

DISTRIBUTION LEGALITY OF ARAK AS A BALI TRADITIONAL DRINK

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Abstract

This study aims to understand and determine the distribution arrangements for arak as a traditional Balinese drink. The research method uses a normative legal research type, the type of approach uses a statutory approach and a case approach. The legal materials used are sourced from primary legal materials in the form of related legislation, while other sources are from literature, journals and internet media. The technique of collecting legal materials uses document study techniques and is processed in a qualitative descriptive way. The findings of the research, specifically the regulation of the distribution of arak as a traditional Balinese drink, are regulated in the Governor of Bali Province Regulation Number 1 of 2020 concerning the Governance of Balinese Fermentation and Distillation Drinks as a form of governance for the distribution of Balinese arak. The legality of distribution of arak as a traditional Balinese drink is carried out by producers through distributors, then carried out by sub-distributors and distributed to direct sellers.

Keywords: Arak, Bali, Drinks, Legality

1. INTRODUCTION

Arak Bali is a type of liquor that originates from Bali. It is recognized for having a high alcohol content and may be consumed by a wide variety of people. Balinese Arak has become a typical Balinese traditional drink, not only in local Bali, but is known at the national level and even at the international level. Arak drink is typical of Bali because arak drink has been consumed for generations or from generation to generation without interruption. Because it has been consumed for generations, Balinese arak has become an icon of liquor originating from Balinese culture. As a cultural icon, the Balinese arak drink is continuously being preserved (Mao, 2022).

This consistent preservation has given rise to the uniqueness of the Balinese arak drink. Even though it can be intoxicating, until now *Arak Bali* is still popular for consumption (Muku & Sukadana, 2009). Consumption of arak, not only among adults and the elderly, but has experienced rapid development. Its development, in which the consumption of *Arak Bali* has penetrated among teenagers and even among children who are still underage. Even though this arak drink contains high alcohol, it is still popular, and has even become the addiction of certain people. In the past, *Arak Bali* was a prohibited drink, because it contained high alcohol, different from today, where *Arak Bali* is given legality in its distribution.

The legality of *Arak Bali* is contained in the Governor of Bali Regulation Number 1 of 2020 concerning the Management of Balinese Fermented and/or Distilled Beverages (hereinafter referred to as the Governor Regulation on the Management of Fermented Beverages). Balinese arak drink, now has a legal basis in its management. The management of Balinese arak drinks includes the processing of raw materials, production and distribution.

As in Article 2 of this Governor Regulation (*Pergub*) it stipulates that such Governor Regulation is intended to carry out, protect, maintain, utilize for cultural interests, customs and religious ceremonies as economic resources. In addition, it is also intended to carry out guidance, control and supervision of the process of procuring raw materials, production, distribution, control and supervision of Balinese typical fermented and/or distilled drinks.

Based on Article 11 paragraph (1) of the Governor Regulation on Fermented Beverage Management, it is stated that the distribution of Balinese fermented and/or distillate drinks is carried out by producers to distributors. Furthermore, in paragraph (2) it states that the distributor as referred to in paragraph (1), distributes Balinese typical fermented and/or distilled drinks to sub-distributors. Then, the sub-distributors distribute Balinese-style fermented and/or distillate drinks to direct sellers in accordance with the provisions of the laws and regulations in paragraph (3). These provisions provide an understanding that the distribution of *Arak Bali* is carried out by the producer to the distributor, then the distributor distributes it to sub-distributors and the sub-distributor distributes it to direct sellers. This distribution flow means that the distribution of *Arak Bali* is carried out in many stages. The stages of distribution regulated in this regulation are considered to be very complicated because it starts with artisans, then producers, distributors, sub distributors and direct sellers. There are five steps for distributing *Arak Bali*. The distribution of *Arak Bali* is very complicated. The raw materials provided by the craftsmen are bought very cheaply by the producers, then, the producers sell at high prices to the sellers and the sellers will also sell at a higher price to the buyers. Hence, the price of *Arak Bali* will be expensive.

Continuing with the provisions above, Article 12 of this Governor Regulation stipulates that:

- 1) Balinese fermented and/or distilled drinks can only be sold in certain places in Bali, outside Bali and/or for export in accordance with the provisions of laws and regulations.
- 2) Bali typical fermented and/or distilled drinks as referred to in paragraph (1) are prohibited from being sold to:
 - a) youth arena, street vendors, lodgings, campgrounds;
 - b) places adjacent to places of worship, educational institutions, government institutions and health facilities; and
 - c) places as stipulated in the provisions of laws and regulations.
- 3) Balinese fermented and/or distillate drinks as referred to in paragraph (1) are prohibited from being sold to minors and/or school children.

The provisions above provide permissibility and impossibility in the distribution of *Arak Bali*. Balinese Arak can only be sold in certain places (Ardyanti & Tobing, 2017). In this provision, *Arak Bali* may not be sold in various places in accordance with paragraph (2) and this prohibition also applies to minors and/or school children. This prohibition became a permissibility of the Provincial Government of Bali in relation to the distribution of *Arak Bali*.

As a comparison with previous research, namely research conducted by Putu Hendrwan Pranata and Pande Yogantara S., with the title study of the Law of Liquor Circulation in Bali After the Issuance of Bali Governor Regulation No. 1 of 2020, with the formulation of the problem is how is the legal protection for minors against the distribution of local liquor in Bali? and how is the process of controlling and supervising business actors selling local

liquor in Bali in terms of Bali Governor Regulation No. 1 of 2020? (Putu Hendrawan Prananta, 2021). Then research by RP & Atmaja (2016), entitled “*Pengaturan Minuman Beralkohol Golongan A Bagi Pelaku Usaha Toko Modern Minimarket*”. The formulation of the problem is what is the policy of the minister of trade in providing legal certainty for modern store business actors regarding the regulation of class A alcoholic drinks?, and research by Zanivah et al. (2016), with the title “*Pengendalian Peredaran Minuman Beralkohol di Wilayah Hukum Polresta Denpasar*”, with the formulation of the problem is how is the circulation of alcoholic beverages in Denpasar? and how to control traditional alcoholic drinks in Denpasar?. The three studies, of course, have differences and similarities with this research. The similarities are that they are both related to alcoholic beverages and also traditional alcoholic drinks. While the difference is in the type of research used is a type of empirical research, while this research takes a normative type. Another difference lies in the research study which is more directed to the policies of the minister of trade and the Governor of Bali Governorate. This research also examines the Governor of Bali, but related to the distribution of *Arak Bali*, while previous research related to the consumption of *Arak Bali* by minors and their supervision. Therefore, this legal research study is very different from previous research studies. The purpose of this research is to know and understand the distribution of the distribution of Bali Arak Drinks as traditional Balinese drinks based on the frequency of governance of fermented drinks and to understand and know the form of the ability of distribution of Arak Bali as traditional Balinese drinks based on Pergo of Governance of fermented drinks.

2. RESEARCH METHOD

This type of normative legal research was the choice in this research. Legal research was a process of finding legal rules, legal doctrines and legal principles that can answer the legal problems that were determined with proper results (Mahmud, 2016). Legal research seeks to found the truth of coherence, namely whether the rule of law was in accordance with legal norms and whether the legal norms containing obligations and sanctions were in accordance with legal principles (Mahmud, 2016). The approach used was a statutory approach and a conceptual approach (Diantha & SH, 2016). The sources of legal materials used were primary sources of legal materials, in the form of the Governor Regulation on the Management of Fermented Beverages, secondary legal materials in the form of literature and journals related to the arrangement of the distribution of *Arak Bali* as a traditional Balinese drink based on the Governor Regulation on the Management of Fermented Drinks and the legality of the distribution. *Arak Bali* as a traditional Balinese drink based on the Governor Regulation on Fermented Beverage Management. The technique for collecting legal materials used a document study technique. Processing of legal materials was processed by qualitative analysis.

3. RESULT AND DISCUSSION

3.1. Arrangements for the Distribution of Bali Arak Drinks Based on the Governor Regulation on Fermented Beverage Management

Arrangements for the distribution of *Arak Bali* are listed in the provisions of Article 7 paragraph (2) of the Governor Regulation on Fermented Beverage Management which states that the production of raw materials is sold to cooperatives formed by artisans. Furthermore, in paragraph (3) it stipulates that cooperatives are required to purchase raw materials from artisans, and cooperatives are required to sell raw materials to producers. The provisions in paragraphs (2) and (3) regulate the distribution of *Arak Bali* starting from artisans, cooperatives and producers. There are three places that must be passed in the distribution of *Arak Bali*.

Arrangement for the distribution of *Arak Bali* also regulated in the provisions of Article 11 of this Governor Regulation as mentioned above (Sugiarta et al., 2022). In the provisions of this article, there are additional places for distribution of *Arak Bali*. The addition is in distribution to distributors, sub distributors and direct sellers. This provision adds to the distribution of *Arak Bali* by producers. Producers distribute Balinese Arak drinks to distributors, then distributors distribute Balinese Arak drinks to sub-distributors and sub-distributors distribute Balinese Arak drinks to direct sellers. Thus, there are three stages that must be passed in distributing *Arak Bali*.

Referring to the previous provisions, namely Article 7 paragraph (2) and paragraph (3) of the Governor Regulation on the Management of Fermented Drinks, there are three stages in the distribution of *Arak Bali*, while Article 11 of the Governor Regulation on the Management of Fermented Drinks also includes three stages. If these stages are combined, then there are six stages that must be passed in distributing Balinese arak drinks. The stages are starting from artisans who provide raw materials for *Arak Bali*, then cooperatives as places to sell these raw materials, thirdly producers as places for selling raw materials received by cooperatives, fourth, distributors as companies that distribute *Arak Bali* drinks by producers, fifth sub distributor as a company appointed by the distributor to distribute Balinese arak drinks, and the sixth is a direct seller as a company that sells Balinese arak drinks to consumers. Consumers are the last place in distributing *Arak Bali*.

Observing the six stages of distribution of the *Arak Bali* drink, gives the impression that it is too complicated, even creates the impression that it is taking too long or takes too much time to reach consumers. In addition, artisans can only distribute *Arak Bali* to cooperatives. If we look at the position of the cooperative, it is only a stopover from artisans to producers. The producer in question is a company that has an industrial business license, distribution permit and identification number of the excisable goods entrepreneur who further processes raw materials from artisans purchased from the cooperative (Yuanda et al., 2018). These raw materials are processed using technology to produce *Arak Bali*.

Arrangements for the distribution of *Arak Bali* are intended as guidelines in carrying out protection, maintenance, utilization for cultural purposes, customs and religious ceremonies as economic resources and carrying out guidance, control and supervision of the process of procuring raw materials for production, distribution, control and supervision of *Arak Bali*. This arrangement of Balinese arak drinks aims to utilize Balinese arak drinks as an economic resource to improve the welfare of Balinese krama. Then strengthening and empowering *Arak Bali* raw material artisans, realizing the management of raw materials, production,

distribution, control and supervision of *Arak Bali* drinks, also aims to build production standardization to ensure the safety and legality of *Arak Bali* drink products, and protect the people from food that does not meet the quality and security.

The goal that the Governor Regulation wants to achieve is a very noble goal to empower wine craftsmen in Bali and improve the welfare of wine craftsmen in Bali (Putra et al., 2022). If arak artisans in Bali can distribute their arak to cooperatives, then it is hoped that the artisans will be paid according to the price agreed upon or specified in this Governor Regulation. However, the price of raw materials is definitely cheaper than the price of arak that has been packaged by the producers. Producers can sell Balinese arak at very high prices and even raise the price of Balinese arak at any time. What's more, if the producers sell the *Arak Bali* to foreigners, the profits will be fantastic. The profits obtained by producers, distributors, sub distributors and direct sellers are higher than the profits obtained by wine craftsmen. Arak craftsmen only get a very minimal profit because what they sell is the raw material, not the arak. Besides that, artisans also do not get permission to produce wine. Craftsmen are only allowed to sell raw materials, and even then they have to sell it to the cooperative, that's all that can be done by wine craftsmen. Arak craftsmen as indigenous people are not allowed to produce arak drinks, nor are they allowed to sell directly to consumers. The policy in this Governor Regulation, especially related to wine craftsmen, provides an understanding that arak craftsmen are regulated to only produce arak as raw material, not to produce arak drinks. Craftsmen are left with craftsmen who are only obliged to supply raw materials to cooperatives, not to producers, distributors, sub-distributors or to direct sellers, let alone consumers.

3.2. Forms of Legality of Bali Arak Distribution Based on the Governor Regulation on Fermented Beverage Management

The legality of the distribution of *Arak Bali* begins to be stated in Article 8 of the Governor Regulation on Fermented Beverage Administration that the artisans or cooperatives carrying out the transportation of raw materials must be accompanied by a travel document from the village head or local *lurah* stating the name of the artisans, type and amount of raw materials being transported (Syartanti & Pidada, 2021). The provisions of this article provide a clear understanding that if artisans or cooperatives wish to transport raw materials, they must first obtain a travel document issued by the local *lurah* or village head. By bringing a travel permit, the artisans or cooperatives can transport raw materials, conversely if the artisans and cooperatives do not get a travel permit, the artisans or cooperatives are not allowed to transport raw materials. Thus, the essence of this provision lies in the travel document that must be owned by artisans or cooperatives.

Travel permits are a form of legality of the transportation of raw materials carried out by artisans or cooperatives. The travel document contains the name of the craftsman, the type of raw material transported and the amount of raw material transported and is affixed with the signature of the village head or *lurah* and at the same time the seal of the village head or *lurah*. This form of legality is a formal form that must be fulfilled by craftsmen or cooperatives. In other words, a travel document issued by the village head or craftsmen is a form of formal legality granted by this Governor Regulation to craftsmen or cooperatives. The form of formal legality given determines the legitimacy of the distribution process for the raw materials for Balinese arak. If the artisans and cooperatives have pocketed a travel

permit from the village head or *lurah*, So the raw materials are transported is legitimate or legal raw material, while if the coordinates and cooperatives do not pursue the road, then the raw materials are transported illegal or unauthorized raw materials.

Another form of legality is given to producers of Balinese arak fermented drinks. As stipulated in Article 1 point 11 of the Governor Regulation on Fermented Beverage Management that Balinese typical fermented and distillate beverage producers are companies that have industrial business permits (IUI), distribution permits and excisable goods entrepreneur identification numbers (NPPBKC) which further process raw materials from artisans purchased from the cooperative. The legality granted by this Governor Regulation to producers is given in the form of industrial business permits, distribution permits and excise taxable entrepreneur identification numbers. A distribution permit is an approval for the results of a processed food assessment issued by the head of the BPOM for the purpose of circulating processed food (Indrayati, 2016). There are three forms of legality given to producers of Balinese arak fermented drinks. This form of legality is also a requirement to become a producer. If anyone seek to produce Balinese arak fermented drinks, he must have two permits and an excise tax identification number. If the company has an industrial business license, a distribution permit and an excise identification number, then the Balinese arak fermented drink becomes legal for circulation or if the Balinese arak drink is produced by a company that has a license and is subject to excise duty, then the Balinese arak drink is a legal drink, whereas if the company that produces the Balinese arak drink does not have a license and an excise identification number, then the Balinese arak drink is an illegal drink or becomes a prohibited drink or may not be distributed (Syartanti & Pidada, 2021).

Other legalities are given to distributors as a company that is required to have a license. Article 1 point 16 states that a distributor is a company that has a business permit for trading alcoholic beverages (SIUP-MB) in accordance with statutory provisions to distribute Balinese fermented and distillate drinks to sub-distributors. A business license for trading alcoholic beverages is a formal requirement for distributor companies. This formal legality must be fulfilled or is an absolute requirement for distributors in distributing Balinese Arak drinks. If the distributor company already has the permit, then the *Arak Bali* being distributed is a legal drink (Ratih & Habibah, 2022), whereas if the distributor company does not have a permit, then the *Arak Bali* being distributed is illegal or becomes a prohibited drink because it is prohibited by this Governor Regulation. Thus, the distributor company is required to have a business license for trading alcoholic beverages before distributing it to sub-distributors and to direct sellers. The granting of this legality is a form of legality granted by the Governor's Regulation to distributors only. Unlike the form of legality given to producers and craftsmen. The distributor company only needs to have a business license for trading alcoholic beverages, so they can distribute Balinese arak drinks.

Based on the form of legality specified in this Governor Regulation, there are five types of legality. The legality granted by the Governor is formal legality in accordance with the provisions of this Governor Regulation. The five formal legalities are:

- 1) Travel Certificate;
- 2) Industrial Business License (IUI);
- 3) Distribution Permit; and
- 4) Excise Goods Entrepreneur Identification Number (NPPBKC); and

5) Alcoholic Beverage Trading Business License (SIUP-MB).

Travel permits are the legality given to artisans and cooperatives, then the legality for producers is given in the form of Industrial Business Permits, Distribution Permits, and Excisable Goods Entrepreneur Identification Numbers, and the legality given to distributors is legality in the form of Permits for Trading Alcoholic Beverages. The five forms of legality provided greatly determine the legitimacy of the distribution of *Arak Bali*. Whether or not *Arak Bali* is illegal, is determined by the five forms of legality. This form of legality cannot be separated from local wisdom which has become the main basis for legalizing *Arak Bali* (Jessica, 2021). The local wisdom that is used as the main foundation is *Nangun Sat Kerthi Loka Bali* which means maintaining the sanctity and harmony of Bali's nature and its contents to create a prosperous and happy Balinese life.

4. CONCLUSION

Arrangements for the distribution of arak as a traditional Balinese drink are regulated in Article 7 paragraph (2), Article 7 paragraph (3) and Article 11 of the Governor Regulation on the Management of Balinese Fermented Drinks as a form of governance for the distribution of Balinese arak drinks. The arrangements are very clear, however, welfare for artisans and cooperatives needs to be paid more attention to in order to realize the vision of the Balinese *Nangun Sat Kerthi Loka*. The governor regulation is the legality of the distribution of Balinese arak drinks as a traditional Balinese drink which is carried out by producers through distributors, then carried out by sub-distributors and distributed to direct sellers. As a form of legality, the distribution of *Arak Bali* is carried out in five forms, namely in the form of travel documents as a form of legality given to artisans and cooperatives, then legality for producers is given in the form of Industrial Business Permits, Distribution Permits, and Excisable Goods Entrepreneur Identification Numbers, and legality given to distributors is legality in the form of Alcoholic Beverage Trading Business Permits. For direct sellers and retail sellers, this legality is not required because this Governor Regulation does not oblige direct sellers and retail sellers to have a permit or distribution permit. This form of legality is a form of formal legality that must be owned by artisans, cooperatives, and distributors in distributing *Arak Bali*.

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