

The Perspectives of Islamic Law (*Hadd Al-Syurb*) on *Aia Niro* and *Tuak (Khamr)* Activities in Nagari Batu Payuang Halaban

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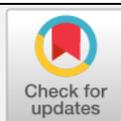
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ABSTRACT

In Islamic law, khamr is a common type of alcoholic beverage that is forbidden for consumption due to its elements that can intoxicate and lead to loss of self-control. The government of Indonesia also forbids people from consuming the intoxicating beverage in certain levels. Nevertheless, a community group in Batu Payuang Halaban, Lima Puluh Kota Regency, West Sumatra Province, Indonesia, wherein their daily lives can be found a type of traditional beverage as same as khamr that is a fermented juice of sugar palm bunches. The people call it "tuak". This research aims to investigate how the people of Nagari Batu Payuang produce aia niro and tuak, their motives for buying, selling, and consuming the drink, and judging it from the perspective of Islamic law (hadd al-syurb). This type of research is field research with a qualitative approach. Data sources consisted of primary and secondary. The data collection was conducted by observing the process of producing aia niro, tuak, and the transaction, and in-depth interviews with owners of sugar palm plantation, tuak producers, buyers, sellers, consumers, and local ulama (Islamic scholars). The data were analyzed in descriptive by reduction, display, and verification. To examine this research, the theory used was the concept of hadd al-syurb in Islamic law and the regulation on alcoholic beverages in Indonesia. The results show that aia niro is produced by extracting the bunches of male sugar palm and it is the raw material to produce tuak by leaving the aia niro in jerry cans and adding agarwood bark for 3 days. The sellers have various reasons to sell tuak and its raw materials. Besides the price is higher than brown sugar, it is also motivated by personal and other economic reasons as well as easier processing. People who drink tuak realize that it is intoxicating

in a certain amount but they drink it to warm their bodies and relieve their fatigues. In the concept of *hadd al-syurb*, consuming *tuak* as an intoxicating substance is *haram* (forbidden) and is condemned to those who drink it. However, they who trade it are not punished by *hudud* since the *Sunna* proposition only refers to the transaction as an act of curse.

Keywords: Beverage; Hadd Al-Syurb; Islamic Law; Khamr; Trade; Tuak

1. Introduction

Khamr is one of the objects mentioned in the Holy Quran, in Surah Al-Maidah (Quran 5:90-91) and Surah Al-Baqarah (Quran 2:219). Further explanation about *khamr* is also commonly found in the hadiths of the Prophet Muhammad (Peace Be Upon Him). In the verses of the Quran and the Hadith, it is explained that *khamr* consumption is one of the prohibited acts and is severely punished by those who drink it with certain penalties. However, each *ulama* (Islamic scholars) has different perspectives on the meaning of *al-khamr* as written in the Quran and Sunna. The differences have influenced the legal consequences. In the context of *zahir*, *al-khamr* is only extraction (juice) of grapes, and then it is fermented. According to Hanafiyah scholars, the recitation of *al-khamr* in the Quran and Sunna is a type of name that is fermented (only) grape juice. As a result, anyone who consumes *khamr*, whether in small or large amounts, whether it leads to intoxicating (*iskar*) or not, then can be a subject to the punishment of *hadd al-syurb* (Al-Zuhaili, 2002), as it has been explained in the hadith narrated by Anas ibn Malik (Aini, 2009). In the hadith, it is stated that the Prophet Muhammad (Peace Be Upon Him) whacked a man who drank *khamr* using a palm frond 40 times of whipping. Based on the explanation, the Hanafiyah scholars conclude that only those who consume the *khamr* can be punished with the punishment of *hadd al-syurb*. As for people who consume other types of items such as drugs, tequila, sake, soju, brandy, whiskey, beer, wine, *tuak*, bull glue, and other intoxicated objects, Hanafiyah scholars separates them into two categories. If the people, who consume these things, then get drunk, not considering a little or a lot of the amount consumed, then the level of drunk becomes a measure for punishment with the punishment of *hadd al-sukr*. For those who consume items other than *khamr* but not drunk, according to Hanafiyah scholars, those are only punished with a sentence of *takzir* (Al-Kasani, 1997).

Most *ulama* or Islamic scholars such as Shafi'iyah, Malikiyah, and Hanabilah consider that the recitation of *al-khamr* in the Quran is a measurable trait and not a type of object (Qudamah, 2013). As a result, everyone who consumes *khamr* or others such as drugs, tequila, sake, soju, brandy, whiskey, beer, wine, *tuak*, bull glue, and other intoxicated items, in small or large amount, whether drunk or not can be punished with the punishment of *hadd al-syurb*. The majority of the Islamic scholars conclude that each intoxicated items and leads to drunk or lose self-control is categorized as *khamr*, and then it is *haram* (forbidden). The explanation has also been mentioned in the hadith narrated by Ashab al-Sunan besides Ibn Majah (Asy-Syaukani, 1993). The analogy above relies on the same nature that exists in all of those objects, which is intoxicating or losing self-control or make people cannot distinguish good and bad things as well as to measure one's *taklif* burden.

In a modern context, people in certain countries such as in the USA, UK, Italy, and France still produce *khamr* from fermented grape juice. This drink is usually known as wine with a variety of qualities. The older the year of production, the consumers consider it as more in quality. In other countries people use different raw materials such as in Mexico, agave is to make tequila while in Mexico, and rice is to make sake in Japan and soju in Korea. Likewise in Indonesia which has many natural raw materials to produce alcoholic drinks and under certain conditions can be intoxicating such as fermented sugarcane and cassava (Hendrawati et al., 2019), from jelutung wood (*Dyera Costulata*), keruing (*Dipterocarpus*) and durian (Gusmailina & Hartoyo, 1988), and the fermentation of kepok banana (Nurismanto, et al., 2014). Even, the fermented kepok banana on the 3rd day of fermentation has reached 4.45% of alcohol content (Utami, 2017).

Some regions in Indonesia are famous for their natural raw materials to produce alcoholic drinks and a certain amount of people can be intoxicating. The website of the culture trip mentioned several types of traditional alcoholic drinks in Indonesia. In Bali, a type of traditional drink known as arrack Bali which is made from fermented glutinous rice, palm tree bunch, and coconut tree bunch extractions. Not only arrack, but the *brem* Bali is also fermented from black glutinous rice with lower alcohol content (3-10%) than arrack Bali. In South Sulawesi, especially in Tana Toraja, a type of traditional alcoholic drink known as *ballo* which is also made from sugar palm fruit bunches. In Central Java, an alcoholic drink known as *ciu* is fermented from sugarcane juice with an alcohol content below 50%. In Maluku, the same fermented juice is called *sopi* by the local community that is unknown for its manufacture until now since it is considered as God's creation. In the Batak community of North Sumatra, an alcoholic drink also known as *tuak* is fermented from juice of palm fruit bunch with added dried fruits to add its sweet taste. Usually, all the traditional alcoholic drinks above are served in a special ceremony or special events in their respective regions (Putri, 2017).

Generally, people in Indonesia call all types of alcoholic drinks as liquor. Some are produced the drink as home-productions by using other natural raw materials such as cassava, rice, and corn. Also, some of them make liquor by mixing various ready-made beverage ingredients. This type is known as *oplosan* (mixed alcohol drinks). *Oplosan* or mixed alcohol is a mixture of non-conforming alcohol and surrogate alcohol. *Oplosan* contains a mixture of raw materials that do not process in the proper distillation (becoming unstandardized alcoholic drinks) (Respatiadi & Tandra, 2018). The death caused by *oplosan* has commonly occurred in Bandung and its surrounding areas. In the city of Bandung, around 40 men passed away from January 2008 to December 2013. The death rose twice from January 2014 to April 10, 2018, which reached 90 cases. Ohimain (2016) stated that traditional liquor such as fermented juice of palm tree is usually mixed with packaged alcoholic drinks and its composition is increasingly unbalanced that harms the physical and psychological of its drinkers.

Among the people of Nagari Batu Payuang, Lima Puluh Kota Regency, they also have a traditional alcoholic drink as other regions in Indonesia. Like Batak people, the people of Nagari Batu Payuang also called the drink as *tuak*. Historically, *tuak* was introduced by some people of North Sumatra who had already produced this drink in their communities and brought it to the Minangkabau region. The people of North Sumatera drink *tuak* in various traditional activities as stated in the culture trip website above. Generally, the people of Minangkabau especially the Nagari Batu Payuang community are Muslim and they know that intoxicating drinks are prohibited in Islam. Therefore, the Minangkabau people apply basic ethics in addressing the existence of *tuak* in their area. The basic guideline of the Minangkabau community is *Adat Basandi Syarak, Syarak Basandi Kitabullah, Syarak Mangato Adat Mamakai*

(Khadimullah, 2007). This basic concept is more or less means that the customs and habits of the people are based on Islamic law and Islamic law is based on the Quran. The Quran clearly states that intoxicating drinks are prohibited to consume and if they are still consumed, the culprit can be punished with heavy punishment of *Hudud*.

As an alcoholic drink, *tuak* is considered negative by the people of Nagari Batu Payuang. However, when *tuak* becomes a livelihood and they have almost no other alternatives, then the activity becomes cut dead for others. Besides, this region is very fertile and suitable for growing sugar palm trees as raw materials for *tuak*. Whenever the transaction disturbs others, then the public reports it to the local police, such as the raids on its production that occurred in October 2018 in the sub-district of Lareh Sago Halaban since the activity of the producers has disturbed the peace and order in society (harianhaluan.com, 2018). However, after the raid conducted, the activities of production, transaction, and consumption of *tuak* returned to normal.

Since the manufacturing process is simple, *tuak* can be produced in a large quantity as home products. It is made from *aia niro* that grows vigorously in the region. *Tuak* is consumed by various ages; olds, adults, or teenagers (school students). This habit starts from the desire to try, then to relieve fatigue and it becomes a habit. For teenagers, *tuak* leads them unsteady and drunk; however, it is like a normal drink for adults who drink it in routine. This research aims to investigate how Nagari Batu Payuang people produce *aia niro* and *tuak*, what their motives for buying, selling and consuming it, and then judge the habits of the people producing, consuming and trading them freely in perspectives of Islamic law (*hadd al-syurb*).

2. Research Methodology

This type of research is field research with a qualitative approach. The sources of data were primary and secondary. The primary data sources had been determined since the early stages, those who can provide important information directly to answer the objectives of this research. Data were collected by using observation, interviews, and documentation that had been conducted at the end of 2019 and early 2020. The observation was conducted in Nagari Batu Payuang to observe the process of *aia niro* production, its process into *tuak* through the fermentation process, the way people consumed it, and its transaction around Nagari Batu Payuang. All of the activities were recorded and documented in a structured manner. In-depth interviews as primary data sources were conducted with owners of sugar palm plantation (*aia niro* raw materials), *tuak* producers/consumers, buyers, sellers, and local *ulama* (Islamic scholars) in Nagari Batu Payuang. The secondary data sources were relevant books about the theory used and manuscripts of related research that have been published in open-access journals. Then the obtained data were analyzed in qualitative descriptive (exposure and narration) using the flow reduction, display, and verification of data (to conclude).

3. Results

3.1. Demography of Nagari Batu Payuang Halaban

On the website of Lima Puluh Kota in Figures 2019 (Badan Pusat Statistik Kabupaten Lima Puluh Kota, 2019), it was explained that Batu Payuang is one of the *Nagari* (A *Nagari* is legally formed based on territorial and genealogical factors) in the Regency of Lima Puluh Kota. Nagari Batu Payuang is part of Lareh Sago Halaban District and was formally formed in 2001. The legal basis for its formation is the Decree of the Regent Number 453/BLK/2001 with the Regional Code Number is 130709. The area of Nagari Batu Payuang is 1.505 hectares with a population of 6.392 inhabitants that is generally Minangkabau ethnicity and they are mostly Muslim except for a few migrants from the North Sumatra or Batak tribe. The area boundary in the north is

Bukik Barisan Kampar Riau District, in the south is Tanjung Alam Salimpauang District, in the west is Balai Panjang Lareh Sago Halaban District, and in the east is Nagari Labuah Gunuang. Nagari Batu Payuang also has an orbit (distance from the center of government), which is towards the District about 3 km, to the regency city around 15 km, the distance to the provincial capital is 144 km.

People in Nagari Batu Payuang work as civil servants is 287 people, TNI/Polri (military/police) who live in Nagari Batu Payuang is 13 people, 102 people work in private sectors/entrepreneurs, traders are 761 people, garden farmers, and rice farmers and also included garden farmers sugar palm which is the central discussion of this research are approximately 1.100 people. Public education includes elementary school graduates/equivalent are 574 people, junior high school graduates are 563 people, high school graduates are 887 people, diplomas are 578 people, undergraduates are 128 people, postgraduates are 25 people, boarding schools are 30 people, religious educations are 20 people, special need schools are 8 people, skilled education courses are 2 people and never graduated are 361 people. Worship facilities and infrastructures in this Nagari are 6 units of mosque, 18 units of *musala*, *Madrasah Diniyah Awaliyah* for children's religious activities are 10 units with 38 teachers, *garin* (officer) who guards and cleans the mosque and *musala* are 6 people. *Ulama* (Islamic scholars), who live in Nagari Batu Payuang at least more than 10 *ulama*.

Most people live in the Nagari are Minangkabau ethnicity while the rest, in a small number, are migrants. This region is part of the native Minangkabau region called Luhak Lima Puluh Kota in addition to two other *luhak*, they are Luhak Tanah Datar as the oldest and Luhak Agam. In general, the special characteristic of the Minangkabau and the other Luhak Lima Puluh Kota communities in particular are the communal community. An ethnic group or clan usually has inheritance which has been passed down in generation, has a *pondam* (a special complex where members of the family are buried from generation to generation), has a customary title (*datuak*), has a *bagonjong* house (customary house) and has a *surau/musala* (small mosque) around them (Undri, 2009). *Surau* is the main characteristic of the community which has a function as a place to educate and foster the younger generation to understand and practice the teachings of Islam in their daily lives (Haviz, 2017). Therefore, it is appropriate to make this Nagari as an object of research due to a portion of their life order that does not reflect the ideal structure of Minangkabau as a Muslim Nagari which is the existence of *tuak* activities and transactions as one of the intoxicating traditional drinks among them.

3.2. Production Process of *Aia Niro* in Nagari Batu Payuang

Sugar palms grow vigorously in the *Nagari*. Both are intentionally planted for economic purposes and grow naturally on the plantation lands around Nagari Batu Payuang. Sugar palm flower bunches/stems can produce a liquid as the local community called it *aia niro* (juice from sugar palm fruit bunches). The fruit of the female bunch is commonly called tap fruit or *kolang kaling* and the fruit is for food. *Aia niro* was extracted when the incision was still in the form of a pistil. The tip of the bunch is cut and beaten slowly for several days until the water drops are removed, and then it is accommodated with bamboo tubes that have been emptied in the middle. The bamboo tube has been arranged for a capacity of 7-10 liters. According to Edi, producer, *Aia niro* is limpid and somewhat similar to young coconut water mixed with soda (interview conducted in 2020). This tree has a high economic value since its physical parts and its products can be utilized. In general, this tree grows wild (grow naturally). It is also evenly distributed not only in Lima Puluh Kota District but also throughout Indonesia. Traditionally, people in Nagari Batu Payuang process *aia niro* into brown sugar (local people called *soka*

niro/gulo anau). *Soka niro* has several advantages such as a much higher price and a more fragrant aroma. *Aia niro* is also used as raw materials of *tuak*. This alcoholic drink is consumed by certain people in Nagari Batu Payuang.

In Nagari Batu Payuang, *aia niro* is the extraction of sugar palm tree incision and especially from male flowers (Wulantika, 2019). This liquid contains sugar around 10-15%. *Aia niro* can be processed into soft drinks, or alcoholic, palm syrup, palm sugar, and *nata de arenga*. The incision of sugar palm tree is not difficult to do. This activity can be a main source of income or as additional income, especially in the Nagari Batu Payuang area. Sugar palm trees have male and female flowers. Both flowers can be incised to take the liquid. People of Nagari Batu Payuang incised bunches of male flowers because of the number and quality of liquid are more in quantity and it tastes sweeter than female flower bunches. Male flowers are shorter than female flowers. It is about 50 cm in length. While female flowers reach 175 cm. Male flowers can be incised when removing the stamens. It takes several times or overnight for *aia niro* droplets. After the incision, *aia niro* then filtered using a coarse filter and pasteurization to maintain a stable quality for 15 hours in storage at room temperature (Mulyawanti et al., 2011). Nevertheless, farmers still use certain methods to prevent *aia niro* from becoming stale when taken from the trunk. The farmers/producers use betel lime to prevent *aia niro* from decaying before being unloaded from bunches. Also, other people's natural preservatives to prevent the damage of *aia niro* during the incision such as bamboo root and mangosteen bark (Interview, Untia, Producer, 2020).

The producers of *aia niro* in Nagari Batu Payuang described a way to make the incision of palm fruit bunches. Firstly, clean the fruit bunches. Blackish brown fibers/rough fibers around the fruit bunch must be removed so its incision process easiest to do. One or two leaf fronds above and below the bunch are also removed. Secondly, beat the fruit bunches slowly but not injuring the outer skin of the bunch. The beating was carried out with a special round wood once in two days; in the morning and evening for three weeks. The producers also explained that each bunches has some certain signs to determine the plant's readiness of bunches to be incised. It is known to harvest naturally. After that, bunches are incised and if the incision releases *aia niro* fluid, the fruit bunch is ready. Thirdly, prepare for the incision. The bamboo tube they used must be cleaned and washed thoroughly. The inside of the bamboo is cleaned with a special long-stemmed sweeper. After that, the bamboo is rinsed with boiling water and smoked in reverse with smoke from the woodstove until the bamboo stems out and inside dries. It is to keep the quality of the *aia niro* flavor produced.

The incision is done when the fruit bunches are ready to be incised. The Bunches cut in the incised. Under the wound in the cut bunches, a bamboo tube is placed. In the bamboo tube, put a tablespoon of whiting and a piece of mangosteen peel around 3x3 cm. People can also use bamboo root pieces as big as adult men's little fingers. This bamboo tube is fastened to the bunch of incised trees. This incision process can last for 12 hours. Bamboo containing *aia niro* is lowered. Each incision process obtained 3-6 liters of *aia niro*. After that, the bunch must be thinly sliced to remove the hardened tissue and blocked capillaries. Under the new slices, another clean bamboo tube is placed. Thus the incision process continues for 3-4 months (Interview, Edi, Producer, 2020).

Harvesting *aia niro* in Nagari Batu Payuang is processed by only those who can climb the tree. After the harvest is completed, the liquid is collected in a large jerry can of 20-25 kg. In a week the harvest yields are around 5-10 jerry cans that each of them contain 20-25 kg of *aia niro*. The owners of the palm plantation will wait for customers to buy *aia niro* who has usually bought it at the owners' or suppliers' homes. Usually, some Non-Minangkabau ethnic groups

(especially Batak and Javanese) buy it. Batak and Javanese are regular customers. Besides, those people, also some Minangkabau communities who buy aia niro from the owners as raw materials for *soka niro* or home production of *tuak*. *Aia niro* was taken to a home factory that made or produced *tuak* that sell it to some residents or other places around and outside Halaban. *Tuak* is consumed by various elements of society; olds, adults, and teenagers in Nagari Batu Payuang.

3.3. Production Process of *Tuak* from *Aia Niro* in Nagari Batu Payuang

People in Batu Payuang use *aia niro* as raw materials for only *gulo* or *soka niro* and *tuak*. Even though, certain people need fresh beverage ingredients but not much because of their durability as fresh drinks are very short. The findings show that *aia niro* is collected in the gardens and also in *tuak* production at the same place. The raw material is not only bought by native Minangkabau but also other ethnic people for *tuak* productions, such as Batak and Javanese ethnic groups who live around Nagari Patu Payuang, Halaban. Both of these ethnic groups were announced by the people of Batu Payuang as producers of *tuak* high quality. The ready use *tuak* then is resold in the Nagari Batu Payuang, Halaban, Payakumbuh City, Batusangkar, and Bukittinggi City.

The production of *tuak* is different from *soka niro/gulo anau* where *soka niro/gulo anau* is only produced by boiling that *aia niro* is put in large quantities in a large skillet and cooked over medium heat until the water content is used up, leaving a thick brownish-yellow sugar. The thickened sugar is put into a round fist the size of a fist and allowed to harden. However, *gulo anau* producers in Nagari Batu Payuang do not produce crystal sugar as found in other regions in Indonesia. They only produce *gulo anau* in the form of round shapes with the amount of 3 grains measuring 1 kilogram for 20-25 thousand rupiahs. To result in a kilogram of *soka niro*, the producers need it at least 8-9 liters.

It is different from *tuak* productions. In Nagari Batu Payuang, *tuak* producers produce the alcoholic drink as following steps; *aia niro* is placed in small jerry cans which contain about 5 liters of the liquid. The number of jerry cans depends on the amount of *aia niro* obtained. If producers buy *aia niro* in large quantities, the production of *tuak* is also in a large number. Each jerry can is spiked with agarwood tree bark (*Aquilaria Malaccensis*) around 100 grams (1 ounce). The bark is specially ordered and its price is quite expensive. Without this material, *tuak* cannot be produced. It means that the agarwood tree bark is an important element in the process of *aia niro* fermentation into *tuak*. *Aia niro* mixed with agarwood tree bark is put in a closed place for 2-3 days. On the third day, the visible foam at the top of the jerry cans and gave off a pretty pungent odor. The scent and the pungent odor indicate that *tuak* is ready to be sold. The price of *tuak* is 4-8 thousand rupiahs per liter. Alcohol fermentation in *aia niro* occurs spontaneously due to the presence of microbes originating from the liquid itself (Periadnadi et al., 2018). In a variety of plant expert research, it is known that the alcohol content of traditional drinks from the incisions of sugar palm (including *tuak*) is quite varied; some are high, medium, and low at least under 5%.

3.4. The Motives of the Batu Payuang people in doing *Tuak* activities

The consumers of *aia niro* are both Muslims and Non-Muslims as raw material for producing *tuak*. They can fulfill their daily needs from sales. some *aia niro* sellers informed that various reasons for doing the activities. Firstly, to obtain greater profits. Rosniten, a *tuak* seller, described:

"Ambo manjua aia niro untuak mambuek tuak ka urang Batak tu dek maha dari pado ka urang mambuek soka" (Interview, Rosniten, 2019).

It means this seller prefers to sell it to Batak people who produce *tuak* because the price is more expensive than selling it to *soka niro* producers who bought it at a cheaper price. The same thing that was conveyed by other producers by saying that he wanted to seek greater profits even though *aia niro* which he said was halal would be produced as *haram* drinks. As Hengki, producer, said:

"Namonyo se urang manggaleh pasti cari labo nan godang tu mangkonyo wak jua aia niro halal tu ka urang mambuek tuak tu mah, dek lai maha nyo bali walaupun tuaktu haram di agamo awak" (Interview, Hengki, 2019).

Others mentioned that the aim selling *aia niro* to non-Muslims only to seek greater profits to support his family without regard to its lawfulness for the activities. The man added *aia niro* is halal and *tuak* is haram, the matter is he does not produce the haram drink, but others. So, he believed that the sin of producing *tuak* repeats to its producers, not to him since *aia niro* is halal (Interview, Agung, Seller, 2019). In this case, the producers can ensure that the transactions they do are permissible due to *aia niro* is a halal substance. It is just that these producers do not realize that the halal *aia niro* is a raw material to produce *tuak* that *haram* for consumption. That is, he indirectly supports others to commit *haram* acts. Moreover, *tuak* is distributed and consumed by the people of Batu Payuang that are Muslim.

Secondly, *tuak* has been to do in generations and it has been a "tradition" in Nagari. According to *aia niro* sellers, these activities have been run by previous generations for a long time. One of the sellers said:

"Usaho ko alah dari dulu-dulu bona lai, alun lahia awak alah manjual aia niro jo apak awak untuak buek tuak dek urang Bataktu" (Interview, Tiar, 2019).

That is, the business activities of *aia niro* as the raw material of *tuak* have long been conducted. Before he was born, his father had bought and sold *aia niro* to Non-Muslims and when he had left for adolescence, he began to continue his father's business. Another seller said that the sale and purchase of *aia niro*, especially for *tuak* producers, was carried out by his extended family, both with his relatives and his uncles (Interview, Sukur, 2019). When the activities have become a family business, then each member or generally a family member will try to maintain the business continuously. This kind of business is often found in the sale and purchase of *aia niro* activities, especially to Non-Muslims as raw material for *tuak*. Moreover, they are supported by the number of palm trees that grow in their fields.

Thirdly, to sell *aia niro* is Practical and efficient activities. Practical, even though it is sold to non-Muslims, but it is practice and saves more time and energy, especially for the sellers who do not have permanent jobs. They prefer to sell *aia niro* rather than process it becoming *soka niro*. They no longer need to pass the *soka niro* production process which is quite long, it takes 4 to 5 hours and face the heat of the fire. If *aia niro* is sold directly to non-Muslims, then they can save more time and energy. Sometimes they even get more money from the sale of Aia Niro compared to the sale of *soka niro*, as one of the sellers said:

"Ambo karajo iko dek indak ado karjo yang lain, dan manjua aia niro indak paralu piti nan banyak, mangkonya ambo amuah manjua aia niro ko ka urang Bataktu" (Interview, Jejen, 2019).

That is, the seller does not have a permanent job, so the seller is doing activities of buying and selling *aia niro* to non-Muslim people. Besides, the seller said that buying and selling *aia niro* did not have to have a large capital. Another seller also said that the sale and purchase of *aia niro* to Non-Muslims is done due to it is a type of business that was quite easy, does not need to bother such as making *soka niro*, small capital and he was confident he could run it, as long as he wants to do so (Interview, Andi, 2019).

Fourthly, the people of that Nagari demand *tuak* to be traded. *Tuak* enthusiasts are more likely to come from adolescents and young people. The producers said that demand for *tuak* is increasing every day. He said:

"Karano urang nan suko banyak, tu pelarian anak-anak mudo, labiah ancah maminum tuak nan murah dibanding jo maminum miras nan balebel maha" (Andi, 2019).

That is, *tuak* is currently in demand due to *tuak* is cheaper than packaged alcoholic beverages. Other *tuak* producers also say that the demand of *tuak* is not only from adolescents but also adults and even olds because the price is cheaper and easily available (Interview, Muri, 2019).

Fifthly, other palm wine sellers have somewhat different reasons. This fifth reason is another choice besides going abroad as a Minangkabau tradition. According to him:

"Sajak ambo marantau di Jakarta gaji ambo cukuik untuak makan senyo, tu raso dak talok dek ambo di rantau lai, ambo bae pulang di kampung nampak dek ambo banyak urang sagadang-gadang ambo minum tuak, di situlah ambo mulai bapikia untuak mambuka usaho tuak, modal ambo partamo cuma 250 ribu, dari situ ambo kambangan usaho tuak tu sampai kini" (Interview, Agus, 2019).

That is, he initially migrated to Jakarta and he has inadequate income. He decided to return home. Arriving at the village he saw a lot of people producing and consuming *tuak*. He started the activities with an initial capital of 250 thousand rupiahs. The business is still practiced until now. He opens a *tuak* stall because he saw many interested drinkers in his strategic area and on the side of the highway. He buys *tuak* directly from the producers and then sells it as retail.

In addition to the five reasons above, other *tuak* sellers mention more personal. Some say that buying and selling *tuak* is easy, it is as easy as producing it. A seller who said that he has learned how to process *tuak* since he was a child and he wants to continue doing it. He learned it from his father and grandfather. His efforts could generate more income and can make ends meet (Interview, Karsum, 2019). He added that selling palm wine is indeed a business that has been generated from his family. The sale and purchase of *tuak* have made his life well-off and no longer feels inadequate. The stall is growing and there are branches in several other places. He also hires people to help his business.

Other *tuak* sellers are more creative. In addition to the family business, he tried to keep abreast of developments by making his *tuak* stall like a modern café with tables and chairs for guests who came to visit. He has been selling *tuak* since 2008. His *tuak* stall is quite large by

providing café-style services; the customers can drink *tuak* or other alcoholic beverages in the stall (Interview, Muri, 2019). He is quite different from other sellers who sometimes only sell but do not have facilities for customers. Before doing that business, he was only a farm laborer but he learned to run a *tuak* business from his uncle. At present, he has mastered all the processes of producing *tuak*. To expand his business, he began to plant palm trees in his garden. He paid full attention to the sugar palm plantation, from plant cares until the productive period. Therefore, he prefers to sell *tuak* since the results are more profitable and do not spend much energy rather than being a farm laborer.

Generally, the sellers have their shops to show off their sales. However, some *tuak* sellers in Nagari Payuang who sell the *tuak* by peddling using an old bicycle (Interview, Yono, 2020). He put the *tuak* into 10-15 used bottles every day and peddled it around the village of Nagari Batu Payuang even to other nearby villages. According to him, this method of selling was obtained from his father under the principle of sustenance that was money does not come and it must be picked up (*rasakiko dijapuik indak ditunggu*). He said that he was taking more profit from people who sold *tuak* in the stall because he was draining more energy in pedaling bikes everywhere. He explained that he bought *tuak* for 8,000 rupiahs per liter, and then sold it for 17,500 rupiahs for a bottle with a capacity of 600 milliliters (less than 1 liter). Based on that, he can get an average profit of 75,000 rupiahs per day. The benefits can support his family's needs and send their children to school.

Other palm wine sellers have more personal reasons. He has been the backbone of the family since his father passed away since he was in junior high school. He had been a laborer of others but was not comfortable and finally started a business of *tuak* business that he continued to do until now (Interview, Andi, 2020). Other *tuak* sellers who have been taught by their parents to run the business. His father taught how to plant, to care, and to incise sugar palm trees. His father also taught how to produce *soka niro* and *tuak*. At the moment he is doing both. Sometimes he makes *soka niro* and sells it to traders in Ibhuh Payakumbuh Market and he also produces *tuak* and sells it to his customers around Nagari Batu Payuang. The generated business that he runs to produce enough income and profits to support his family and send his children to school. Some of their children go to private universities from the business. He expects one of his children wishes to continue the business that he has been practicing since he was a child. Even so, he did not want to force his children to do the same business as himself (Interview, Sakur, 2020).

Several choices of *tuak* sellers in marketing their products. For example, opening their shops, opening a *tuak* café, going around by bicycle, and selling it from home. These sellers said that he wanted to move outside West Sumatra but it was not allowed by his mother since his mother was afraid he would be the wrong person. His mother expected him to get a job around Nagari Batu Payung. Finally, his mother gave capital to sell *tuak*. He started this business in 2015. According to him, this business is very easy to do and does not need to be someone else's labor to get income (Interview, Anton, 2020). The ease of this business is also felt by other sellers. He had been injured and the doctor suggested not do heavy work which forced his body to move a lot. Finally, he decided to sell *tuak* since 2017 with an initial capital of 200,000 rupiahs for his shop (Interview, Sutrisno, 2020).

Based on the descriptions of motives above, it is known that generally, *tuak* sellers have different reasons for running their business. Apart from the differences, it was found that in Nagari Batu Payuang community, selling *tuak* to Muslim communities was as common as they normally do *aia niro* and *soka niro* activities. Thus, for them, there is no longer a clear boundary between *tuak* activities as a type of intoxicating drinks in a certain limit and buying and selling

of *aia niro* which is halal for sale. Likewise, for consumers, where the sellers, there will be buyers both for resale purposes or for their consumption, the activities are in a free and open manner. It seems that this condition occurs since many members of the community consider *tuak* to be an ordinary drink and the same as other non-alcoholic drinks. On the other hand, those who are involved in *tuak* activities are no longer respects or are reluctant to *ulama* who remind them of their actions. Besides, the government only conducts sporadic raids and is not carried out continuously. As a result, they do not feel afraid to produce, consume, or trade them in daily life.

4. Discussion

Tuak is a type of local alcoholic beverages as home production. According to an informant, if consuming *tuak* in small amounts, the effect is only on the body that becomes warmer and aches and headaches disappear. However, if it is consumed in large quantities, then it can be intoxicating, making staggering and losing self-control. Adolescents of Nagari Batu Payuang who try it at first or at the beginning of their drinking habits are found to be drunk even they drink it in small amounts. In response to this, according to the producers, the police have come to Nagari Batu Payuang and conducted checks on palm wine made and circulating in this region. They found that the alcohol content/content in *Tuak* produced in Nagari Batu Payuang could still be tolerated following the Regulation of the Minister of Industry of the Republic of Indonesia Number 71/M-IND/PER/7/2012 concerning Control and Supervision of the Alcoholic Beverage Industry, and Regulations of the Head of National Agency of Drug and Food Control of the Republic of Indonesia Number 14, Year 2016 concerning Safety and Quality Standards for Alcoholic Beverages. In this regulation, it is stated that traditional alcoholic beverages are alcoholic drinks that are traditionally made and handed down that are simply packaged and made at any time, and used for the needs of customs or religious ceremonies. When the production of *tuak* in Nagari Batu Payuang is increasing and the people who consume it are increasingly diverse and disturbing other community members, the Government of Lima Puluh Kota conducts raids for its production houses that have a large turnover. It is just that the unscheduled raid that does not stop the habits of this community. So that the *tuak* activities in Nagari Batu Payuang continue to this day. Meanwhile, Indonesian Ulema Council stated that permissible alcohol content in traditional alcoholic beverages is under 1% (Hasanah, et al., 2013). Nevertheless, the police allowed this situation to continue until now. An incidental inspection/raid as commonly did, cannot be taken for granted due to *tuak* is produced by many people in different places. Probably, the results of the *tuak* are also different so it is not that simple to generalize the situation. Moreover, *tuak* activities in this region are in free and open activities.

In contrast to the police, the local *ulama* of Nagari Batu Payuang say different in their views in responding to the habits. These *ulama* are quite concerns about the habits of Nagari Batu Payuang people who do activities such as producing, consuming, and trading *tuak*, moreover for teenage consumers. According to them, *tuak* is haram since it is categorized as *khamr*. Each Muslim knows that Islamic law forbids producing, consuming, and trading *khamr* (Interview, Bila, 2019). Hamka in Tafsir Al-Azhar has mentioned that *tuak* is *khamr* as a type of local traditional Indonesian beverages. *Tuak* makes people addicted and if children or teenagers are addicted, it is difficult to cure it other than being exiled and taken to a rehabilitation place (Sumarno & Jayaputra, 2015). When a person consumes alcoholic beverages routinely, the alcohol changes and disturbs the physical and psychological slowly. The change was seen when the BAL (blood alcohol level) in his blood had reached 0.05 (Abrori, 2016). The one will begin to

feel blurred vision, feel the most powerful, and feel threatened, experience motor disturbances in the body, delirious, self-disorientation, drunk and unconscious. Even at the risk of death and has occurred in many areas in Indonesia (Ohimain, 2016). It is since the *aia niro* fermentation process becomes *tuak* that has been contaminated by various types of microbes. When adolescents as *tuak* consumers tuak growing adulthood, then the habit of consuming tuak as an alcoholic drink can trigger them to become people who have risky sexual behavior (Rahardjo, 2008). The same thing was expressed in the hadith that the *khamr* is a source of various crimes. That is when someone decides to consume it, then lost its self-control, then he/she will commit other crimes unconsciously.

The *ulama* of Nagari Batu Payuang expect every parent in the region to play an active role in preventing their children from being exposed to alcoholic beverages rather than teaching them to produce, consume and trade them as is rife today (Interview, Kotik, 2019; Amalia, 2016). Also, local *ulama* expect the existence of a real action of the government to stop the habits that have been conducted for generations. Such issuing regional regulations that prohibit this business. The same thing was expressed by legal experts in Indonesia (Santiago, 2014) that stated that the government should conduct strict supervision and control of each alcoholic beverage product both factory production and home production, as practiced by the Government of Gresik Regency (Yahya, 2018). The concerns of local *ulama* are reasonable due to the habit of consuming *tuak* will have a bad effect both physically and psychologically of the young generations in this region that it will lead to being bad personalities and may fall into criminal acts as many experts have proven (Handayani et al., 2009). Another way to solve the problem of this cultural deviation is by education and application of religious teachings (Idi & Sahrodi, 2017), in collaboration with the authorized parties continuously.

Meanwhile, the habits of people in Nagari Batu Payuang like producing, consuming, and trading tuak can be studied in two different sides of Islamic law; the consumers, the producers, and sellers. Firstly, in the theory/concept of *hadd al-syurb* the consumers are the main subject of discussion as persons who are convicted of consuming *tuak*. The consumers are the most prioritized handling since its consumption directly affects the loss of self-control. It is reasonable that the psychological health of every Muslim adult is an important element to conduct religious obligations (Syarifuddin, 1996). For example, Islamic law orders/obliges to perform prayers, fast during Ramadan month, perform the pilgrimage, and then an important condition of psychology for the validity of these deeds is common sense. On the other hand, *tuak* has eliminated this important function so that it interferes with the urgent obligations of its religious activities which are dependent on the health. Therefore, Islamic law forbids every Muslim from consuming *tuak* (*khamr*) to save the psychological health. Therefore, in the concept of the majority of *ulama*, the consumers of *khamr* can be punished with the *hadd al-syurb* punishment which is flogged as an educative and preventive step both for him and for other Muslims to avoid *khamr* as an intoxicating beverage. Meanwhile, the *ulama* of Hanafiah place *khamr* consumers in the concept of *hadd al-sukr*, which is whacked the same as *hadd al-syurb*. That is, if the consumers become drunk after drinking it, then it becomes a measure to punish him with the punishment of *hadd al-sukr* but if the consumer is not drunk then he only deserves to be punished with a sentence of *takzir* (giving lessons).

Secondly, the place of producers and consumers in the concept of *hadd al-syurb*. In the study of all *ulama*, both majority (*jumhur*) of *ulama* and *ulama* of Hanafiah, the producers and sellers of *tuak* are not included in the category of punished people with the punishment of *hadd al-syurb* or *hadd al-syukr* since these two elements are not the main target as mentioned in the provisions of *hadd al-syurb*. Therefore, they cannot be punished with the punishment of *hadd al-syurb* which

has been determined only for the person who consumes it. This view is based on the verse which only determines the punishment of hadd for consumers, while other parties directly involved in *tuak* activities such as producers, sellers, distributors, introductors, carriers and some other elements fall into the category of people who are condemned (condemned/denounced). According to the provisions of the hadith (Al-Zuhaili, 2002). Therefore, they can only be punished with a sentence of *takzir*. The government can set *takzir* punishment in various types such as giving warnings, giving strict guidance, closing business premises, or if necessary detained in prison.

5. Conclusion

It has been stated above that the method of producing *aia niro* and *tuak* is very simple. The simple method triggered the people of Nagari Batu Payuang to produce it and make it as a source of income. People are more tempted to produce *tuak* than *soka niro* that is more difficult and more drained to be produced. This proves that the paths of sin/immorality are easier to do than the paths of reward/goodness. Many reasons to justify their activities as producers, consumers, and sellers of *tuak*. Everyone can state a variety of motives or reasons, but a variety of reasons will not arise if the important components such as *ulama* and government work optimally to overcome them. In this case, the local *ulama* as those who are mandatory of Allah SWT to remind the people over and over so that they do God's ways and leave the evil ways. Besides, the government is also mandated to protect its people from the evil activities by issuing and enforcing rules to make the people stop doing it. On the other hand, Islamic law has stated rules about *khamr* as well as *tuak*. It means that the provisions regarding *khamr* can be applied to *tuak* matters. However, it is hard to do fully since Indonesia applies the principles of criminal law (but the Province of Aceh) that different from Islamic law has regulated *khamr* and the other similar items (including *tuak*). Although the local government has an authority to issue regional regulations, especially regarding criminal penalties, yet it is cannot be conflicted with criminal provisions that have been regulated in the Criminal Code or other special criminal regulations.

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