



THE CONTROVERSY OF ALCOHOL REGULATION IN YOGYAKARTA: A STUDY OF *MAQĀṢID AL-SHARĪ'AH* AND *QAWĀ'ID FIQHIYYAH*

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Abstract: This study examines the dynamics of liquor control in Yogyakarta by highlighting two main regulations, namely Yogyakarta Municipal Regulation Number 7 of 1953 and DIY Regional Regulation Number 12 of 2015, from the perspective of Islamic criminal law. The main focus of the study is how the two regulations are understood through the principles of *qawā'id fiqhiyyah* and the concept of *maqāṣid al-sharī'ah*. The 1953 Regional Regulation, which legalized the sale of liquor through a licensing and taxation system, is seen as inconsistent with the principle of preventing harm and has the potential to legitimize practices that damage the mind, soul, and morals of society. In contrast, the 2015 Regional Regulation is more relevant because it emphasizes the supervision, control, and prohibition of mixed liquor that clearly threatens the safety of life. The analysis shows that the new regulation is more aligned with the objectives of sharia in protecting the five main aspects of life: religion, soul, mind, descendants, and property. Thus, this research emphasizes the need for regional policies that are not only based on formal legality, but also based on the principle of integral public welfare.

Keywords: Islamic Criminal Law; Liquor; *Maqāṣid al-Sharī'ah*; *Qawā'id Fiqhiyyah*

Abstrak: Penelitian ini mengkaji dinamika pengendalian minuman keras di Yogyakarta dengan menyoroti dua peraturan utama, yaitu Peraturan Kota Yogyakarta Nomor 7 Tahun 1953 dan Peraturan Daerah DIY Nomor 12 Tahun 2015, dari perspektif hukum pidana Islam. Fokus utama penelitian ini adalah bagaimana kedua peraturan tersebut dipahami melalui prinsip-prinsip *qawā'id fiqhiyyah* dan konsep *maqāṣid al-sharī'ah*. Peraturan Daerah 1953, yang melegalkan penjualan minuman keras melalui sistem perizinan dan perpajakan, dipandang tidak konsisten dengan prinsip pencegahan bahaya dan berpotensi melegitimasi praktik-praktik yang merusak pikiran, jiwa, dan moral masyarakat. Sebaliknya, Peraturan Daerah 2015 lebih relevan karena menekankan pengawasan, pengendalian, dan pelarangan minuman keras campuran yang jelas mengancam keselamatan jiwa. Analisis menunjukkan bahwa peraturan baru lebih selaras dengan tujuan syariah dalam melindungi lima aspek utama kehidupan: agama, jiwa, akal, keturunan, dan harta benda. Dengan demikian, penelitian ini menekankan perlunya kebijakan daerah yang tidak hanya berlandaskan legalitas formal, tetapi juga berlandaskan pada asas kesejahteraan masyarakat yang integral.

Kata Kunci: Hukum Pidana Islam; Minuman Keras; *Maqāṣid al-Sharī'ah*; *Qawā'id Fiqhiyyah*

A. INTRODUCTION

The debate surrounding alcohol regulation in Indonesia remains a contemporary issue that captures public attention. On the one hand, alcohol is viewed as an economic commodity that can contribute fiscally through taxation. However, on the other hand, the social, health, and crime impacts of alcohol consumption continue to be a serious issue.¹ This phenomenon has prompted debate about the extent to which the government can provide legal space for the sale of alcoholic beverages, and the extent to which regulations should be directed toward protecting the interests of the wider community. In this context, an Islamic criminal law approach based on the principles of *maqāṣid al-sharī'ah* and *maṣlaḥah* provides a normative perspective that emphasizes the prevention of social harm.²

The problems that emerged in the Yogyakarta context stem from the existence of Yogyakarta Municipal Regulation No. 7 of 1953, which granted legal permission for the sale of alcoholic beverages, accompanied by a tax. This regulation sparked controversy because it indirectly contradicted the principles of Islamic law, which affirm the prohibition of alcohol. Furthermore, the sanctions stipulated in the regulation were relatively light, making it ineffective in preventing the circulation of alcoholic beverages and their associated social impacts. Over time, society has faced new challenges in the form of the rise of mixed liquor and illegal distribution networks. This led to the enactment of Yogyakarta Special Region Regulation No. 12 of 2015, which offers a stricter model of control and oversight. However, the effectiveness of this new regulation also faces several implementation obstacles.³

¹ Eddy Mayor Putra Sitepu, 'How Have the State Revenue and Industry Developed Around the Evolution of Excise Tax on Alcohol in Indonesia?', *Journal of Customs and Excise Perspectives* 5, no. 2 (30 November 2021): 278–89, <https://doi.org/10.31092/jpbc.v5i2.1308>; Abdillah Ahsan et al., 'Political Economic Analysis of Health Taxes (Tobacco, Alcohol Drink, and Sugar Sweetened Beverage): Case Study of Three Provinces in Indonesia', 1 February 2024, <https://doi.org/10.1101/2024.01.31.24302078>; Nur Wahida Dachlan Ladiku et al., 'Analysis of the Consequences of the Implementation of Value Added Tax (VAT) and/or Luxury Goods Sales Tax (PPnBM) on Alcoholic Beverages from an Islamic Economic Perspective', *Indonesian Journal of Taxation and Accounting* 1, no. 1 (20 August 2023): 25–32, <https://doi.org/10.61220/ijota.v1i1.2023b3>.

² Muhammad Naim Omar et al., 'When Halal and Haram Meet the Haram Prevails?: An Analysis of the Maxim and Its Application in Contemporary Issues', *Australian Journal of Basic and Applied Sciences* 6, no. 11 (2012): 199–205, [https://www.ajbasweb.com/old/ajbas/2012/Special oct/199-205.pdf](https://www.ajbasweb.com/old/ajbas/2012/Special%20oct/199-205.pdf); Achmad Firdaus and Nurizal Ismail, 'Using Maslahah Performa As An Islamic Wealth Management System', in *Thematic Workshop on Al-Mal: Philosophy and Its Application in Islamic Perspective*, UKM-IRTI, Institute of Islamic Training Malaysia (ILIM) (Selangor, 2014), 1–13.

³ Bima Setya Nugraha and Lana Prihanti Putri, 'Policies for the Restriction and Monitoring of Alcoholic Beverages in Yogyakarta, a Tourist Destination', *Ahmad Dahlan Indonesian Law Journal* 1, no. 2 (2023): 40–50, <https://doi.org/10.12928/adil.v1i1.574>; Yudistira Bayu Aji and Sri Widayanti, 'The Complexity of Implementing Control of Alcoholic Beverage Sales in Operation Yustisi', *J-CEKI: Jurnal Cendekia Ilmiah* 3, no. 5 (2024): 2662–2669, <https://doi.org/10.56799/jceki.v3i5.4360>.

Irman Doni Idawan (2012) examined the alcohol content in Regional Regulation Number 7 of 1953, analysing it from the perspective of *maqāṣid al-sharī'ah*, and found that the regulation did not mention a clear limit on the alcohol content in alcoholic beverages—even though this is crucial for protecting the religion and reason of society.⁴ In addition, the official document of Yogyakarta City Regulation Number 7 of 1953 provides the legal basis for licensing and tax collection of alcoholic beverages, while DIY Regulation Number 12 of 2015 offers more comprehensive regulations covering control, supervision, and prohibition of mixed alcoholic beverages.

A study of the implementation of Yogyakarta Regional Regulation No. 12 of 2015, published in seminar proceedings around 2020–2021, revealed obstacles to enforcing this regulation in the field, despite it being considered more appropriate to contemporary challenges. Meanwhile, a policy report by the Regional Development Planning Agency (KPPOD) highlighted the urgency of updating older regulations, such as Regional Regulation 7/1953, to make them more relevant to current public needs and social conditions. A study by the University of Indonesia (UI) (circa 2022) also highlighted technical obstacles, such as weak inter-agency coordination and community resistance to Regional Regulation 12/2015.⁵ These findings emphasize that regulatory effectiveness is determined not only by legal norms, but also by institutional capacity and social support.

From the perspective of Islamic law, normative research on the application of *maṣlaḥah mursalāh* to *khamr* emphasizes that policies must prioritize preventing harm rather than taking short-term benefits.⁶ A study of the principle of *al-ḍarar yuzāl* as one of the principles of *qawā'id fiqhiyah* emphasizes that all forms of harm must be eliminated, including the negative impacts of the circulation of alcoholic beverages (*khamr*). A study by Firdaus et al. (2023) in the context of the Investment Law in Indonesia revealed that efforts to legalize alcoholic beverages present a conflict between the protection of reason (*ḥifẓ al-'aql*) and fiscal needs (*ḥifẓ al-māl*)—where

⁴ Irman Doni Idawan, 'Alcoholic Beverage Content of Regional Regulation Number 7 of 1953 of Yogyakarta City: Maqāṣid Asy-Syarī'ah Perspective', *Al-Mazaahib: Comparative Law Journal* 1, no. 2 (1 December 2012), <https://doi.org/10.14421/al-mazaahib.v1i2.1357>.

⁵ Regional Autonomy Implementation Monitoring Committee (KPPOD), 'Alcoholic Drinks Regional Regulation: A Study of the Quality of Policy Content and Its Implementation in Several Regions' (South Jakarta, 2014), https://www.kppod.org/backend/files/laporan_penelitian/Laporan_Kajian_Minol_KPPOD.pdf

⁶ Nanda Purnama et al., 'Khamr in the Perspective of Maslahah Mursale: A Balance Between Goodness and Legislation on the Prohibition of Alcoholic Beverages', *West Science Islamic Studies* 1, no. 01 (31 October 2023): 111–19, <https://doi.org/10.58812/wsiss.v1i01.311>.

the economy must not sacrifice the fundamental aspects of *maqāṣid shari'ah*.⁷ Furthermore, research by Muttaqin et al. (2023) shows that investment policies that are considered to bring economic benefits actually harm society because they contradict the principle of *maṣlaḥah*, thus encouraging public rejection of such legalization.⁸ An interdisciplinary approach—which combines the study of *fiqh* texts and contextual data—is important for designing alcohol control policies that are not only based on formal legality, but also based on social welfare and protection.

Although there are several studies on alcohol regulations in Yogyakarta and the normative basis of Islamic law, most of the research remains partial. Existing studies tend to only highlight the effectiveness of local regulations or discuss the normative aspects of *maqāṣid al-shari'ah* (the principle of religious law) separately. Few studies have systematically examined the relationship between regional regulations on alcohol and the principles of Islamic criminal law based on *maṣlaḥah* (the principle of religious law). Thus, there is a gap in research to bridge normative and empirical analysis, thus yielding a more comprehensive understanding of alcohol control policy in Yogyakarta.

This study offers a novelty by integrating positive law analysis and Islamic criminal law in interpreting alcohol control policies. Specifically, this study formulates the main question: how relevant are Yogyakarta Municipal Regulation No. 7 of 1953 and Yogyakarta Regional Regulation No. 12 of 2015 from the perspective of Islamic criminal law based on *maṣlaḥah*? This study is expected to not only provide conceptual contributions to the development of Islamic criminal law studies but also provide practical input for the formulation of regional policies that are more aligned with the principle of protecting the public interest.

B. METHOD

This research uses a normative-juridical approach with qualitative analysis. The normative approach is used to examine in depth the applicable positive legal framework, specifically the Yogyakarta Municipality Regulation Number 7 of 1953 and the Yogyakarta Special Region Regulation Number 12 of 2015. The analysis is conducted on the substance of the articles in these regulations, then linked to the principles of Islamic criminal law, especially the concepts of *maqāṣid al-shari'ah* and

⁷ Beni Firdaus et al., 'Legality of Alcoholic Beverages in Indonesia: Between Political Economy and Hifz Al-'Aql Perspective', *Kanun Jurnal Ilmu Hukum* 25, no. 2 (2023): 222–37, <https://doi.org/10.24815/kanun.v25i2.27843>.

⁸ Aris Anwaril Muttaqin et al., 'Alcohol Investment Policy in Indonesia According to Maqasid Shariah', *Islamiyyat: The International Journal of Islamic Studies* 44, no. 1 (2022), <https://ejournals.ukm.my/islamiyyat/article/view/56043/13068>.

maṣlahah. Primary legal sources include regional regulations, the Qur'an, hadith, and classical *fiqh* literature, while secondary sources include the results of previous research, scientific journals, policy reports, and the works of contemporary scholars.

The data were analyzed descriptively and analytically using content analysis techniques. Each regulation was interpreted based on the socio-historical context in which it was created, then compared with Islamic legal principles to identify any similarities and differences. This analysis also emphasized identifying the objectives of sharia in safeguarding religion, reason, and the public interest. Thus, the method used allows this study to synthesize positive law and Islamic law and provides an integrative perspective in assessing alcohol control policies in Yogyakarta.

C. RESULTS AND DISCUSSIONS

1. Dynamics of Alcoholic Beverage Regulation in Yogyakarta

The history of liquor regulation in Yogyakarta cannot be separated from Indonesia's post-independence social and political context. As a special region with special autonomy status, Yogyakarta has been faced with complex issues of regulating social life, including the distribution of alcoholic beverages. One of the oldest regulations born in this context is Yogyakarta City Regulation (Perda) No. 7 of 1953 concerning Sales Permits and Tax Collection on Alcoholic Beverages.⁹ At that time, this regulation was considered an important instrument for regulating the circulation of alcoholic beverages, as well as being a source of regional income through tax mechanisms.

However, the 1953 Regional Regulation's (Perda) origins cannot be separated from the socio-political situation at the time. In the early days of independence, local governments needed alternative revenue sources to support development. Taxes from liquor sales permits were seen as a pragmatic solution. However, this regulation also sparked controversy, as it was perceived as allowing for the legalization of something culturally and religiously viewed negatively by the majority of Yogyakarta residents. This controversy highlighted the tension between the local government's fiscal needs and the community's socio-religious values.¹⁰

Over time, the effectiveness of the 1953 Regional Regulation has been increasingly questioned. Light sanctions and weak oversight have allowed the

⁹ Idawan, 'Alcoholic Beverage Content of Regional Regulation Number 7 of 1953 of Yogyakarta City from the Perspective of Maqāsid Asy-Syarī'ah'.

¹⁰ Martin Roestamy and Adi Rahmanur Ibnu, 'The Romanticism of Alcoholic Beverage Regulation in Indonesia: Evidence of Legal Uncertainty?', *Sriwijaya Law Review* 6, no. 2 (31 July 2022): 336–49, <https://doi.org/10.28946/slrev.Vol6.Iss2.1239.pp336-349>.

circulation of illegal liquor to persist. This phenomenon has resulted in increased crime rates, accidents, and other social disruptions related to alcohol consumption. This situation demonstrates that regulations oriented solely toward fiscal interests are insufficient to address the resulting social problems. In other words, policies that only regulate permits and taxes without strict controls have the potential to cause even more harm.¹¹

Entering the reform era, public demands for stricter regulations have grown stronger. With the rise in cases of adulterated beverages and the rise of alcohol consumption among teenagers, the 1953 Regional Regulation has been deemed increasingly irrelevant. The weakness of this regulation lies in its primary focus on legitimizing taxes, rather than protecting the public from the negative impacts of alcohol. This is where the push to revise the regulation with a more comprehensive approach that favours the public interest arose.

In response to these various issues, Yogyakarta Special Region Regulation No. 12 of 2015 concerning the Control and Supervision of Alcoholic Beverages and the Prohibition of Mixed Beverages was issued. This regulation serves as a provincial-level legal instrument that more strictly regulates the distribution of alcoholic beverages and emphasizes a total ban on mixed liquor, which has been proven to be deadly. Compared to the 1953 Regional Regulation, this regulation is more progressive because it emphasizes social control and public health aspects, rather than solely fiscal aspects.¹²

The social implications of this regulatory change are significant. The public gains clearer legal protection against the dangers of alcohol, while local governments have a stronger legal basis for oversight. However, challenges remain, particularly in balancing specific economic needs, the presence of tourism businesses that sometimes still sell alcohol, and the moral and religious commitments of Yogyakarta's predominantly Muslim population. These dynamics demonstrate that alcohol control policy in Yogyakarta is not only a matter of positive law, but also a matter of values, social identity, and the direction of regional development.

¹¹ Nugraha and Putri, 'Policies for the Restriction and Monitoring of Alcoholic Beverages in Yogyakarta, a Tourist Destination'.

¹² Heru Syah Putra, Mirza Sahputra, and Muazzinah, 'A Comparative Analysis of Smoke-Free Compliance in Aceh', *Jurnal Promkes* 12, no. SI2 (1 August 2024): 113–18, <https://doi.org/10.20473/jpk.V12.ISI2.2024.113-118>.

2. The Effectiveness of Regional Regulations in Controlling Alcoholic Beverages

The effectiveness of a regulation can be measured by the extent to which it achieves its intended objectives. In the context of Yogyakarta Municipal Regulation Number 7 of 1953, its primary objective was to regulate the sale of alcoholic beverages and collect taxes as a source of regional revenue. Administratively, this regulation served a purpose, providing the city government with a legal basis for controlling liquor sales permits. However, in practice, the regulation's effectiveness was deemed low, as it emphasized fiscal aspects over social protection.

One indicator of the 1953 Regional Regulation's weak effectiveness lies in its sanction system. Violations of sales permits carry a maximum fine of Rp 5,000 or six months' imprisonment. This lenient penalty is clearly disproportionate to the social impact of alcohol distribution. Consequently, the regulation fails to provide a deterrent effect and instead opens the door to the emergence of illegal sales practices that are even more difficult to control. This finding aligns with Adiansyah's (2024) findings.¹³ Thus, the 1953 Regional Regulation functions more as administrative legitimacy than as an effective legal instrument to suppress the circulation of alcoholic beverages.

In addition to light sanctions, weak oversight also hampered effectiveness. Local governments at the time lacked adequate oversight, both in terms of human resources and legal mechanisms. This often resulted in the distribution of alcohol escaping control, including the circulation of adulterated alcohol, which subsequently resulted in numerous fatalities. This phenomenon underscores that the effectiveness of regulation depends not only on the existence of written rules, but also on the capacity of officials to enforce them.¹⁴

The weaknesses of the 1953 Regional Regulation became even more glaring when confronted with post-reform social dynamics. The surge in alcohol-related crime, the rise in alcohol consumption among teenagers, and the rampant production of adulterated liquor demanded new, more comprehensive regulations. This led to the birth of Yogyakarta Special Region Regulation No. 12 of 2015, which prioritizes control

¹³ Sayib Fauzi Adiansyah, 'Penal Efforts in Combating the Circulation of Illegal Alcoholic Beverages in Jember Regency', *Fairness and Justice: Scientific Journal of Legal Studies* 22, no. 1 (29 May 2024): 56–65, <https://doi.org/10.32528/faj.v22i1.22538>.

¹⁴ Muhammad Roisul Basyar, Joko Widodo, and M. Noer Falaq Al Amin, 'Towards a Sustainable Alcohol Control Framework: Policy Gaps and Opportunities in Mojokerto Regency', *Publisia: Jurnal Ilmu Administrasi Publik* 10, no. 1 (1 July 2025): 134–43, <https://doi.org/10.26905/pjiap.v10i1.14856>.

and oversight. This new regulation affirmed the prohibition of adulterated liquor and tightened the distribution of alcoholic beverages of certain classifications.¹⁵

Compared to the 1953 Regional Regulation, the 2015 Regional Regulation is more effective because it prioritizes public protection. This regulation not only regulates permits and taxes but also includes oversight mechanisms, stricter sanctions, and cross-sector coordination. This demonstrates a paradigm shift from a purely fiscal orientation to a social and public health orientation. The effectiveness of the 2015 Regional Regulation in terms of oversight and public protection is reinforced by a study by Rintasari et al. (2019), which found that strengthening legal mechanisms, inter-institutional coordination, and imposing stricter sanctions significantly reduced the circulation of illegal liquor.¹⁶

However, the effectiveness of the 2015 Regional Regulation is not yet fully optimal. Illegal liquor distribution persists in several regions, particularly those related to the tourism sector. Furthermore, resistance from some businesses to distribution restrictions is also a barrier. Therefore, while the 2015 Regional Regulation is substantially more progressive, its successful implementation still depends on consistent law enforcement, public awareness, and synergy between local governments, law enforcement officials, and community leaders.

3. Positive Legal Perspectives and the Controversy of Alcohol Legalization

From the perspective of Indonesian positive law, Regional Regulations are valid legal instruments and have a place in the hierarchy of laws and regulations. Therefore, Yogyakarta Municipal Regulation No. 7 of 1953 was formally a valid legal product and was in effect at the time. However, when this regulation permitted the sale of alcoholic beverages through a tax mechanism, a fundamental problem arose: does the regional government have the authority to legalize something that is socially and religiously considered detrimental? This question is at the root of the controversy surrounding the legalization of alcoholic beverages through positive legal instruments.

The controversy stemmed from differing perspectives. For local governments in the early 1950s, alcohol tax was a vital source of revenue for supporting development. However, for the predominantly Muslim community, this regulation was seen as

¹⁵ Ni'matul Huda, Jamaludin Ghafur, and Ali Ridho, 'The Urgency of Regulating the Distribution of Alcoholic Beverages in the Special Region of Yogyakarta', *Ius Quia Iustum Law Journal* 22, no. 1 (2015): 76-96, <https://journal.uui.ac.id/IUSTUM/article/view/4608/4069>.

¹⁶ Desti Nora Rintasari, Adimas Bagus Mahendra, and Muchamad Chanafi, 'Effectiveness of the Implementation of Regional Regulation Number 10 of 2016 Concerning Control and Supervision of the Distribution and Sale of Alcoholic Beverages in Magelang City', *Amnesty Journal of Law* 1, no. 2 (26 August 2019): 47-55, <https://doi.org/10.37729/amnesti.v1i2.647>.

legalizing something forbidden (haram). This tension between fiscal interests and moral-religious values made the 1953 Regional Regulation not only a legal topic but also an ethical and cultural issue.¹⁷

In the development of Indonesian positive law, the regulation of alcoholic beverages is not an absolute prohibition. Both the central and regional governments tend to adopt a control approach, rather than a total ban, citing economic, tourism, and trade interests. This approach reflects the compromising and pluralistic nature of Indonesian positive law, where the law seeks to balance universal norms with the practical needs of society. However, this approach has given rise to controversy when legalization is perceived as perpetuating the consumption of potentially harmful goods.¹⁸

In Yogyakarta, the problem is further complicated by the 1953 Regional Regulation, which has led to the perception that alcohol can be legalized as long as administrative requirements are met. This has the potential to foster a culture of permissiveness toward alcohol, especially among the younger generation. The controversy intensifies as criminal cases, accidents, and social disturbances emerge that are proven to be related to alcohol consumption. This situation confirms that, socially, the legal legitimacy of alcohol is not in line with the reality of the harm it causes.

Furthermore, questions have arisen regarding the legitimacy of regional laws in regulating matters that conflict with religious law. From a positive legal perspective, regions do have autonomous authority to govern their territories, but this authority is limited by the principle of harmony with higher regulations and the nation's fundamental values.¹⁹ Herein lies the criticism of the 1953 Regional Regulation: although formally valid, it is considered insensitive to the moral and social values of Yogyakarta's predominantly Muslim society.

The controversy surrounding alcohol legalization also relates to the issue of legal effectiveness. Limited legalization, coupled with tax mechanisms, actually opens up

¹⁷ Roestamy and Ibnu, 'The Romanticism of Alcoholic Beverage Regulation in Indonesia: Evidence of Legal Uncertainty?'; Idawan, 'Alcoholic Beverage Content of Regional Regulation Number 7 of 1953 of Yogyakarta City: Maqāsid Asy-Syari'ah Perspective'.

¹⁸ Hasman Zhafiri Muhammad and Galih Dwi Ramadhan, 'Legal Protection of Geographical Indications for Traditional Alcoholic Beverages: Perspectives of Islamic Law and Positive Law in Indonesia', *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsiyyah* 8, no. 2 (10 May 2025): 293–306, <https://doi.org/10.58824/mediasas.v8i2.313>; Nugraha and Putri, 'Policies for the Restriction and Monitoring of Alcoholic Beverages in Yogyakarta, a Tourist Destination'.

¹⁹ Fredrico Markus Rotua Sinaga and Ratih Damayanti, 'Implementation of Regional Autonomy Law in Line with Local Culture', *Indonesian Law Journal* 4, no. 2 (24 March 2025): 95–102, <https://doi.org/10.58344/jhi.v4i2.1685>.

space for illegal practices that are more difficult to control. With official permits, alcohol sales become easier, while distribution oversight is suboptimal. As a result, a paradox arises: the very law that should control alcohol actually expands the circulation of alcohol. This phenomenon reinforces criticism that alcohol legalization through regional regulations does not bring social benefits but rather harms.

The culmination of this controversy was reflected in the birth of Yogyakarta Regional Regulation No. 12 of 2015, which attempted to correct the weaknesses of the 1953 Regional Regulation. The new regulation emphasized the prohibition of mixed drinks and tightened controls on alcohol distribution. From a positive law perspective, the 2015 Regional Regulation is more relevant because it places greater emphasis on social protection and public health. However, the debate remains: is a regulation that only limits, rather than prohibits, sufficient to meet the hopes of the people of Yogyakarta who long for an alcohol-free environment? This question demonstrates that the controversy over the legalization of alcohol continues to be a lively discourse within Indonesia's positive legal framework.

4. Analysis of Islamic Criminal Law: *Qawā'id Fiqhiyyah Asāsiyyah*

Within the framework of Islamic criminal law, alcoholic beverages, or *khamr*, are strictly prohibited, both in terms of consumption and distribution. This prohibition is affirmed in Surah al-Mā'idah, verse 90 of the Quran, which refers to *khamr* as "*rijs*," or impure, and must be avoided. The Prophet's hadith also emphasizes that everything that intoxicates is forbidden. Based on this, Islamic law classifies *khamr* as a crime that leads to social destruction.²⁰

One of the main principles in *qawā'id fiqhiyyah asāsiyyah* is *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*.²¹ This principle means that preventing harm should take precedence over achieving benefit. In the context of public policy, this principle directs authorities to consider not only immediate economic benefits but also broader social impacts. Therefore, regulations that legalize alcohol for tax revenue are inconsistent with this principle.

When examined through the lens of Islamic jurisprudence, Yogyakarta Municipal Regulation No. 7 of 1953 is contradictory. On the one hand, this regulation was intended to provide a fiscal source for the newly developing region after

²⁰ Safaruddin Harefa, 'Juridic Review on Punishment for Hard Drinkers (Khamr) By Positive Criminal Law and Islamic Criminal Law', *Journal of Islamic and Law Studies* 4, no. 2 (2020): 37-48, <https://doi.org/10.18592/jils.v4i2.4217>.

²¹ Abd Rouf, 'Breast Milk Bank Laws in the Perspective of the Fiqh Principles of Dar' Al-Mafāsīd Muqadam A'Lā Jalb Al-Maṣāliḥ', *Media Syari'ah: A Forum for the Study of Islamic Law and Social Institutions* 24, no. 1 (9 June 2022): 112, <https://doi.org/10.22373/jms.v24i1.11326>.

independence. However, on the other hand, the policy actually opened the way for the legalization of something clearly detrimental. The harm caused by alcohol—such as crime, accidents, and moral degradation—far outweighs the fiscal benefits.

Furthermore, the regulation raises serious issues regarding the sanction mechanism. The 1953 Regional Regulation only imposes a fine of 5.000 IDR or six months' imprisonment for sales permit violations. This lenient sanction fails to reflect the purpose of *ta'zir* in Islamic law, which aims to educate and create a deterrent effect.²² In fact, weak punishments provide opportunities for repeated violations and exacerbate social problems in society.

In contrast, Yogyakarta Special Region Regulation No. 12 of 2015 more closely reflects an Islamic legal orientation. This regulation no longer emphasizes fiscal aspects but instead focuses on social control and community protection. The prohibition on adulterated drinks, for example, aligns with the principle of safeguarding the soul (*ḥifẓ al-nafs*), one of the primary objectives of Sharia.²³ Thus, the 2015 Regional Regulation is more in line with the principle of *dar' al-mafāsīd* which places prevention of damage above all forms of benefit.

Fihiyyah rules also emphasize the importance of maintaining reason (*ḥifẓ al-'aql*), which is one of the five main *maqāṣid*.²⁴ Alcohol clearly corrupts reason and diminishes human conscience, thus opening the door to criminal acts and ethical violations. If reason is corrupted, an individual's ability to fulfill religious and social obligations is also impaired. Therefore, regulations that allow the distribution of alcohol violate fundamental principles of Islamic law.

With all these considerations in mind, the analysis of *qawā'id fihiyyah asāsiyyah* shows that the 1953 Regional Regulation is irrelevant to sharia values. Tax-based regulations may be perceived as bringing financial benefits, but the resulting social harm is far greater. The 2015 Regional Regulation provides an important correction

²² Shahaqa Besharat, 'Nature of Crime in Criminal Law and Islamic Sharia', *American Journal of Law and Political Science* 4, no. 1 (17 April 2025): 12–25, <https://doi.org/10.58425/ajlps.v4i1.341>; Mukhtor Akramov, 'Ta'dhir in Islamic Law: Types of Crimes and Punishments', *Jurnal ISO: Jurnal Ilmu Sosial, Politik Dan Humaniora* 4, no. 2 (3 October 2024): 7, <https://doi.org/10.53697/iso.v4i2.1861>; Muhammad Mawardi Djalaluddin et al., 'The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (31 March 2023): 399–417, <https://doi.org/10.22373/sjhk.v7i1.15101>.

²³ Moh Dahlan et al., 'The Islamic Principle of Ḥifẓ Al-Nafs (Protection of Life) and COVID-19 in Indonesia: A Case Study of Nurul Iman Mosque of Bengkulu City', *Heliyon* 7, no. 7 (1 July 2021): 1–9, <https://doi.org/10.1016/J.HELIYON.2021.E07541>.

²⁴ Omar et al., 'When Halal and Haram Meet the Haram Prevails?: An Analysis of the Maxim and Its Application in Contemporary Issues'; Arif Al Wasim, 'Maqasid Syari'ah Answers the Challenges of the Post-Truth Era: The Urgency of Hifẓ Al-'Aql as an Information Filter', *International Journal Ihya' Ulum Al-Din* 21, no. 2 (16 February 2020): 143–57, <https://doi.org/10.21580/ihya.21.2.4831>.

by emphasizing prevention and community protection. This *fiqh* principle also emphasizes that policies in line with Islamic law must prioritize preventing harm for the sake of the public good.

5. ***Maṣlaḥah* and Public Policy: *Qawā'id Fiqhiyyah Fur'iyah***

In Islamic legal studies, *qawā'id fiqhiyyah furū'iyah* is often used to analyze practical, contextual cases. These rules are derived from more general basic principles.²⁵ For example, the principle of *al-ḍarar yuzāl* (all forms of harm must be eliminated) and *al-'ādah muḥakkamah* (customs can be a legal consideration).²⁶ By using these rules, public regulations can be evaluated based on the aspects of public welfare and the social reality that underlies them.

The 1953 Regional Regulation, when viewed from the perspective of *al-ḍarar yuzāl*, presents serious problems. While the regulation provides tax revenue for the region, its negative impacts are far greater. The legalized sale of alcohol has led to social damage in the form of crime, violence, and social ills. Therefore, this policy is inconsistent with the principle of eliminating harm, a fundamental principle of Islamic law.

In addition, the principle of *al-'ādah muḥakkamah* emphasizes the importance of considering the social conditions of the local community.²⁷ Yogyakarta, with its religious culture and social traditions, clearly rejects the circulation of alcoholic beverages, which undermine local values. Regulations that legalize alcohol contradict the customs and norms of society, which aim to maintain order and morality. Therefore, the 1953 Regional Regulation not only contradicts sharia principles but also the social culture within Yogyakarta.

Meanwhile, the 2015 Regional Regulation is more in line with the principles of Islamic jurisprudence (*fiqh*). This regulation focuses on controlling the distribution of alcoholic beverages and prohibiting adulterated drinks, which pose a high risk to public health. This policy demonstrates adherence to the principle of *al-ḍarar yuzāl*, as preventing the distribution of alcoholic beverages reduces the potential for social

²⁵ Ismail Jalili and Ilham Syukri, 'Utilizing Qawā'id Fiqhiyyah in Legal Analysis: A Review of Their Evolution and Application in Indonesian Islamic Jurisprudence', *Istinbath* 24, no. 1 (15 June 2025): 51–65, <https://doi.org/10.20414/ijhi.v24i1.776>; Said Aqil. H Al-Munawwar, 'Al-Qawā'id Al-Fiqhiyyah in the Perspective of Islamic Law', *Al-Jami'ah: Journal of Islamic Studies* 12, no. 62 (1998): 95–114, <https://doi.org/10.14421/ajis.1998.3662.95-114>.

²⁶ 'Abd al-Majīd Jum'ah Al-Jazā'irī, *Al-Qawā'id Al-Fiqhiyyah Al-Mustakhraj Min Kitāb I'lām Al-Muwaqqi'in* (Dār ibn al-Qayyim, nd).

²⁷ 'Aṭīyah Ramaḍān, *Mawsū'ah Al-Qawā'id Al-Fiqhiyyah* (Iskandariyyah: Dār al-Ayman, 2007).

harm. Thus, this new regulation aligns more closely with the spirit of *maṣlahah* in Islamic law.

If analyzed from the principle of *al-mashaqqah tajlib al-taysir* (difficulty brings ease).²⁸ The 2015 Regional Regulation is also more rational. A total ban may be difficult to implement given social realities that still allow for alcohol consumption in certain contexts. Therefore, a control policy with strict supervision is seen as a form of *taysir* (convenience) that still aims to prevent harm. With this strategy, Islamic law can be implemented gradually according to societal conditions.

Furthermore, this regulation can also be linked to the principle of *al-umūr bi maqāṣidihā* (everything depends on the goal).²⁹ The main objective of the 2015 Regional Regulation is to protect the public from the dangers of alcohol, not just to regulate taxes or economic benefits. With this orientation, this policy is in line with *maqāṣid al-sharī'ah* which emphasizes the protection of life, reason and social order.³⁰ This shows that public policies oriented towards protection goals are more in line with the Islamic legal framework.

From this entire analysis, it is clear that *qawā'id fiqhiyyah fur'iyah* can be an important instrument in evaluating regional regulations. The 1953 Regional Regulation fails to meet these principles because it prioritizes fiscal aspects over preventing harm. In contrast, the 2015 Regional Regulation is more aligned with the principle of *maṣlahah* because it focuses on protecting society and preventing harm. Thus, Islamic law provides a relevant conceptual framework for formulating just and sustainable public policies.

6. Social and Religious Implications in the Perspective of *Maqāṣid al-Sharī'ah*

Maqāṣid al-sharī'ah as a normative framework emphasizes the protection of five main aspects: religion, life, intellect, lineage, and property. Every public policy that touches the social sphere must be evaluated based on the extent to which it protects or undermines these five aspects.³¹ In the context of alcohol regulation in Yogyakarta, a *maqāṣid* analysis can help assess the local government's commitment to the public

²⁸ Ṣāliḥ ibn Ghānim Al-Sadlān, *Al-Qawā'id Al-Fiqhiyyah Al-Kubrā* (Riyad: Dār Balnasiyah, nd).

²⁹ Abdul Mudjib, *Principles of Fiqh (Al-Qowa'idul Fiqhiyyah)* (Jakarta: Kalam Mulia, 2016).

³⁰ Abū Ḥāmid Muḥammad Ibn Muḥammad Al-Ghazzālī, *Al-Mustaṣfā Min 'Ilm Al-Uṣūl* (Beirut: Dār al-Fikr, nd); Abū Ishāq Ibrāhīm bin Mūsā Bin Muḥammad Al-Shātibī, *Al-Muwāfaqāt Fī Uṣūl Al-Sharī'ah* (Saudi Arabia: Dār Ibn 'Affān, 1997).

³¹ Maskur Rosyid and M. Nurul Irfan, 'Reading Fatwas of MUI a Perspective of Maslahah Concept', *Syariah: Jurnal Hukum dan Pikiran* 19, no. 1 (2 June 2019): 91–117, <https://doi.org/10.18592/sjhp.v19i1.2726>.

interest. Therefore, the regulatory shift from the 1953 Regional Regulation to the 2015 Regulation is not merely a technical one, but also a reflection of a paradigm shift.

From the perspective of protecting the soul (*hifz al-nafs*), alcohol clearly poses a serious threat. Cases of deaths due to adulterated alcohol demonstrate the high risk of alcohol consumption to health and safety. The 2015 Regional Regulation, which explicitly prohibits adulterated alcohol, demonstrates adherence to this principle. Conversely, the 1953 Regional Regulation fails to provide protection by allowing legalized alcohol consumption.

The protection of reason (*hifz al-'aql*) is also closely linked to the issue of alcohol. Alcohol consumption diminishes awareness and weakens human reasoning, potentially leading to crime. When regulations allow for the circulation of alcohol, they indirectly allow the destruction of one of the foundations of *maqāṣid* (Islamic principles). The 2015 Regional Regulation aligns more closely with this principle, as it seeks to reduce public access to alcohol, which can damage reason.

From the perspective of religious protection (*hifz al-dīn*), alcohol is considered an obstacle for people in carrying out their worship. The Qur'an emphasizes that *khamr* keeps people away from prayer and *dhikr*. Permissive regulations on alcohol can be seen as a form of neglect of the function of religion in people's lives. By limiting the circulation of alcohol, the 2015 Regional Regulation supports the creation of social conditions that are more conducive to the implementation of religious obligations.

Protection of offspring (*hifz al-nasl*) is also closely related to the issue of alcohol. Alcohol consumption can lead to domestic violence, divorce, and even the birth of children with health problems. Loose regulations on alcohol increase the risk of social breakdown within the family. Conversely, strict policies demonstrate a concern for the protection of future generations.

Equally important is the protection of property (*hifz al-māl*). Alcohol often encourages waste and even causes economic losses due to health costs and crime. Therefore, policies restricting the circulation of alcohol are not only moral but also economically rational. The 2015 Regional Regulation plays a role in minimizing the financial losses suffered by the public due to alcohol consumption.

The religious implications of alcohol regulations are also evident in socio-religious relations within the community. Yogyakarta is known as a city with strong religious traditions, so permissive regulations on alcohol can spark social resistance. Conversely, stricter regulations strengthen public confidence that the government

supports moral and religious values. This strengthens the local government's social legitimacy in the eyes of the public.

Thus, the analysis of *maqāṣid al-sharī'ah* shows that the 2015 Regional Regulation is more supportive of social and religious protection for the Yogyakarta community than the 1953 Regional Regulation. This regulatory shift reflects not only political adaptation but also a normative awareness of the importance of the public good. Its social implications include a reduced potential for crime and social ills, while its religious implications strengthen the harmony between state policy and religious values. With the *maqāṣid* framework, public policy can be more directed toward universal humanitarian goals.

D. CONCLUSION

This study shows that liquor control in Yogyakarta has experienced a long period of regulatory dynamics, starting from Regional Regulation no. 7 of 1953 which tends to be permissive until DIY Regional Regulation no. 12 of 2015 which is stricter and more relevant. From the perspective of Islamic criminal law, especially through the analysis of *qawā'id fihiyyah* and *maqāṣid al-sharī'ah*, the new regulations are more in line with the principles of preventing harm and protecting the public benefit. The 2015 Regional Regulation can be seen as a form of correction to the weaknesses of the 1953 Regional Regulation, which provided space for legalization and light sanctions for the distribution of alcohol. Thus, this shift in regulation is not only an administrative response, but also reflects normative awareness of the importance of protecting religion, soul, mind, lineage and community property.

Nevertheless, alcohol control in Yogyakarta still requires evaluation and strengthened implementation. The local government needs to strengthen law enforcement so that it is not merely a regulation but truly effective in practice. Furthermore, public education based on religious values and the public interest is crucial so that the public understands the urgency of the alcohol ban, not only from a legal perspective, but also from a moral and social perspective. With an integrated approach between positive law, Islamic law, and public awareness, alcohol control will be more comprehensive and able to achieve security, order, and social welfare.

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