

## Research Article

# Siyasah Syar'iyah Analysis of the Alcohol Beverage Bill and its Relevance to Mui Fatwa No. 11 Of 2009 Concerning the Alcohol Law

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**Abstract.**

The reality is that alcoholic drinks are a tradition and a habit at events in certain areas, such as Sulawesi and West Sumatra. Therefore, Indonesia must pass a Bill on the prohibition of alcoholic beverages with the aim that Indonesian people understand the harm that occurs because of alcoholic beverages. The question that arises is how important is the Bill on the Prohibition of Alcoholic Beverages both philosophically, sociologically, and normatively, and what is the relevance of the Bill on the Prohibition of Alcoholic Drinks to MUI Fatwa Number 11 of 2019 concerning Alcohol Law? This study aims to find out the importance of prohibiting alcoholic beverages, both philosophically, sociologically, and normatively in the form of laws and regulations, so it could apply legally and bind all the people. This study also wants to explore the relevance of the Legislation of the Law on the Prohibition of Alcoholic Beverages with the MUI Fatwa Number 11 of 2019 concerning Alcohol Law. This study is a qualitative type in the form of literature research (library research), which discusses the harm of alcoholic beverages in a philosophical-historical review with a maqasid al-shari'ah approach. Siyasa a-Taymiyyah's review of the prohibition of alcoholic beverages as well as the prohibition of khamr in the legal analogy process aims to; first, take benefit and eliminate harm. Second, the form of saad al-Dzari'ah, which is preventing loopholes to take actions that bring greater harm with the rule of dar'ul mafasid muqaddamun 'ala jalbil mashalih (preventing harm takes precedence over taking benefit). This is done to protect religion, soul, mind, lineage, and property. From this, it can be concluded that all drinks which cause harm, such as khamr, are punished as haram as khamr, because they have the same 'illat law.

**Keywords:** urgency, legislation, alcoholic beverages

## 1. Introduction

Indonesia is a country with an alarming level of emergency related to drinking alcohol, not only among adults, but even among young people. Types of drinks consumed, such as liquid brem, palm wine, sagueer, and ciu. The habit of consuming alcoholic beverages (modern, traditional or mixed).[1] can cause negative effects both physically, mentally and psychosocially.[2]

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Consuming alcoholic beverages in several regions in Indonesia has become a habit and culture. Riskesdas data shows that the area with the highest prevalence of drinking alcohol in South Sulawesi, North Toraja, is part of the community's tradition, both at traditional party celebrations and in daily activities, North Toraja Regency with category 22.6% to 27.5%.[3] Apart from Sulawesi, toddy is a traditional alcoholic drink in North Sumatra, particularly in the Toba Batak, with an alcohol content of 4%. The habit of drinking palm wine in Bukit Selamat Village is in the weight category of 84.8%, with 55.4% belonging to the new wine category. Drinking palm wine is part of a tradition that has been passed down from generation to generation in the village of Bukit Selamat and is very difficult to get rid of in the community's customs.

When viewed from the point of view of the harm that exists in drinking alcohol, there are three harms; First, alcoholic beverages can physically damage consumers, such as weight gain, high blood pressure, decreased immune system, cancer, heart disease, respiratory problems and liver disorders.[4] Second, alcoholic beverages will cause permanent neurological death, because with frequent consumption of alcoholic beverages can weaken the desire to work, study, and this certainly damages the nation's future generations, it can even cause death. Third, the impact that causes public unrest, order and state burden.[5]

On the other hand, a series of deaths due to the abuse of alcoholic beverages is still common today. Indonesia as a constitutional state has guaranteed that everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to get a good and healthy environment and have the right to obtain health services. These two contradictory things illustrate that the effectiveness of the law has not been maximally implemented in laws and regulations relating to the control of alcoholic beverages.[6]

Alcoholic beverages in Islam or called khamr are unlawful, including all types of activities related to alcoholic beverages, including buying and selling. The difference between the reality of the implementation of the regulations implemented by the local government and what has been said by Allah SWT, greetings to the letter of al-Nahl verse 67, letter al-Baqarah verse 219, letter al-Nisa verse 43, and letter al-Maidah verse 90.

This was also responded to in the Fatwa of the Indonesian Ulema Council Number 11 of 2009 concerning Alcohol Law, that the use of alcohol as an ingredient in food, beverages, drugs and cosmetics is considered permissible (permissible) provided that it does not exceed the levels determined by the doctor. However, the excessive use of alcohol in the product mix can cause intoxication and side effects, it is illegal because it can harm consumers or society. While the analysis of ma'la'ah on the Level of Need

for Alcohol Use in the Fatwa of the Indonesian Ulema Council (MUI) No. 11 of 2009 concerning Alcohol Law In taking benefit, that solvents other than alcohol have not been found, so in terms of consuming alcoholic products it is permissible if there is benefit that arises afterwards, and the community, especially the people, are more careful in consuming products that use alcohol. The goals of the Islamic religion for the benefit is to protect religion, soul, mind, lineage and property.

The government has not regulated a specific law to control production, with a systematic interpretation and expansion of the Local Government Law Number 23/2014, the Regulation of the Minister of Industry number 63/M-IND/PER/7/2014 concerning Control and Control of Industry and Quality Drinks, Minister of Trade Regulation No. 20/M-Dag/Per4/2014 Concerning Controlling and Controlling the Provision, Circulation and Sales of Alcoholic Beverages, Head of Drug and Food Control Agency Regulation Number HK.03.1.23.04.12.2205 concerning Guidelines for Issuing Certificates of Food Production for Home Industries. The Regional Government has a responsibility in controlling the production of traditional alcoholic beverage and the regional government has the authority to control the distribution of traditional alcoholic beverages by enforcing regulations against business activities that violate trade permits by selling traditional alcoholic beverages.[7]

This study intends to discuss the problem of how to regulate alcoholic beverages in Indonesia and how to enforce the law on alcoholic beverages in Indonesia. This issue is important considering that until now the regulations regarding alcoholic beverages are still scattered sectorally in various laws and regulations. It is expected that the Bill on the Prohibition of Alcoholic Beverages can accommodate all legal issues ranging from controlling alcoholic beverages to limiting consumption of alcoholic beverages. Law enforcement on alcoholic beverage regulations has not been optimally realized in Indonesia. This is due to several factors of legal effectiveness which have not been fulfilled optimally.

The urgency of the Bill on the Prohibition of Alcoholic Drinks, or what is often referred to as the Alcoholic Drink Bill, which is being discussed by the House of Representatives (DPR), actually this bill was discussed by the DPR in the 2014-2019 period, but did not reach an agreement. Then it was included again in the Program Priority National Legislation (Prolegnas) to be discussed again by the DPR for the 2019-2024 period. The purpose of forming this bill is to create a good and healthy living environment for the community from the negative effects of alcoholic beverages, so that the quality of health, order, peace and security of the community could be maintained.

There are several previous works, the article written by Eko Kurniasih Pratiwi, Management Analysis of the Yogyakarta Adilla Syariah Hotel (Review of DSN MUI Fatwa No: 108/DSN-MUI/X/2016). This study aims to determine the implementation of the management of the Adilla Syariah Yogyakarta hotel in accordance with the Fatwa of the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) No. 108/DSN-MUI/X/2016 concerning sharia hotels. This research is qualitative research with an exploratory descriptive approach. The method used is in-depth interviews with the Manager of Hotel Adilla Syariah, observation and documentation. The data analysis technique used is the James Spardley model data analysis technique through four stages, namely: Domain Analysis, Taxonomic Analysis, Componential Analysis, and Cultural Theme Analysis. The results of this study indicate that the implementation of the Yogyakarta Adilla Syariah hotel management is in accordance with the DSN MUI fatwa No: 108/DSN-MUI/X/2016.[8]

Research conducted by Aldino Absdi Amanda with title Alcohol in Malang City After the Birth of Malang City Regional Regulation Number 5 of 2006 concerning Supervision, Control and Sales of Alcoholic Beverages: A Study of the Views of MUI Malang City. This research stated the problem of consuming alcohol is endless so that the community and the security forces of the Malang City Police consider this problem as something that needs to be taken seriously. The research also stated that the control of liquor both carried out by the police and the community in an integrated manner must be carried out on an ongoing basis. Second, actually the Indonesian Ulema Council has great hopes for the Regional Government of Malang City to consider the recommendations in the Fatwa of the Indonesian Ulema Council Number 11 of 2009 concerning Alcohol Law in formulating Malang City regional policies related to the production and circulation of alcoholic beverages in Malang City.[9]

Research conducted by Febrianti with title Review of MUI Fatwa Number 4 of 2003 concerning Halal Standardization of Food Made from Glutinous Rice (Case Study of Sukasuka Village, Kec. Bayongbong Garut), based on what has been described in MUI fatwa number 4 of 2003. Although it contains alcohol, sticky tape is not declared as a type of food that is haram. This is because the resulting alcohol stays together with the main ingredient of sticky tape or blends with the solids. The problem will be different if the sticky tape is then squeezed or extracted. The extract in the form of a liquid is definitely declared as an alcoholic drink, the law has changed to become unlawful. So, the law for eating tape ketan is permissible and still categorized as halal food and can still be consumed but still at a certain level. [10]

Research conducted by Hafsah Dewi Utami in 2018 with title Maslahah Analysis of the Fatwa of the Ulema Council (MUI) NO.11 of 2009 Article 5 Concerning the Law on Consuming Alcoholic Products. The use of alcohol as an ingredient in food, drinks, medicines and cosmetics is considered permissible (permissible) provided that it does not exceed the levels prescribed by the doctor. However, the excessive use of alcohol in the product mix can cause intoxication and side effects, so it is illegal because it can harm consumers or society. While the analysis of *maḥlāḥ* on the Level of Need for Alcohol Use in the Fatwa of the Indonesian Ulema Council (MUI) No. 11 of 2009 concerning the Law of Alcohol in Taking Benefits. The author analyzes that if solvents other than alcohol have not been found, then in terms of consuming alcoholic products it is permissible. The community should be more careful in consuming products that use alcohol ingredients, so that the goals of Islam in the benefit of the people can be achieved, that is protecting religion, soul, mind, lineage and property can be achieved. [11]

Analyzing some studies above, it seems that there is not any research which explores the Bill on the Prohibition of Alcoholic Beverages and its Relevance to the MUI Fatwa Number 11 of 2019. The aim of this study is to explore how important the Bill on the Prohibition of Alcoholic Beverages is, both philosophically, sociologically and normatively. Also the relevance of the Bill on the Prohibition of Alcoholic Drinks to MUI Fatwa Number 11 of 2019 concerning Alcohol Law. To find out the importance of prohibiting alcoholic beverages, both philosophically, sociologically and normatively in the form of laws and regulations, so it could apply legally and are binding all the people, and the relevance of the Legislation of the Law on the Prohibition of Alcoholic Beverages with the MUI Fatwa Number 11 of 2019 concerning Law Alcohol.

## 2. Methods

This type of research is library research, in which researchers want to examine the Alcoholic Beverage Bill and its Relevance to MUI Fatwa Number 11 of 2019 concerning Alcohol Law. The primary data in this study is the MUI Fatwa Number 11 of 2019 concerning Alcohol Law, in addition to the MUI Fatwa, books or journals relating to bills and legislation. The secondary data in question is the supporting data from the primary data above while the source of the data is articles or opinions relating to alcohol topics. The materials obtained from the research were collected, processed and analyzed qualitatively to draw conclusions using inductive and deductive ways of thinking.

### 3. Results and Discussion

There are two opinions about the origin of the word *siyasa*. First, as stated by Anut al-Maqrizy, *siyasa* comes from the Mongolian language which is from the word *yasah* which gets the letters *sin* lined up at the beginning so that it reads *siyasa*. This opinion is based on a book of laws belonging to Gengish Khan entitled *Ilyasa* which contains guidelines for managing the State with various forms of severe punishment for certain criminal offenders. Second, according to Ibn Taghri Birdi, *siyasa* comes from a mixture of three languages, which are Persian, Turkish and Mongolian. Third, according to Ibn Manzhur, *siyasa* comes from Arabic, which is the *masdar* form of *tashrif*, the word *sasa-yasusu-siyasatun*, which originally meant managing, caring for, or training animals, especially horses. In line with the meaning of the latter, someone whose profession is a horse caretaker. [12]

Meanwhile, terminologically, there are many definitions of *siyasa* put forward by Islamic jurists. According to Abu al-Wafa Ibn 'Aqil, *siyasa* is as follows, "Siyasa means an action that can bring people closer to benefit and further from damage, even though the Prophet did not stipulate it and Allah also did not send down revelations to regulate it". In a different editorial, Husain Fauzy al-Najjar defines *siyasa* as follows, "Siyasa means setting the interests and maintaining the benefit of the people and making (correct) policies to ensure the creation of good for them.

And the most concise definition of Ibn Manzhur about *siyasa* is "Organizing something in a way that leads to benefit." Legislative politics (*al-siyasah al-dusturiyah*). This section covers the study of the establishment of law (*tasyri'iyah*) by the legislature, the judiciary (*qadha'iyah*) by the judiciary, and government administration (*idariyah*) by the bureaucracy or executive must be in accordance with *maqashid al-syari'iyah*, namely *li jalb al-mashalih wa li da'i al-mafasid* (taking benefit and eliminating harm). Shari'ah itself is the way to water spring or the way to safety both physically and spiritually.

Knowledge of *Maqāsid Shari'ah*, as confirmed by Abd al-Wahhab Khallaf is a very important thing which can be used as a tool to help understand the redaction of the Qur'an and Sunnah. It is also beneficial in resolving postulates which are contradictory and very important to determine the law for cases which are not accommodated by the Qur'an and Sunnah in terms of linguistic studies.

*Istinbat* methods, such as *qiyās*[13], *istihsan*[14], and *maslahah mursalah*[14] are methods of developing Islamic law which are based on *maqasid shari'ah*. *Qiyās*, for example, can only be implemented when the *maqasid syariah* can be found which is the logical reason (*'illat*) of a law. For example, regarding the case of prohibition of intoxicants

(QS. al-Māidah: 90). From the results of research the theologian found that the maqasid syariah of the prohibition of khamr is because of its intoxicating nature which damages the mind. Thus, the logical reason ('illat) for the prohibition of khamr is its intoxication, while khamr itself is only one example of what is intoxicating.

From this it can be developed using the analogy method (qiyās) that everything that is intoxicating is also unlawful. Thus, if the legal 'illat in a verse or hadith is known, then qiyās (analogy) can be carried out against it. That is, qiyās can only be done if there are verses or hadiths that specifically can be used as a place to perform qiyās, known as al-maqīs 'alaih (a place to perform qiyās). If there are no specific verses or hadiths that will be used as al-maqīs 'alaih, but are included in the objectives of the Shari'a in general such as to maintain at least one of the above needs, in this case the maslahah mursalah method is used. In the study of Ushul Fiqh, what is considered maslahat if it is in line with or not contrary to general Sharia guidelines, can be recognized as a legal basis known as maslahah mursalah.

If the law which is to be known has been stipulated in the texts or through qiyās, then because in one condition when the stipulation is applied it will conflict with other stipulations or interests which are more general and more appropriate according to syara' to be defended, then that stipulation can be abandoned, specifically in that conditions. Ijtihad like this is known as istihsan. The method of establishing law through maqasid shari'ah in these istinbat practices, namely the practice of qiyās, istihsan, and istislah (maslahah mursalah), and others such as istishab, sadd al-zari'ah, and 'urf (customs), besides being referred to as a method of establishing law through maqasid shari'ah, most Usul Fiqh scholars also refer to it as supporting arguments, as has been briefly described in the discussion of the legal arguments above.

The discourse on maqāsid al-syariah prior to al-Syātībī was mostly concerned with the issue of 'illah Hukum and maslahah as the basis for formulating law. Because at that time many of the Ulama were also theologians or Ulama of Kalam, many discourses in the field of Suggestion of Fiqh were also explored by theologians including the maqāshid al-shari'ah discourse. One of the results is the discourse on the law of causality which actually has a paradigm difference which cannot be mixed up between causality within the framework of legal philosophy and causality within the framework of theology.

According to al-Syātībī, in formulating law, God's motive is the benefit of mankind and it is from this initial premise that the debate about the law of quality begins. However, the understanding of causes or motives in theology cannot be equated with the meaning of 'illah in usul fiqh. There is a shift in meaning or a change in the semantics of 'illah from theology studies to the study of legal philosophy.

Al-Syātībī argues that *maslahah* as a *syariah* motive is known through inductive methods, both as a grand theme of *shariah* in general and as an explanation of the reasons for a law or order in detail. Al-Syātībī gives examples whose reasons have been explained in the Al-Qur'an. For example, orders for ablution whose motive is purity, orders for fasting whose motive is piety and piety and orders for jihad whose motive is freedom.

The *maqāsid al-shari'ah* doctrine is an effort to uphold *maslahah* as an essential element in legal purposes. Al-Syātībī falsifies the study of *maqāsid al-syariah* into two levels, from the point of view of *maqāsid al-syari'* or God's purpose as law maker and from the point of view of *maqāsid al-mukallaf* or legal subject.

*Maslahah* as *maqāsid al-syari'* means that it is Allah who determines a benefit. Nevertheless, al-Syātībī realizes that this condition is not final. Al-Syātībī admits that the benefit of God's version can still be understood and its discursive spaces can be opened. *Maqāsid al-shari'ah* Allah's version includes four aspects of understanding. First, benefit as the basis for the purpose of *shari'ah*. This aspect talks about the meaning, level, characteristics and relativity or absoluteness of *maslahah*. Second, *Shari'at* is something that must be understood. This aspect discusses the linguistic dimension of *taklif* issues. Commands which are forms of *taklif* must be understood by all *mulafs*, both in their understanding of words and sentences as well as in their linguistic and cultural understanding. In this aspect al-Syātībī uses two terms, *al-dalalah al-asliyyah* or essential understanding and *al-dalālah al-ummumiyah* or common sense. Third, *Shari'at* is solely an obligation that must be implemented. This aspect analyzes the notion of *taklīf* in relation to human abilities, difficulties encountered and others. Fourth, the purpose of the *shari'ah* is to bring the *mukallaf* under the auspices of the law. This aspect means realizing human obedience under God's law. Humans must be freed from the shackles of lust.

From the perspective of *maqāsid al-mukallaf*, al-Syātībī raises the discussion of human will and actions. In this case al-Syātībī discusses several concepts related to the purposes of the *kamullaf* version, that is the concepts of *maslahah*, *dalālah*, *taklīf*, *ta'abbudi* and intention. In order to get the truth scientifically and rationally, a researcher must be fair, benevolent and achieve substantive truth. To measure whether the shift is beneficial or not, the divine theory will be the benchmark in this research. Because the purpose of an Islamic law is to achieve happiness in the world and the hereafter, that is to achieve benefit and avoid harm.

Etymologically, *hamar* (*khamr*) comes from the word *khamara yakhmuru* or *yakhmiru* which means closed, blocked or hidden. Meanwhile, in terms of terminology, there are



differences of opinion among fiqh theology. According to Imam Malik, Imam Syafi'i, and Imam Ahmad, khamr is a drink that intoxicates whether the drink is called khamr or not khamr, whether it comes from grape juice or comes from other ingredients, besides wine. Meanwhile, according to Imam Abu Hanifah, khamr is an intoxicating drink made only from wine, while other intoxicating drinks which are not made from wine are not khamr according to him. [15]

Jumhur ulama' have agreed that in general there are four sources of Islamic law, that is the Qur'an, al-Sunnah, Ijma', and Qiyas. The Al-Qur'an itself explains the law regarding liquor gradually, starting with the letter al-Nahl verse 67 which explains that there is good sustenance that is produced from dates and grapes and can also produce intoxicating drinks. Then surah al-Baqarah verse 219, which only explains that khamr has its benefits. Then the letter al-Nisa' verse 43 which explains that drinking liquor is forbidden for Muslims when it is near the time of prayer, so that when they pray they are not in a drunken state, so that it can spoil the prayer and disrupt the Al-Qur'an that they read. Finally surah al-Maidah verses 90-91, which explains that drinking liquor (khamr) is one of the devil's acts that must be avoided so as not to cause enmity and hatred among Muslims. [16]

Allah swt. says in the Qur'an letter al-Nahl verse 67 that from the fruits of dates and grapes you can make an intoxicating drink and good sustenance. But Muslims still continued to drink khamr or liquor until Rasulullah saw. migration from Mecca to Medina. At that time the Muslims were wondering about intoxicants or drinking and about gambling to see the crimes and damages caused by these two acts. For this reason, Allah swt. sent down surah al-Baqarah verse 219. The meaning of the verse above is that committing these two acts is a grave sin, because in them there is harm as well as material and religious damages. These two things do have material benefits, namely profits for the seller of liquor or liquor and the possibility of obtaining property without any effort for the gambler. However, the sins far outweigh the benefits. The sin is greater than the benefit that causes both of them to be forbidden. This is also what makes both of them more likely to be banned even though it has not been absolutely forbidden.

After the above verse was revealed, a verse was also revealed which forbids khamr or liquor in connection with prayer (drinking it) especially for those who are addicted to khamr or liquor and make it a part of their life. That is why the verse of Al-Quran sura al-Nisa verse 43 was revealed which is an introduction to the final prohibition of drinking khamr or liquor. After that, a ban on drinking alcohol was stipulated with the emphasis that khamr, gambling, idols and lottery are heinous acts including the actions

of Satan and must be avoided. It is emphasized that with these four kinds of actions Satan intends to create enmity and hatred and prevent people from remembering God and performing prayers. Then Allah swt. strictly forbid it through the verses of the Koran sura al-Ma'idah verses 90-91.

Liquor or khamr is a drink that is prohibited for consumption by Muslims because it can be intoxicating. It is forbidden to drink khamr because the harm far outweighs the benefits. Therefore, drinking alcoholic beverages is forbidden in Islam. [17]Islam is a religion blessed by Allah SWT which teaches truth to every human being. One of them is the truth that people who are Muslims must stay away from what is unlawful and only approach what is lawful. Because liquor is forbidden, it must be avoided. Because, when we consume alcohol, our health will be disturbed and could damage the body's organs [18] and cause criminal acts. Human morals will also be damaged and can reduce productivity. [19]

There are two opinions about the origin of the word *siyasa*. First, as stated by Anut al-Maqrizy, *siyasa* comes from the Mongolian language which is from the word *yasah* which gets the letters *sin* lined up at the beginning so that it reads *siyasa*. This opinion is based on a book of laws belonging to Gengish Khan entitled *Ilyasa* which contains guidelines for managing the State with various forms of severe punishment for certain criminal offenders. Second, according to Ibn Taghri Birdi, *siyasa* comes from a mixture of three languages, which are Persian, Turkish and Mongolian. Third, according to Ibn Manzhur, *siyasa* comes from Arabic, which is the *mashdar* form of *tashrif*, the word *sasa-yasusu-siyasatun*, which originally meant managing, caring for, or training animals, especially horses. In line with the meaning of the latter, someone whose profession is a horse caretaker.[12] Meanwhile, terminologically, there are many definitions of *siyasa* put forward by Islamic jurists. According to Abu al-Wafa Ibn 'Aqil, *siyasa* is as follows "Siyasa means an action that can bring people closer to benefit and further from damage, even though the Messenger of Allah did not stipulate it and Allah also did not send down revelations to regulate it"

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Tasyriyyah which means stipulation of law, stipulation of law must be in accordance with maqashid al-syari'iyah, li jalbi al-mashalih wa li da'i al-mafasid (taking benefit and eliminating harm). Shari'ah itself is the way to water springs or the way to safety both physically and spiritually. Knowledge of Maqāsid Shari'ah, as confirmed by Abd al-Wahhab Khallaf is a very important thing that can be used as a tool to help understand the redaction of the Qur'an and Sunnah, resolve the contradictory postulates and what is very important is to determine the law for cases that are not accommodated by the Qur'an and Sunnah in terms of linguistic studies.

Istinbat methods, such as qiyās [14], istihsan [14], and maslahah mursalah [14] are methods of developing Islamic law which are based on maqasid shari'ah. Qiyās, for example, can only be implemented when the maqasid syariah can be found which is the logical reason ('illat) of a law. For example, regarding the case of prohibition of intoxicants (QS. al-Māidah: 90). From the results of research by theologian it was found that the maqasid syari'at of the prohibition of khamr is because of its intoxicating nature which damages the mind. Thus, the logical reason ('illat) for the prohibition of khamr is its intoxication, while khamr is only one example of what is intoxicating.

From this it can be developed using the analogy method (qiyās) that everything that is intoxicating is also unlawful. Thus, if the legal 'illat in a verse or hadith is known, then qiyās (analogy) can be carried out against it. That is, qiyās can only be done if there are verses or hadiths that specifically can be used as a place to perform qiyās, known as al-maqīs 'alaih (a place to perform qiyās).

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If the law which is to be known has been stipulated in the nash or through qiyās, then if there is a contradiction with other stipulations which are more general and appropriate according to syara' to be defended, the stipulation can be abandoned specifically in these conditions. Ijtihad like this is known as istihsan. The method of establishing law through maqasid shari'ah in these istinbat practices, that is the practice of qiyās, istihsan, and istislah (maslahah mursalah), and others such as istishab, sadd al-zari'ah, and 'urf (customs), besides being referred to as a method of establishing law through maqasid shari'ah, most Usul Fiqh scholars also refer to it as supporting arguments, as has been briefly described in the discussion of the legal arguments above.

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According to al-Syātibī in formulating law, God's motive is the benefit of mankind and it is from this initial premise that the debate about the law of quality begins. However the understanding of clauses, causes or motives in theology could not be equated with the meaning of 'illah in usul fiqh. There is a shift in the meaning of semantic change of 'illah from the study of theology to the study of legal philosophy.

Al-Syātibī argues that maslahah as a syariah motive is known through inductive methods, both as a grand theme of syariah in general and as an explanation of the reasons for a law or order in detail. Al-Syātibī gives examples whose reasons have been explained in the Qur'an. For example, orders for ablution whose motive is purity, instructions for fasting whose motive is piety and instructions for jihad whose motive is freedom.

The maqāsid al-shari'ah doctrine is an effort to uphold maslahah as an essential element in legal purposes. Al-Syātibī falsifies the study of maqasid al-syariah into two levels, from the point of view of maqasid al-syari' or God's purpose as law maker and from the point of view of maqasid al-mukallaf or legal subject. Maslahah as maqasid al-syari means that Allah is who determines a benefit. Nevertheless, al-Syātibī realizes that this condition is not final.

Al-Syātibī admits that the benefit of God's version can still be understood and its discursive spaces can be opened. Maqasid al-shari'ah Allah's version includes four aspects of understanding. First, benefit as the basis for the purpose of shari'ah. This aspect talks about the meaning, level, characteristics and relativity or absoluteness of maslahah. Second, Shari'at is something that must be understood. This aspect discusses the linguistic dimension of taklif issues. Commands which are forms of taklif must be understood by all mulafs, both in their understanding of words and sentences as well as in their linguistic and cultural understanding. In this aspect al-Syātibī uses two terms, al-dalalah al-asliyyah or essential understanding and al-dalālah al-ummumiyah or common sense. Third, Shari'at is solely an obligation that must be implemented. This aspect analyzes the notion of taklif in relation to human abilities, difficulties encountered

and others. Fourth, the purpose of the shari'ah is to bring the mukallaf under the auspices of the law. This aspect means realizing human obedience under God's law. Humans must be freed from the shackles of lust.

From the perspective of maqāsid al-mukallaf, al-Syātībī raises the discussion of human will and actions. In this case al-Syātībī discusses several concepts related to the purposes of the kamullaf version, that are the concepts of *maslahah*, *dalālah*, *taklīf*, *ta'abbudi* and intention. In order to get the truth scientifically and rationally, a research must be fair, beneficial and achieve substantive truth. To measure whether the shift is beneficial or not, the divine theory will be the benchmark in this research. Because the purpose of an Islamic law is to achieve happiness in the world and the hereafter, which is to achieve benefit and avoid harm, Satan is a real human enemy. If there is a rule regarding the prohibition of alcoholic beverages, it does not conflict with religious rules. Third, facilitating and not complicating, meaning that with the existence of regulations in the form of laws makes the government easier to limit the use of alcoholic beverages which are very detrimental to society and the country. Besides that, it also makes the government easier to prepare bright and brilliant young people since the alcoholic beverages will result in drunkenness and crime behavior.

Legal determination (*siyasah al-tasyri'iyah*) must be applied in accordance with the purpose of the law, that is *li jalb al-mashalih wa li dafi al-mafasid*) in order to take benefit and eliminate harm. In accordance with the principle of the law, first, *'ada al-haraj* (removing difficulties), the prohibition of alcoholic beverages is not a difficult matter, there is a need for binding regulations against its prohibition. Second, *taqlil at-takalif* (alleviating the burden), the prohibition of alcoholic beverages will actually be able to lighten the burden, both for individuals and for the general public, both for society and for the state. Third, *at-tadarruju fi al-tasyri'* (the law applies gradually), if we look at a regulation regarding the prohibition of intoxicants, it is actually a *tadrijiyan* prohibition, meaning that there was already an MUI Fatwa prior to the drafting of the Bill on limiting the use of food ingredients. Because the fatwa is non-binding, it needs to be initiated and legislated in a rule called the Law on the Prohibition of Alcoholic Beverages.

## 4. Conclusion

The Importance of the Draft Law on the Prohibition of Alcoholic Beverages Philosophically that alcoholic drinks are the same as *khamr* legally. Sociologically, alcoholic drinks are detrimental to society and cause a lot of uproar whereas normatively Islamic law both in the text and the MUI fatwa Number 11 of 2019 has prohibited the use of alcohol

in excess of a predetermined level. The Bill on the Prohibition of Alcoholic Beverages is relevant to the MUI Fatwa Number 11 of 2019 concerning Alcohol Law considering that the MUI fatwa is not binding. It is necessary to legislate in the form of legislation regarding the prohibition of alcoholic beverages because the legal analogy is the same as khamr and the impact on society is very detrimental real, so it needs a legal rule.

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