

Review Article

Islamic Community Organization Collaboration in Rejecting Presidential Regulation on Alcohol Investment

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Abstract

Liquor is an alcoholic drink prohibited by some religions because it is considered to have a destructive impact on individuals and society. However, from an economic point of view, it can generate income for the community or the state. For this reason, some parties consider it necessary to legalize alcohol investment. In Indonesia, the president issued Presidential Regulation Number 10 of 2021 concerning the Investment Business Sector. In Appendix III, number 31, it is stated that it is permissible to invest in alcohol with some special requirements. The Presidential Regulation reaped the pros and cons of several groups. Islamic organizations are among those who firmly reject the investment and are trying to advise the president to revise the Presidential Regulation. Finally, the president changed Presidential Regulation No. 10 of 2021 and ratified Presidential Regulation No. 49 of 2021, which abolished alcohol investment based on various considerations, including a suggestion from Islamic organizations in Indonesia. This study seeks to see the efforts of Islamic organizations in Indonesia to reject Presidential Regulation number 10 of 2021 concerning the Investment Business Sector because it legalizes alcohol investment. The method used in this study is normative juridical by analyzing the contents of presidential regulations and fatwas of Islamic organizations in Indonesia. This study concludes that the efforts of Indonesian Islamic organizations to reject alcohol investment, as stated in Presidential Regulation No. 10 of 2021, are one of the considerations for the president to change the presidential regulation and ratify Presidential Regulation No. 49 of 2021.

Keywords: Collaboration; Presidential regulation; Alcohol; Islamic community organization; Indonesia

Introduction

The discussion of liquor is always interesting because it deals with various aspects, namely, religion, history, society, culture, economy, politics, health, and others. Islam has strictly prohibited the consumption, production, and selling of alcohol [1,2]. On the other hand, the term wine appears in the Bible, but drunkenness due to intoxicating fermented wine is condemned. In contrast, controlled alcoholic consumption is observed by the Jewish faith. Interestingly, history had shown that Hindus abstain from alcohol, although some evidence showed otherwise. Lastly, Buddhism en-

courages the avoidance of alcohol [3].

Global alcohol consumption in 2010 was estimated at 6.3 l of pure alcohol per person per annum, and in 2012 some 3.3 million deaths were attributed to alcohol use. The highest levels of alcohol consumption occur in developed countries. For example, in Australia, total alcohol consumption per capita for drinkers is estimated at 19.7 l of pure alcohol for males and 9.0 l for females, and 20% of Australians drink at levels that place them at risk of harm over their lifetime. Alcohol use is particularly pervasive among adolescents and young people, with an Australian national survey reporting that 24% of people aged 15–24 engaged in drinking sessions that risked alcohol related injury at least once a week [4]. Indeed, adolescents and young adults in Australia are more likely than other age groups to drink at risky levels [4]. In 2016, 3.1 billion people, or 57% of the world's population over 15 years old, consumed alcohol, including 2.3 billion who consume it regularly. More than half of the population consumes alcohol in America, Europe and the East Pacific [5].

Alcohol consumption is a major risk factor for the global burden of disease and destroys [6]. Seperti kanker [7] Alcohol contributes substantially to the public health burden in Australia and around the globe. In 2015, approximately 9.2% of disability adjusted life years lost in Australia was attributable to alcohol use. By the same measure, 4.2% of disability adjusted life years lost worldwide in 2016 was attributable to alcohol. Because acute harms such as injuries and poisonings affect infrequent drinkers and heavy drinkers alike, preventive intervention to reduce the considerable human and financial costs associated with alcohol use must balance treatment for individuals who have developed (or are at risk of developing) alcohol use disorders, with primary prevention strategies that reduce risks for all drink-

ers within a population [8].

Alcohol can cause death [9] Alcohol that high concentrated ethanol can cause sodium channels in the synaptosome of the human brain resulting in physical and psychological disorders that cause death, carrying approximately 28,000 people die each year in the United Kingdom due to alcoholic beverages [10]. In Indonesia, the circulation of illegal alcoholic beverages often takes a toll. Research by the Center for Indonesian Policy Studies (CIPS) shows that from 2008 to 2013, there were around 230 victims who died as a result of consuming unlicensed alcohol. Then in 2014-2018, the number of victims doubled to about 540 people [11] in the National Records of the Anti-Alcoholic Movement (Genam), every year, the number of victims who die from drinking reaches 18,000 people [12].

In Indonesia, the offenses in the Criminal Code liquor stipulated in Article 300, Article 492, Article 536-539 who have criminal elements that make drunk, drunk on the masses and sell freely. A criminal offense under the Criminal Code liquor, as stated in Article 300 of the Criminal Code, defined intentionally sell, make drunk and threats of violence to force the alcoholic drink as well as Article 492 of the Criminal Code, which defined a drunken disturbance of public order. Article 536 of the Criminal Code to sell liquor to minors [13]. Not all liquor sellers are punishable by punishment; the law cannot catch people who are not drunk or drunk but still live at home [14].

Each country has a different policy regarding alcohol, depending on the culture of each country. Countries that allow the circulation of alcohol because it is considered part of a culture such as Europe [5] Korea, [15] Japan, [16] Australia, America [17] with regulations that limit the distribution of alcoholic beverages including by restricting the age of teenagers to be able to buy alcoholic drinks, limiting outlets, requiring parental supervision [18] and the application of alcohol warning labels (AWLs) on containers of alcoholic beverages [19] Alcohol is strictly forbidden in many modern Muslim countries, quite a few, from Tunisia and Turkey to Syria, Egypt and Indonesia [20].

In Indonesia, the majority of the population who are Muslim understand that alcohol is prohibited [21] However, the circulation of liquor still occurs. Liquor issues in Indonesia are increasingly widespread and alarming; it can be seen from the many victims who died due to alcohol either because of high doses or for liquor mixture or more often called adulterated. Liquor sellers who distribute liquor do not have a business license to sell liquor. The seller does not own permits because of various things such as complex procedures and costs that do not cost the reason liquor sellers do not have permission. Seller liquor to survive must rely on his business of selling liquor [13].

In addition to economic factors, cultural factors also affect the circulation of liquor in Indonesia. In some areas, such as in Ternate, although there are already local regulations regarding alcohol [22] a lot of alcohol trade is carried out illegally due to socio-cultural factors. In the tradition, if

there is a party, the host will provide alcohol as one of the dishes [23]. In Minahasa, a rat stamped liquor is served in every gathering. It is a symbol of intimacy and harmony [24]. In Southeast Sulawesi, there is a special drink called Pongasi [25]. In Kupang NTT, there is a local alcoholic drink called Sophia [26] and drinking it has become a tradition [27] Sophia liquor has cultural, magical, economic, and social kinship values in the life of the Manggaraian people inherited from generation to generation [28].

The need for alcohol makes the production of alcohol an essential part of the economy. The data states that the export and import of alcohol includes international trade that benefits the country. Alcohol trade has its difficulties in international business because countries have different views on alcohol which are sometimes influenced by religion.

The philosophical foundation of most of the CIS countries lies in Greek and Western concepts where alcohol was an accepted product. Yet, it was almost impossible to struggle against household alcohol production. In the CIS's central Asian members (Kyrgyz Republic, Tajikistan, Uzbekistan, Turkmenistan and Kazakhstan), the Muslim religion, introduced centuries ago, became the basis of many cultural and philosophical values where the consumption of alcohol is discouraged [29].

Indonesia has been importing alcoholic beverages in recent years. Based on UN Comtrade data, in 2018, it was the highest value with US \$ 40.44 million, whereas, in 2015, the matter was only US \$ 10.09 million, meaning that it has increased more than four times in 3 years. Wine with the HS 2204 code was the largest with US \$ 18.65 million, followed by <80% alcohol (HS 2208) with US \$ 18.54 million. Both have a market share of 46% each. The two types of alcohol, in 2018, there was also beer from the malt with US \$ 2.66 million, vermouth with US \$ 0.02 million, and other fermentation with US \$ 0.32 million. Indonesia's imports, specifically from the European Union, are also massive, even dominated by this region. In 2019, Indonesia's alcohol imports reached US \$ 27.26 million, the largest of which was wine with US \$ 14 million with a market share of 14 percent, and alcohol <80% is under US \$ 10.69 million with a market share of 39%. The data proves that the most significant import of alcohol to Indonesia is from wine and drink <80% as a liquor category (alcohol). The graph always increases from year to year, the highest in 2018, and decreased one year later. Other types of alcohol tend to stagnate [30].

With extensive alcohol business opportunities, several countries provide policies on alcohol investment. Indonesia sees this opportunity. Indonesia is a country where most of the population is Muslim, but it is an archipelagic country. There are several areas where the population is dominated by non-Muslims and allows alcohol, such as Bali, NTT, Papua, North Sulawesi. That area produces traditional liquor production. To support their economy, Jokowi issued presidential regulation number 10 of 2021, which legalized alcohol investment in the four regions [31].

The Presidential Regulation raises pros and cons in various circles. Those who support the presidential regulation say that investment in alcoholic beverages will open up employment opportunities, increase state income, and control uncontrolled circulation.

Meanwhile, those who refuse to invest in alcohol state that the harm caused by alcohol will far outweigh the benefits. It is better to cancel the opening of alcohol investment, [32] because it will increase the circulation and consumption of alcohol in Indonesia [33]. Among the cons are Islamic religious organizations in Indonesia such as MUI, NU, Muhammadiyah, and PERSIS. Alcohol is a sensitive commodity in a country where the majority of its citizens are Muslims [34,35].

Based on the background described above, the study of alcohol investment in the perspective of fatwas of religious organizations in Indonesia.

Methods

The method used in this research is documentation with a normative juridical approach. This research is a conceptual review that uses library research methods sourced from laws, journals, books, and authoritative documents and is still relevant to the study of alcohol investment. This study uses a descriptive method with a qualitative approach that explains Indonesia's policy to make alcohol investment an instrument to achieve national interests in economic matters and to describe the response of religious organizations in Indonesia regarding alcohol investment regulations.

Alcohol Investment in Presidential Regulation of the Republic of Indonesia Number 10 of 2021

The widespread circulation of alcoholic beverages, which have a vast market and weak supervision over alcoholic drinks, has resulted in many business actors or sellers of alcoholic beverages committing fraud. One of them is mixing alcoholic beverages with ingredients that are not supposed to be consumed by consumers. Many of the consumers' lives are threatened as a result of consuming these mixed alcoholic beverages.

There are several regulations in Indonesia regarding the restriction of alcoholic beverages: including Presidential Regulation Number 74 of 2013 concerning Control and Supervision of Alcoholic Beverages; Regulation of the Minister of Trade Number 20 of 2014 concerning Control and Supervision of the Procurement, Circulation, and Sales of

Alcoholic Beverages and its amendments to the latest, namely Regulation of the Minister of Trade Number 25 of 2019; Papua Province Regional Regulation Number 15 of 2013 concerning Prohibition of Production, Distribution, and Sales of Alcoholic Drinks which has been updated through Papua Province Regional Regulation Number 22 of 2016; and Regulation of the Governor of East Nusa Tenggara Number 44 of 2019 concerning Purification and Management of Traditional Alcoholic Drinks Typical of East Nusa Tenggara or known as *sopi*.

Some areas in Indonesia make alcoholic beverages part

of the culture of people's lives. That can be seen from the presence of several local alcoholic drinks, both for recreational and ritual purposes, such as Batak palm wine, Balinese wine, *sopi* from Maluku, *moke* from East Nusa Tenggara and so on [34].

The President of Indonesia, Joko Widodo, opened up investment opportunities in the alcoholic liquor industry, alcoholic beverages containing wine, and drinks containing malt. Previously, that three types of investment were included in the closed investment business sector. The new rules are incorporated in Presidential Regulation Number 10 of 2021 concerning the Investment Business Sector. However, two requirements must be met by investors who want to place their capital in the three business sectors. First, new investments can be made in 4 provinces, namely Bali, East Nusa Tenggara, North Sulawesi, and Papua, considering local culture and wisdom. Second, investment outside the province must obtain a stipulation from the Head of the Investment Coordinating Board (BKPM) based on the governor's proposal [36].

Furthermore, liquor and alcoholic traders can only trade in retail (street) with a distribution network and a specially provided place. The alcohol industry is included in the business field that foreign investors can manage, domestic investors, cooperatives, and Micro, Small, and Medium Enterprises (MSMEs). Foreign investment can only carry out its business activities on a large scale with more than IDR 10 billion investment value, excluding land and buildings. In addition, foreign investors must take the form of a limited liability company (PT) based on Indonesian law and domiciled within the territory of the Republic of Indonesia.

Responses of Islamic Community Organizations in Indonesia regarding Alcohol Investment in Presidential Regulation Number 10 of 2021

Presidential Regulation Number 10 of 2021 received rejection from many parties, including MUI, NU, and Muhammadiyah. The three Islamic organizations are among the most prominent religious organizations in Indonesia [37] MUI is an acronym for the Indonesian Ulema Council. MUI was established on 7 Rajab 1359 Hijri/26 July 1975 in Jakarta. MUI is an institution that accommodates *ulama*, *zu'ama*, and Islamic scholars in Indonesia to guide, foster, and protect Muslims in Indonesia [37].

Muhammadiyah is one of the most prominent Islamic organizations in Indonesia. Muhammadiyah is an Islamic social movement that is multifaceted; its activities are related to the fields of religion, education, health, social, and economy and make an essential contribution to the political sphere of the state [38].

Nahdlatul Ulama is abbreviated as NU, which means the revival of the *ulama* [39]. NU is an organization that Islamic religious scholars initially founded before the birth of NU in Surabaya in 1926 [40].

The rejection of alcohol investment in the Presidential Regulation was conveyed by MUI, Muhammadiyah, and NU figures in various ways, including through the mass media.

Chairman of the Indonesian Ulema Council (MUI) Asrorun Niam asked the government to revoke Presidential Regulation (Perpres) Number 10 of 2021 to realize public order and the welfare of the Indonesian people prominent. One of the recommendation points from the MUI Fatwa Number 11 of 2009 concerning the Use of Alcohol/Ethanol for Drugs, [41] is that the government prohibits the circulation of alcoholic beverages in the community.

One way to do this is by not giving permission to establish a factory that produces the drink and not giving permission to trade it [42].

This opinion was confirmed by the Central Indonesian Ulema Council (MUI), Cholil Nafis. He stated that legalizing the investment of liquor (alcohol) is equivalent to supporting the circulation of alcohol which is unlawful [43].

The MUI opinion is based on the MUI fatwa No. 11 of 2009. In that fatwa, MUI recommendations to the Indonesian government that prohibit the circulation of alcoholic beverages in the community by not giving permission to establish a factory that produces the drink, not giving permission to trade it, and taking legal action against it. Firm parties who violate these rules [41].

Agreeing with MUI, the General Chairperson of the Nahdlatul Ulama (NU) Executive Board, KH Said Aqil Siroj, assessed that the policy would make investors compete to build liquor factories. The disadvantages of which outweigh the benefits. The establishment of a new factory or an existing one will encourage entrepreneurs to seek consumers for the alcoholic beverages they produce for profit [44]. Government policies must always be based on the benefit of the people, based on the rules of fiqh "Tasharruf al-imam 'ala ar-ra'iyah manuth bi al-mashlahah" [45].

Meanwhile, the chairman of PBNU Marsyudi Syuhud said, although there are benefits to alcohol, namely economic benefits, alcohol has more harm than financial benefits. Alcohol investment is contrary to maqashid al-shariah, namely *hifz an-nafs wa al-aql*, guarding the soul and mind [46].

Agreeing with this, the Bahtsul Masail Institute (LBM) of NU DKI Jakarta stated that the government should not invest shares in industries and places of business that are illegal [47].

The General Chairperson of the Muhammadiyah Central Executive, Haedar Nasir, said that economic development should not conflict with religion, Pancasila, and the noble culture of economic growth. For Muslims, alcohol in its various forms, such as gambling, is forbidden. The prohibition is absolute, non-negotiable, and we believe that the government has and respects and even acknowledges the existence of religious values for all religions of spiritual aspirations [48]. Based on the Muhammadiyah tarjih law, alcohol is haram because it includes drinks containing 5% and above alcohol content [49].

According to Prof. Dr. Abdul Mu'ti Med, General Secretary of the Muhammadiyah Central Executive, the government's considerations in making policies should consider

economic aspects and social and moral aspects that are part of the character and identity of nature and uniqueness Indonesian nation [50].

Elimination of Alcohol Investment in Presidential Regulation Number 49 of 2021

The President of Indonesia, Joko Widodo, has decided to revoke the attachment to the Presidential Regulation regarding the opening of new investments in the alcohol-based liquor industry, which has invited pros and cons among the public. Joko Widodo himself announced this revocation, in a brief statement Tuesday, 2/3/2021 at the Merdeka Palace in Jakarta, which was broadcast on the official account of the Presidential Secretariat on YouTube: "After receiving inputs from ulama, MUI, Nahdlatul Ulama, Muhammadiyah, and other mass organizations, as well as other religious figures, as well as inputs from the provinces and regions, I at this moment convey, I have decided that the attachment of the Presidential Regulation regarding the opening of new investments in the liquor industry containing alcohol is revoked" [11].

In Article 2 paragraph (2) letter b of Presidential Regulation Number 49 of 2021, it is stated that the business fields declared closed for investment are the Alcoholic Beverage Industry (KBLI 11010), the Alcoholic Beverage Industry: Wine (KBLI 11020), and the Alcoholic Beverage Industry: Malt (KBLI 11031).

The revision of the Presidential Regulation received positive responses from various parties, including Islamic community organization. Deputy Chairperson of the MUI, Anwar Abbas, stated: "MUI considers this to be very appropriate and in line with the constitutional mandate where the state and government must protect its people both regarding religion and belief as well as the health, economy, and morality of the nation" [51].

The General Chair of PBNU, KH Said Aqil Siroj, stated that "PBNU expresses its appreciation and gratitude to the government for its fast and responsive response to input from various parties taking into account the common good" [52].

On the other hand, The Secretary General of the Association of Indonesian Beverage Importers and Distributors (APIDMI), Ipung Nimpun, stated: "The revised regulation shows that the government is inconsistent with the rules made" [53].

The activity of community organizations conveying their inspiration to influence the president in making policies indicates the close relationship between politics and religion in Indonesia. The role of civil society organizations is to control government policies and provide advice and input. That can only be used as a material consideration in making government policies.

The existence of the MUI seen from the social aspect is considered very important amid the reality of the plurality of Indonesian Islamic society. The role of MUI is highly expected to unite this plural society. In line with its function

and role as an intellectual, MUI has a significant mandate to accommodate the capabilities or strengths that exist in it for the benefit of society in general and Muslims in particular. MUI is a non-governmental organization outside the government [54].

There is a reciprocal relationship between an Islamic community organization and state institutions.

The MUI, through law and practice, is the primary source of guidance for the government on the interpretation of Islam. The MUI policy of establishing itself as an unofficial mufti has been accepted willingly by state authorities: when Islam speaks to the government, it is MUI's voice that is heard. The state is becoming increasingly receptive to the role of the MUI and giving space to the MUI in interpreting the constitution. That indicates that MUI has a broader role than before. The MUI fatwa and its advice occupy an increasingly strong position as sources and references in developing laws and regulations [55]. The MUI suggestion to revise the Presidential Regulation on investment in liquor proves this.

In addition, the MUI body is given special status through legislation to deliver definitive interpretations of Islam in some administrative regions. MUI is governed by a council of representatives from various Islamic organizations in Indonesia, such as Muhammadiyah and NU [55] Muhammadiyah and NU [56] are the two organizations that are the guardians of Islamic moderation in Indonesia [57] Nahdlatul Ulama (NU) and Muhammadiyah, the two largest Indonesian Islamic organisations [58].

In their understanding of fiqh, the majority of the Indonesian Muslim community is affiliated with the two largest Islamic community organizations. These two Islamic community organizations have different community bases. With its cultural approach, NU is widely adopted by rural communities, while Muhammadiyah, with its *tajdid* (renewal) approach, grows in urban communities. The difference between the NU and Muhammadiyah approach models enriches Indonesia's complementary fiqh treasures with the same goal of realizing a happy Indonesian Muslim community in this world and the hereafter [59].

Community organizations and non-governmental organizations are manifestations of the ongoing civil society that functions to bridge, fight for, and defend the people's interests from the domination of capital interests and practical politics. With the power of collectivity, capacity, and mass organization, Community organizations, and NGOs supervise and engage in development policies or programs for the public interest [60].

In Indonesia, the role of community organizations has also received recognition, especially for the participation of community organizations in dealing with various social and political issues such as democracy, good governance, protection of human rights, advocacy, development, environmental sustainability, empowerment, health, education and improving the welfare of life [61].

The activeness of Islamic community organizations (MUI,

Muhammadiyah, and NU) in rejecting presidential regulation number 10 of 2021 indicates the participation of Islamic community organizations in overseeing government policies and conveying public aspirations. Investing in liquor is profitable from an economic point of view but endangers health, morals, and religion.

Fatwa is a legal product with a different legal position and power from one Muslim country to another. This difference is influenced by the legal system, government, and state administration adopted by a country. Some countries place fatwas or fatwa making institutions within the legal system and government structure, while some place them outside the legal system and government structure. That results in the position and legal power of the fatwa being different for each country. Fatwas or fatwa institutions in the legal system or network of a government have a more binding legal position and force than those outside the legal system and government.

Discussion

The state of Saudi Arabia, for example, explicitly includes a fatwa in article 45 of the country's constitution, which reads: The source of fatwas in the kingdom of Saudi Arabia is the Book of Allah and the Sunnah of His Messenger. In Brunei, the fatwa institution is included in the government system, so the Mufti in Brunei seems less independent because there is interference from the Sultan in making decisions. Still, the results of fatwa products in Brunei are very binding. In Malaysia, the Mufti is the ruling body after the Sultan in religious matters. The Mufti of Malaysia has a more independent opinion. However, the decision is considered valid if it gets the approval of Duli Yang Maha Mulia Sultan or Yang di Pertuan Agong at the time of promulgation of the fatwa; the fatwa product is also binding. While in Egypt, the institution for fatwas is separated from the legal system or government. Still, it is one of the main pillars of Islamic institutions with Al-Azhar Al-Sharif, Al-Azhar University, and the Ministry of Endowments. The position of the fatwa in Egypt is similar to the condition in Indonesia that fatwa products are binding when they become positive law. The Indonesian Ulema Council (MUI) is one of the institutions trusted to issue fatwas by the government, but the position of this institution is outside the legal system and government. However, several fatwas produced, especially those related to sharia economic operations in Indonesia, are often a source of positive law in Indonesia. When the fatwa has become a positive law, the public must obey the fatwa [62].

Conclusion

The role of Islamic organizations, namely MUI, NU, and Muhammadiyah, in responding to the Indonesian presidential regulation Number 10 of 2021 is to refuse to allow alcohol investment. The Islamic organizations conveyed the rejection through various forums and mass media. The refusal is based on the goal of sharia, namely, the social benefit. Suggestions for revisions to presidential regulations from multiple groups, including MUI, Muhammadiyah,

and NU, were well received by the government, resulting in the issuance of Presidential Decree No. 49 of 2021. That shows that suggestions from community organizations in Indonesia to the government can influence government policies.

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