



Reform Business Policy in the Sector Production Cigarettes Based on Pancasila Economic Values and Halal Principles According to Islamic Law

Rudolf Silaban^(✉)

Faculty of Law, Darma Agung University, Medan, Indonesia

rudolf.silaban@gmail.com

Abstract. Cigarettes are a promising trade commodity, but on the other hand, cigarettes also have a negative impact on health. The legal policy related to cigarette trade permits and cigarette production has never seen the negative impact of these cigarettes, this clearly shows that the legal policy breathes economic capitalism and has neglected social justice which is the mandate of Pancasila. So it is necessary to discuss related to Reformation Business Policy in the Sector Production Cigarettes Based on Pancasila Economic Values. This article, which was written using a sociological juridical method, in its discussion, found the fact that the policy of cigarette production in Indonesia is more capitalistic in that the policy only prioritizes the profits of entrepreneurs, while the welfare of tobacco farmers and public health are not clearly regulated in legal policies related to the cigarette trade.

Keywords: Halal · Policy · Pancasila · Cigarettes

1 Introduction

Smoking and cigarettes is two things that are not could inseparable with Indonesian people, this seen with existence fact that almost whole Indonesian people are good in urban areas until countryside, good circles office until circles Kyai in various cottage boarding school almost whole activities always make cigarette as complement.

This fact showing how cigarette is part from life part big community in Indonesia, good as complement in look for inspiration when face problem , be antidote to fatigue when studying religious books, until Becomes friend when tell a story with various the people in the coffee shop or just Becomes condition in every ceremony customs in this archipelago.

Cigarettes that live inside various dimensions public the seen is same thing old with history development society in Indonesia. This thing by clear look at history workers in Indonesia in the era before and after independence of this country.¹ The development of the times brings style paradigm oriented life modernity life public from various aspect, change the no then turn off popularity cigarettes in society, a phenomenon smoke as style life keep going develop like an ice ball, the old cigarette by reasonable only Becomes consumption circles mature gradually Becomes consumption children and youth even woman.

This thing make shop Becomes keep going develop from aspect segment marketing. Development industry cigarettes and habits continuous smoking develop fast in the reality is too much reap contradiction from various community observer health. Besides that with appearance Constitution Number 36 of 2009 concerning partial health big contrary with practice trading considered cigarettes as factor no healthy something society. The formulation of the problem that will be discussed in this article is related to business policy issues in the field of cigarette production which so far have not been fair, especially related to public health.

2 Research Method

The method used in writing this article is sociological juridical where the study of law is not only seen from the aspect of legal texts but also the implementation of law in society.

¹ Since founded village Ngadirejo in the residency of Kediri in 1922 where Dutch colonialism is very thick in this country , cigarettes has present coloring life social , political , economic , even culture in Indonesia, especially in the Desa area Ngadirejo , hal this started with establishment factory cigarettes by Surya Wonowidjojo named oriental Tjoa Ing Hwie in the area . Proceed fast business a cigarette at the moment that capable create field work for circles Earth the son at that time part no have income certain because mastery land and enforcement rent land by the Dutch government at that time . Progress business cigarettes by the later Tjoa Ing Hwie set up business by independent with established PT. Gudang Garam is supported by its height appetite consumer cigarettes in Indonesia since the Dutch colonial period , however thereby success the had time troubled in the Japanese era with existence political for curb ethnicity China at that time , however thereby business cigarette the capable endure until moment this , thing this showing how cigarette has Becomes part developments in Indonesia. (Try read : Ministry of Education and Culture , Identification Problem Socio-Economic Consequence Termination Work (Case Factory Cigarettes in East Java, East Java , Ministry of Education and Culture , 1999, page . 21)

3 Results and Discussion

3.1 Current Cigarette Production Business Policy Issues

Related problem cigarette need wish seen from various aspect that is aspect, socio-cultural, aspect economy, aspect politics, until aspect law. Following will be discussed one by one aspects those:

a) In terms of Socio-cultural.

In terms of social and cultural problem cigarette very so complicated Thing this showed that in one side cigarette considered no healthy specifically for children and youth as well as women who are getting Becomes various market segments company cigarettes in the country, on the other side problem for prevent consumption cigarette as substance antidiabetic by various circles including children, youth and women no easy Thing this because culture consumption cigarettes that don't could prevented and prohibited by firm by the government because to smoke is right for consumer cigarettes.

Problem this then answered by the government with alternative there is a written consequence to smoke for health as well as picture showing _ consequence excessive smoking, however _ Thing this no succeed remember will consumer cigarette for keep going smoke consequence impact from cigarettes which are substance addictive and psychotropic class E that gives rise to dependency for its users. Dilemma occur when cigarettes are also included psychotropic class no dangerous like like drugs, still permanent allowed circulation because assumption safe when consumed in total a little, but in general smoker will Becomes addict cigarettes that will keep going to smoke until threshold limit later health result in death.

b) In terms of Economy.

In sector economy problem cigarettes too complicated caused existence contradiction Among interest a profit- focused business where always prioritize market side of side health, and besides that from aspect field work, with existence factory cigarette continuity laborer factory, farmer tobacco as well as employee employees in the field office business cigarettes will guaranteed, thing this means with delete it cigarette from this country will result in level unemployment and poverty are also high in this country.

c) In terms of Political.

In sector this delete production cigarettes really difficult Thing this due to sector determinant policy good executive, legislature until judicial no miss from consideration Among both pro and the opposite party will cigarette in a country this. This thing result in government in the political process must capable by fair resolve problem cigarette this with no necessarily abolish cigarette from this country.

d) Legal aspect.

birth Constitution Number 36 of 2009 resulted in increasing number of lawsuits in the Court Constitution related Cigarettes , here lawsuits filed to Court Constitution :²

² Online Law, *Combat constitutionality Tobacco Behind _ Constitution Health* , Hukumon-line.com, downloaded 12 December 2016, page . 4

Table 1. Amount lawsuit Related Problem Cigarettes in Indonesia.

No	Plaintiff	Number Case	lawsuit
1.	Bambang Sukarno, Representing Farmer Indonesian Tobacco	19/PUU-VIII/2010	Article 113 paragraph (2) is considered discrimination because only include plant tobacco and products containing _ tobacco as substance addictive that can be damage health
2.	Association Indonesian Farmers DPD Central Java	34/PUU-VIII/2010	Article 113 paragraph (2), Article 114 as well as the explanation, Article 119, is considered no capable create guarantee decent life _ as well as no give certainty law
3.	ISMKMI represented by Widyastuti Soerojo and Muherman Harun	43/PUU-IX/2011	Explanation of 114 that resonates problem could result in the disturbance health
4.	Harfash, Zaenal Mostofa, Erna Setyo	55/PUU-VIII/2010	Articles 114 and 119 are related inclusion explanation about consequence smoking on packaging cigarette

Based on various lawsuit above seen clear that occur contradiction interest various circles related problem cigarette that, thing this could also seen in various conception cigarettes, the first concept is the concept that states that to smoke is a human right Azasi Human, according to circles Plaintiffs who are pro against cigarette state that smoke is right for every man so that smoke is is form of human rights that should be protected by law.³

Opinion from circles plaintiff continuity production cigarette state that smoke not human rights because smoke not right given basis Lord since born, so right base man in the form of get environment a clean and healthy life that should be take precedence.⁴ However thereby problem dissipation cigarette this no easy with existence fact that tax biggest are in cigarettes and absorbents power work the largest is also in the business cigarettes.

So that get it said that from aspect health government impressed no harmonized Among institution economy with institution health, thing this result in government impressed no commitment in operate mandate Constitution Number 36 of 2009, while in the business sector, the economy as well as power work government enough wise also paying attention various power work in the sector business cigarette and also able support progress development of a country which is one of the source the funds that is originated from tax cigarettes.

³ *Loc, cit*

⁴ *Loc, cit*

Parsons places law as one of the sub-systems within a larger social system. Besides the law, there are other sub-systems that have different logics and functions. The sub-systems referred to are culture, politics and economy. Culture is related to values that are considered noble and noble, and therefore must be maintained. This sub-system functions to maintain ideal patterns in society. Law refers to the rules as the rules of the game together (*rule of the game*). The main function of this sub system is to coordinate and control all deviations to comply with the rules of the game. Politics has to do with power and authority. His job is to utilize power and authority to achieve goals. While the economy refers to the material resources needed to support the system. The task of the economic sub-system is to carry out the adaptation function in the form of the ability to master the means and facilities for system needs.⁵

The four sub-systems, apart from being a reality inherent in society, are simultaneously challenges that must be faced by each unit of social life. The life and death of a society is determined by the functioning or not of each sub-system according to their respective duties. To ensure that, it is the law that is tasked with managing the harmony and synergistic movement of the other three sub-systems. This is called the integration function of the law in Parsons' theory.⁶

Regarding the cigarette issue, it is clear that the law is heavily influenced by economic interests which only prioritize capital gains, while public health must be put aside. If you want to see law as a system, then law enforcement as a process will involve various components that are interconnected and some even have a fairly close dependence. As a result, the absence of one component can lead to *inefficient* or *useless* so that the aspired legal goals are difficult to realize. These components include *personnel, information, budget, facilities substantive law, procedural law, decision rules and decision habits*.⁷

Based on Dror's view above, it is clear that trade policies in the cigarette production sector should be made with the approval of the Minister of Health, not only the Minister of Industry and Trade. In addition, there is a need for special facilities in terms of restrictions so that cigarettes cannot be bought by children. In addition, it is necessary to have an economic system that is capable of sustaining the tobacco farmers and cigarette factory workers on the one hand, but on the other hand, the negative impact on public health of cigarettes can also be overcome.

System Pancasila economy is system economy based on the Pancasila ideology which is the goal? from system economy implied in every Pancasila. According to Mubyarto system economy no stand up alone However in development system economy affected with existence social, cultural, political and moral, non - economic pillars the there is by real on every the precepts that exist in Pancasila so that system economy should based on each please follow Pancasila later capable realize Justice for whole

⁵ Bernard L. Tanya, et al, *Legal Theory of Orderly Strategies of Man Across Spaces and Generations*, (Yogyakarta: Genta Publishing, 2010), page. 152.

⁶ *Loc.cit.*

⁷ Ezekel Dror, *Ventures in Policy Science, Concepts and Application*, (New York, Oxford, Jerusalem: Elsevier, 1971), page. 73.

Indonesian people don't only long - lasting efficiency this offered by economy capitalists in communist countries.⁸

Pancasila basically is ideology open it means open for change However permanent with filtering appropriate values with Pancasila ideology as ideology the Indonesian people, as well as system Pancasila economy that always flexible with change However permanent assertive in filtering values base shaper something system existing economy. So that Mubyarto add that Pancasila economy is a market economy aims create Justice for whole Indonesian people, especially in the field of economy.⁹

This view related to the Pancasila economy can be realized in the cigarette production and trade economy, where large cigarette revenues can be a direct subsidy for the provision of public health facilities and infrastructure that can be accessed by the public free of charge, especially health facilities related to the treatment of the effects of smoking. In addition, it is necessary to increase the welfare of tobacco farmers and new knowledge in the field of technology for new types of agriculture that are also promising in the economic sector, so that tobacco farmers do not depend solely on tobacco. Among the scholars who forbid cigarette is Shaykh ash-Shihab al- Qalyubi, Shaykh Ibrahim al - Laqqani al-Maliki, Shaykh Hasan ash-Syaranbila (a scholar from The Hanafi school which also forbids trade it). A group of Sufi scholars also joined confirm forbidden cigarettes , one of _ those named Sayyid al - Husayn ibn Abi Bakr criticized in a loud voice until said, "Stuff" who does n't want to repent from smoke in time four twenty day before death, worry he dead in state *su ' ulkhotimah* (dead ugly)". So that clear that need existence restrictions total trading cigarettes in society good in Thing age nor total consumption every consumer mature every day through enhancement price cigarettes.

4 Conclusion

Based on the various explanations above, it is clear that the policy of cigarette production in Indonesia is more capitalistic in that the policy only prioritizes the profits of entrepreneurs, while the welfare of tobacco farmers and public health are not clearly regulated in legal policies related to the cigarette trade.

Bibliography

- Bernard L. Tanya, et al, 2010, Legal Theory of Orderly Strategies of Man Across Spaces and Generations, Genta Publishing, Yogyakarta
- Ezekiel Dror, 1971, Ventures in Policy Science, Concepts and Application, Oxford, Jerusalem: Elsevier, New York
- Djoko Dwiyanto and Ignas G. Saksono , 2011, Economy (Socialist) Pancasila Vs Capitalism , Family Big Marhenis , Yogyakarta
- Online Law , Combat constitutionality Tobacco Behind _ Constitution Health , Hukumonline.com,

⁸ Djoko Dwiyanto and Ignas G. Saksono , *Pancasila vs. Capitalism (Socialist) Economics* , Family Big Marhenis , Yogyakarta, 2011, page . 176

⁹ *Loc, cit*

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

