and meet the safety, quality, and nutritional requirements for public consumption.
- (3) Increase public understanding of healthy snacks, quality, and nutritional value for consumers.
- (4) Advancing the welfare of fishermen, fish farmers, farmers, and food sector actors.
- (5) Covering national food resources.

Chapter (I) number 1 Law No. 18 of 2012 concerning Food specifies "Food is all materials rooted in biological sources, plantation products, forestry, agriculture, livestock, fisheries, waters, and water, which are not made or processed used for human consumption, including food additives, foodstuffs, and other raw materials used. intended for human consumption used in the storage, processing, and/or production of food or beverages". The obligation of business actors for the food production process is written in Pasa1 71 paragraphs (1) and (2) of Law Number 18 of 2012 concerning Food which states that: Article 1 "Everyone (business actors) in the Food chain must control food hazards, both from materials, equipment, production facilities, and from individuals so that Food Safety is guaranteed.

Chapter 2 "Every person who carries out the process of producing, storing, transporting, and/or circulating food shall: (a) meet sanitary requirements; and (b) must ensure food safety and/or human safety". Chapter I number 39 of Law No. 18 of 2012 concerning Food is meant by food business actors are all people engaged in the food agribusiness subsystem, namely as providers of production, production processes, processing, marketing, trade, and support". Every business actor involved in the food chain must control the risk of food hazards. Including the legal subject that is the object of this study. The legal subject referred to in this study is food business actors engaged in the production process of traditional alcoholic beverages in Kambaniru Village, Kambara District, East Sumba Regency.

To find out and analyze the legal issues imposed in the study, obtaining primary data from five (5) respondents of traditional alcoholic food and beverage business actors. The following is a list of respondents of traditional alcoholic beverage production business actors in Kambaniru Village:

Table 1. First Responders

Name	Year of Business	Address	Status
R R	2019-present	Kambaniru	Manufacturer



Based on data obtained by RR respondents, the traditional alcohol production business began in 2019, and their motivation to open new jobs and want to live independently is not economically dependent on their parents. In terms of producing alcoholic beverages, respondents are aware and know that there must be regulations governing the production process of alcoholic beverages but do not know what number of regulations and about what regulates them respondents are aware and confident that the production process they carry out is not under existing laws and regulations because the equipment used is simple and sober, namely iron drums, plastic drums, copper cauldrons, and jerry cans to hold them. From what has been discussed above, researchers argue that in terms of producing traditional alcoholic beverages, business actors do not follow existing regulations, it is due to a lack of legal awareness and disobedience to the law and this is an unlawful act by business actors because business actors consciously know that there are regulations that regulate it.

The equipment used by business actors for the production process is simple equipment that does not guarantee safety for humans and does not meet food sanitation requirements because it uses rusty cauldrons to cook it and other equipment that is not sterilized hygiene which endangers people's lives and health. Oleh because of that, researchers concluded that Food Law Number 8 of 2012 was not implemented or not applied by RR respondents in producing traditional alcoholic beverages due to lack of legal awareness, non-compliance with the law, and lack of human resources to find information that regulates what they do to do business.

Table 2. Second Responders

Name	Year of Business	Address	Status
E P	2015-present	Maukaba	Manufacturer

Based on data obtained from RR respondents' relatives, opening a traditional alcohol production business from 2015 until now, the production business is driven by skills inherited from generation to generation and also because there is no permanent work to finance household needs in sustaining life. In terms of carrying out the production process of traditional alcoholic beverages, respondents did not know the regulations governing the production process of alcoholic beverages. The equipment used in the production process is iron drums, aluminum cauldrons, plastic jerry cans, and bowls. RR does not know that producing these traditional alcoholic beverages is against the law because there are no laws and local regulations that legalize the production business involved.



Researchers argue that what business actors do in terms of carrying out the production process of traditional alcoholic beverages is against the law where the subject of law a quo does not know the regulations governing the production of traditional alcoholic beverages and also the equipment in the production process is simple equipment that does not guarantee food safety for humans and does not meet food sanitation requirements because it uses rusty cauldrons To cook it and other utensils that are not sterilized, the cleanliness of which endangers the life and health of people. Everything is done only because it has become a habit and to earn a living to survive even though what is done is an act that violates applicable regulations. Based on these facts, researchers argue that Law No. 18 of 2012 on Food is not applied at all (not implemented) by the subject of law a quo. This is because there is no compliance with the law of lack of knowledge.

Table 3. Third Responder

Name	Year of Business	Address	Status
D	2018–present	Kambaniru	Manufacturer

The results of data obtained from respondent D's brother, the beginning of doing traditional alcohol beverage business from 2018. In terms of carrying out the production process of traditional alcoholic beverages, business actors a quo consciously know some regulations regulate it, but do not know exactly what these regulations are. Business actors from the results of the production process believe that it is not under regulations because the materials or equipment we use to process traditional alcoholic beverages, still use only makeshift equipment, namely iron drums, aluminum cauldrons, plastic drums, and jerry cans. Based on this fact, researchers argue that business actors a quo in terms of doing business in the production process seem to stand in the middle ground between knowing and not knowing the regulations or some kind of doubt about whether the production process carried out is against the law or not. Finally, the researcher argued that Food Law No. 18 of 2012 was not implemented by respondents a quo in the production of traditional alcoholic beverages.

Table 4. Fourth Respondent

Name	Year of Business	Address	Status
E F D	2016–present	Kambaniru	Manufacturer

From the interviews, it encourages EFD legal subjects to enter the business of producing traditional alcoholic beverages, because of hereditary



inheritance and to increase family economic income. EFD knows that everything it does must have regulations and in terms of carrying out the production process of traditional alcoholic beverages is not under existing regulations because it is still an illegal item in East Sumba Regency and there are still frequent raids by law enforcement officials. The equipment used is iron drums, plastic drums, aluminum cauldrons, plastic jerry cans, and bowls. From what has been discussed above, researchers argue that in terms of producing traditional alcoholic beverages, business actors do not follow existing regulations, it is due to a lack of legal awareness and disobedience to the law and this is an unlawful act by business actors because business actors consciously know that there are regulations that regulate it.

The equipment used by business actors for the production process is simple equipment that does not guarantee safety for humans and does not meet food sanitation requirements because it uses rusty cauldrons to cook it and other equipment that is not sterilized hygiene which endangers people's lives and health. Therefore, researchers concluded that food law no. 18 of 2012 was not implemented by respondents in the production of traditional alcoholic beverages due to a lack of legal awareness, non-compliance with the law, and lack of human resources.

Table 5. Fifth Responder

Name	Year of Business	Address	Status
P L N	2017-present	Kambaniru	Manufacturer

Initially, respondents carried out an alcoholic beverage production business in 2017 to earn family economic income, send children to school, and open jobs. This means that PLN respondents doing business producing traditional alcoholic beverages is a permanent livelihood. In terms of doing business, business actors know and are aware that everything they do must have regulations because our country is a country of laws but do not know exactly what regulations and about what regulates them. PLN said that producing traditional alcoholic beverages has not followed the standard as stipulated in existing regulations. This is because the production of this traditional alcoholic beverage is only a deposit or hand channel from our parents, and the equipment used is not a specially sterilized material and until now the drink is still considered an illegal drink.

Researchers are of the view that the actions of the subject of law a quo are against the law because even before carrying out the production



process of traditional alcoholic beverages, it turns out that there is a kaddish that regulates food production.

Based on the facts obtained by researchers from 5 respondents who were the object of this study, several inhibiting factors were identified for the non-implementation of Food Law Number 8 of 2012 and other related regulations regarding the obligations of traditional alcoholic beverage production business actors and this is also in line with what has been said by previous Indonesian legal thinkers:

1) Legal Awareness

The legal awareness factor is the first factor that must be owned by traditional alcoholic beverage business actors regarding their obligations in processing these alcoholic beverages. According to Soerjono Soekanto, Legal conscience is a question of the value contained in the human soul over existing laws or norms that should exist. Actually what is offered is a value related to the function of law, not legal consideration of certain facts in the community concerned¹³. Legal awareness is awareness of what we should do and what we should not do, especially towards others¹⁴. Also, Widjaya believes that legal awareness is a requirement for society to be free from life conflicts in a balanced and harmonious life. Legal consciousness is accepted as a perception, not as coercion, even if there is coercion from outside the person or society itself in the form of law¹⁵. Based on the above opinion, legal awareness can be interpreted as the awareness of an individual and community group of legal regulations or norms that apply without coercion. Legal awareness is closely related to legal behavior because if you are aware of the law in high society, the life of legal culture will be better to change the human mindset about the law.

2) Legal Compliance

Obedying the law is obeying the rules or legal norms that apply within the community. Obedience is a positive attitude based on encouragement after gaining good knowledge. From knowing something, man realizes, after realizing that he will be compelled to act. Compliance is based on

¹³ Antonius Sudirman, *Hati Nurani Hakim Dan Putusannya Suatu Pendekatan Dari Perspektif Ilmu Hukum Perilaku (Behavioral Jurisprudence) Kasus Hakim Bismar Siregar* (PT. Citra Aditya Bakti, 2007).

¹⁴ Sudikno Mertokusumo, *Meningkatkan Kesadaran Hukum Masyarakat* (Liberty, 1981).

¹⁵ A W Widjaya, *Kesadaran Hukum, Manusia, Dan Masyarakat Pancasila* (Diterbitkan oleh CV. Era Swasta bekerja sama dengan Pemda DKI Jakarta, 1984).



good education in everyday life. Because education and habits will produce awareness of community obedience. In addition to legal awareness and legal compliance factors, other factors become obstacles in the non-implementation of Law No. 8 of 2012 concerning Food and other related regulations, namely: (a) Low level of education from business actors in Kambaniru Village; (b) The efforts they make have been passed down for generations and have become a habit; (c) Lack of socialization from the local government regarding the production of good alcoholic beverages; (d) There is no coaching and equipment assistance from the relevant government; (e) Lack of supervision from the Government and DPRD.

CONCLUSION

The country of Indonesia is a pluralist country of culture, ethnicity, language, race, religion, and belief, including livelihood. Indonesian people have diverse perspectives on a profession and the results of the profession. Such as the profession (livelihood) of the Kambaniru community that produces traditional alcoholic beverages. The community views the profession as life for them, but according to the state, it is against the law. Because the profession pursued turned out to violate Law No. 18 of the Year on Food and other written regulations issued by the state in which the way Kambaniru people produce traditional alcoholic drinks does not follow food standards, production, and sanitation. So according to researchers, the concrete role of the government to help facilitate the Kambaniru community is very important. The concrete role is to create legal norms that can be accepted unconditionally by and support every economic activity of the community and legal norms that bring benefits, and justice, and protect the community. Because in the end, the state must get revenue in the form of taxes from people who produce alcoholic beverages.

SUGGESTION

1. Traditional alcoholic beverage production entrepreneurs in Kambaniru should comply with the provisions of laws and regulations so as not to harm consumers and business actors themselves.
2. The need for improvement and legal awareness from business actors assisted by the Government by conducting socialization, direction, and supervision to increase legal awareness of a good and correct production process.



3. Expect the Government and PEMDA of East Sumba Regency to compile a Regional Regulation (PERDA) on alcoholic beverages as a legal instrument that brings benefits to the community of traditional alcoholic drinking entrepreneurs.

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