

**THE DISTRIBUTION OF ALKALINE WATER IN PACKAGING WHICH
DOES NOT HAVE LICENSE BASED ON LAW NUMBER 18 YEAR 2012
ABOUT FOOD
(STUDY AT MALANG CITY POLICE RESORT)**

Thesis

By:

Rifqiyaty Hijrun Solihah

NIM 14220154



SHARIA BUSINESS LAW DEPARTMENT

FACULTY OF SHARIA

THE ISLAMIC STATE UNIVERSITY OF MAULANA MALIK IBRAHIM

MALANG

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MALANG**

2018

STATEMENT OF THE AUNTENTICITY

In the name of Allah (Swt),

With consciousness and responsibility towards the development of science, the author declares that the thesis entitled:

**The Distribution of Alkaline Water In Packaging Which Does Not Have
License Based On Law Number 18 Year 2012 About Food
(Study at Malang City Police Resort)**

Is truly the author's original work. It does not incorporate any material previously written or published by another person. If it is proven to be another person's work, duplication, plagiarism, this thesis and my degree as the result of this action will be deemed legally invalid.

Malang, 14th of may 2018

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APPROVAL SHEET

After examining and verifying the thesis of Rifqiyaty Hijrun Solihah, NIM 14220154, Sharia Business Law Department of Sharia Faculty of State Islamic University of Maulana Malik Ibrahim Malang entitled:

**The Distribution of Alkaline Water In Packaging Which Does Not Have License Based On Law Number 18 Year 2012 About Food
(Study at Malang City Police Resort)**

The supervisor states that this thesis has met the scientific requirements to be proposed and to tested by the Thesis Board of Examiners.

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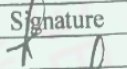
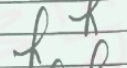
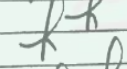

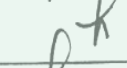
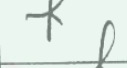




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2	Friday, 09 March 2018	Collect Chapter 1,2 and 3	
3	Tuesday, 13 March 2018	Revision chapter 1,2, and 3	
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MOTTO

*“Don’t put till of tomorrow what you can do today. You are still young and you
have much time to create in this world”*



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All praise due to Allah, the Cherisher and Sustainer of all the world. There is neither might nor power but with Allah the Great, the Exalted. With only His Grace and Guidance, this thesis entitled, “The Distribution of Alkaline Water in Packaging Which Does Not Have License Based on Law Number 18 Year 2012 About Food (Study at Malang Police Resort)”, could be completed, and also with His benevolence and love, peace, and tranquility of the soul. Peace be upon to the Prophet Muhammad (SAW) who had brought us from the darkness into the light, in this life. May we be together with those who believe and receive intercession from Him in the Day of Judgment. Amin.

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Hopefully, by imparting what has been learned during the course of study in the Faculty of Sharia of State Islamic University, Maulana Malik Ibrahim Malang, it will benefit all readers and the author herself. Realizing the fact that error and weakness is impartial to being human, and that this thesis is still far from perfection, the author appreciates constructive critics and suggestions for the improvement and betterment of this thesis.

Malang, 14th of may 2018

Author,

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TRANSLITERATION GUIDANCE

A. General

The transliteration guide which is used by the Sharia Faculty of State Islamic University, Maulana Malik Ibrahim Malang, is the EYD plus. This usage is based on the Consensus Directive (SKB) from the Religious Ministry, Education Ministry and Culture Ministry of the Republic of Indonesia, dated January 22, 1998, No. 158/1987 and 0543. b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

ا	Unsigned	ض	Dl
ب	B	ط	Th
ت	T	ظ	Dh
ث	Ts	ع	‘ (comma facing up)
ج	j	غ	Gh
ح	H	ف	F
خ	Kh	ق	Q
د	D	ك	K
ذ	Dz	ل	L
ر	R	م	M
ز	Z	ن	N
س	S	و	W
ش	Sy	ه	H
ص	Sh	ي	Y

The hamzah (ء) which is usually represented by and *alif*, when it is at the beginning of a word, henceforth it is transliterated following its vocal

pronouncing and not represented in the writing. However, when it is in the middle or end of a word, its represented by a come facing forwards (‘), appose to a comma (,) which replaces the”

C. Vocal, Long and Diftong

In every written Arabic text in the *latin* form, its vowels *fathah* is written with “a” , *kasrah* with “i”, and *dhommah* with “u”, whereas elongated vowels are written such as:

Elongated (a) vowel = â for example becomes قال qâla

Elongated (î) vowel = î for example becomes قيل qîla

Elongated (u) vowel = û for example becomes دون dûna

Especially for the pronouncing of *ya’ nisbat* (in association), it cannot represented by “i”, unless it is written as “iy” so as to represented the *ya’ nisbat* at the end. The some goes for sound of a diftong, *wawu* and *ya’* after *fathah* it is written as “aw” da “ay”. Study the following examples:

Diftong (aw) = for example بول becomes qawlun

Diftong (ay) = for example يي becomes khayrun

D. Ta’ Marbûthah (ة)

Ta’ Marbûthah is translated as “t” if it is in the middle of word, but if it is *ta’ marbûthah* at the end, then it is transliterated as ‘h’. for example: الرسالة Will be *al-risalat_almudarrisah*, or it happens to be in the middle of a phrase which constitutes mudlaf and mudlaf ilayh, then the transliteration will

be using “t” which is enjoined with the previous word, for example في رحمة الله becomes *fī rahmatillah*.

E. Definite Article

Arabic has only one article, “al” (ال) and it written in small letters, unless at the beginning of word while “al” in the phrase of lafadh jalalah (speaking of God) which is in the middle of a sentence and supported by and (idhafah), then it is not written. Study the following:

1. Al-Imâm al-Bukharî said...
2. Al- Bukharîy explains in the prologue of his book..
3. *Billâh ‘azza wa jalla*

TABLE OF CONTENT

FRONT COVER	i
TITLE SHEET.....	ii
STATEMENT OF THE AUNTENTICITY	iii
APPROVAL SHEET	iv
CONSULTATION PROOF	v
LEGITIMATION SHEET.....	vi
MOTTO.....	vii
ACKNOWLEDGEMENT	viii
TRANSLITERATION GUIDANCE.....	xi
TABLE OF CONTENT	xiv
TABLE.....	xvi
ABTRACT	xvii
CHAPTER I INTRODUCTION	1
A. Background Of Problem	1
B. Scope and Limitation Problem	7
C. Problem Formulations.....	7
D. Objective of Research.....	8
E. Benefit of Research.....	8
F. Definition of the Key Terms.....	9
G. Structure of Discussion.....	9
CHAPTER II REVIEW OF RELATED LITERATURE	12
A. Previous Research	12
B. Theoretical Framework.....	16
1. Alkaline water	16
2. Food packaging	16
3. Product food license.....	17
4. The theory of effectiveness of law.....	18
5. The Overview of Consumer Protection	20

6. Masalahah mursalah	27
CHAPTER III RESEARCH METODE.....	33
A. Type of Research.....	33
B. Research Approach.....	34
C. Location of Research	34
D. The Data Source	35
E. Technique of Data Collection	36
F. Data Analysis Technique	37
CHAPTER IV FINDINGS AND DISCUSSION.....	39
A. Practice of the Distribution of Alkaline Water Which Does Not Have License in Malang City and the Implementation of Law in Malang City Police Resort	39
B. The Distribution of Alkaline Water in Packaging Which Does Not Have License Based on Law Number 18 Year 2012 About Food (Study at Malang City Police Resort)	47
1.The Implementation of Law Number 18 Year 2012 About Food for the Producer Who Distributes Alkaline Water in Packaging Which Does Not Have License Based in Malang City	47
2.The Theory of <i>Maslahah Mursalah</i> on The Effort of Malang City Police Resort to The Producer of Alkaline Water in Packaging Which Does Not Have License	59
a. Masalahah based on grade	60
b. Masalahah based on <i>Syara</i> '	65
CHAPTER V CLOSING	71
A. CONCLUSION	71
B. RECOMMENDATION	73
BIBLIOGRAPHY	
DOCUMENTATION AND ATTACHMENT	

TABLE

Table 1. Similarities and differences of previous research

Table 2. The Mandatory Parameter of Drinking Water



ABSTRACT

Solihah Rifqiyaty Hijrun, 14220154, 2018. **The Distribution of Alkaline Water in Packaging Which Does Not Have License Based on Law Number 18 Year 2012 About Food (Study at Malang City Police Resort)**, Thesis, Sharia Business Law Department, Sharia Faculty, State Islamic University of Maulana Malik Ibrahim Malang

Supervisor: Dra. Jundiani, S.H, M.Hum.

Keywords: License, Alkaline Water, Law Enforcement, Food Legislation, *Maslahah Mursalah*

The license in alkaline water is guarantee for consumer. The food legislation has regulated requirement of license in every food products in distributing. The researcher has two problem formulations; *first*, How is the implementation of Law Number 18 Year 2012 About Food for the producer who distributes alkaline water in packaging without license, and *second* how is the effort which done by Malang City Police Resort to the producer of alkaline water if viewed by *maslahah mursalah*.

The focus and purpose of this research is to know implementation of food legislation on food violating without license and know *maslahah mursalah* view of police effort to producer who distributes alkaline water without license.

The research type is empirical juridical research. The research approach is juridical sociological approach. The location research is in Malang City Police Resort. The data sources used are from Mr. AL, miss AH, and consumers (AM and DKM).

The research result concluded that the distribution of alkaline water in packaging without license still happened in Malang. The producer has not fulfilled his responsibility to consumer. The implementation of food legislation considers not effective, because the legal culture and legal awareness in society still not running well. Viewed from the requirement of *maslahah mursalah*, the police effort has fulfilled all of criteria's and requirements could be categorized as *maslahah mursalah*, but in reality the existence of license in alkaline water nothing, so it has not fulfilled *maslahah mursalah* that can be felt by alkaline water consumer in the real.

ملخص البحث

صالحة رفيقي حجر، 14220154، 2018. انتشار ماء ألكالي في الحزمة بدون إذن التوزيع على أساس قانون رقم 18 لعام 2012 عن الغذاء (دراسة في فولريس مدينة مالانج) البحث الجامعي بقسم الحكم الإقتصادي الإسلامي في كلية الشريعة بجامعة مولانا مالك إبراهيم الإسلامية الحكومية بمالانج.

المشرفة: درأ. جنداياني، س.ح.م. حوم

الكلمات الرئيسية: ماء ألكالي، الإذن التوزيع، المصلحة المرسله، إنفاذ القانون، القانون الغذائي

الإذن التوزيع في ماء ألكالي هو التأمين على المستهلك، القانون الغذائي قد دبر وجوب إذن التوزيع على كل النتاج الغذائي المنتشرة. الباحثة تملك المسئلتين الرئيسيتين لهذا البحث، الأول، كيف تطبيق قانون رقم 18 سنة 2012 عن الشخص الذي ينتشر ماء ألكالي في الحزمة بدون إذن التوزيع؟ والثاني، كيف كانت فكرة المصلحة المرسله على جهد الشرطة عن منتج الغذاء الذي لا يملك إذن التوزيع؟

إن تركيز وهدف هذا البحث هو لتعريف تطبيق قانون الغذاء عن اعتداء في الغذاء التي لا إذن له ولتعريف رأي المصلحة المرسله عن تنفيذ القانون من قبل الشرطة على منتج الغذاء الذي لا يملك إذن التوزيع المذكور.

ونوع هذا البحث هو البحث الحكم التجريبي، وتقريبه هو التقريب الحكم الاجتماع، ومكان البحث هو المنتج الشرطي بمدينة مالانج. ومصادر المعلومات هي المصادر اخذت مباشرة من الأب (أ ل) والأم (أ ح) والمستهلكين (أ م و د ك م).

ونتيجة هذا البحث هي أن انتشار ماء ألكالي في الحزمة بدون إذن التوزيع بمدينة مالانج موجودة حتى الآن. والمنتج المذكور لم يقض واجبته على المستهلك. وتطبيق القانون الغذائي في هذه المسألة لم تكن منفذة، لأن ثقافة الحكم ووعيا على الحكم في المجتمع لم تبحر جيدة، ويرى من شروط المصلحة المرسله بجهد الشرطة قد وفي جميع المعيار والشروط على اندراجه تحت المصلحة المرسله، ولكن في الحقيقة أن التدبير على الإذن التوزيع غير موجودة، ولذلك لم تدخل في معيار المصلحة المرسله التي تؤثر منفعتها للمستهلك.

ABSTRAK

Solihah Rifqiyaty Hijrun, 14220154, 2018. **Peredaran Air Alkali dalam Kemasan yang Tidak Memiliki Izin Edar Berdasarkan Undang-Undang Nomor 18 Tahun 2012 Tentang Pangan (Studi di Polres Kota Malang)**, Skripsi, Jurusan Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri (UIN) Maulana Malik Ibrahim Malang

Pembimbing: Dra. Jundiani, S.H, M.Hum

Kata Kunci: Izin Edar, Air Alkali, Penegakan Hukum, Undang-Undang Pangan, *Maslahah Mursalah*

Izin edar dalam air alkali merupakan jaminan bagi konsumen. Undang-Undang Pangan telah mengatur keharusan izin edar pada setiap produk pangan yang beredar. Peneliti memiliki dua rumusan masalah, *pertama*, Bagaimana implementasi undang-undang nomor 18 tahun 2012 tentang pangan bagi produsen yang mendistribusikan air alkali dalam kemasan tanpa izin edar di kota Malang, dan *kedua* Bagaimana upaya yang dilakukan kepolisian terhadap produsen air alkali tanpa izin edar jika ditinjau dalam *masalah mursalah*.

Fokus dan tujuan penelitian ini adalah untuk mengetahui implementasi undang-undang pangan terhadap pelanggaran pangan tanpa izin edar dan untuk mengetahui pandangan *masalah mursalah* mengenai penegakan hukum yang dilakukan kepolisian terhadap produsen pangan tanpa izin edar tersebut.

Jenis penelitian yang digunakan adalah penelitian yuridis empiris. Pendekatannya adalah pendekatan yuridis sosiologis. Lokasi penelitian adalah di Kepolisian Resort Kota Malang. Sumber data yang digunakan adalah data yang diperoleh langsung dari sumbernya yaitu Bapak AL, Ibu AH dan konsumen (AM dan DKM).

Hasil penelitian ini menyimpulkan bahwa peredaran air alkali dalam kemasan tanpa izin edar di Kota Malang masih marak terjadi. Produsen tersebut masih belum memenuhi kewajiban nya terhadap konsumen. Penerapan Undang-undang Pangan dalam masalah ini dianggap masih belum terlalu efektif, karena budaya hukum dan kesadaran hukum yang ada di masyarakat masih belum berjalan dengan baik. Dilihat dari syarat sebuah *masalah mursalah* usaha yang dilakukan kepolisian tersebut memenuhi seluruh kriteria dan syarat untuk bisa dikategorikan *masalah mursalah*, akan tetapi pada kenyataannya pengadaan izin edar tersebut tidak dilaksanakan produsen, sehingga belum memenuhi *masalah mursalah* yang dapat dirasakan secara nyata oleh konsumen air alkali tersebut.



CHAPTER I

INTRODUCTION

A. Background of Problem

In this modern era, efforts in the food production have increased significantly in line with the development of technology and information. This is evidenced by the increasing variety of food production in the form of food or beverage with the shape, taste, type and claim and the efficacy of the food product. The availability of food products that have many options become a convenience for the needs of the society. But, with the availability of such food products, both beverages and food cause questions to the public about the food products in distribution, especially regarding the safety and information of the products as evidenced by the existence of the license.

The license is the approval of the result of Processed Food Assessment issued by the Head of Agency in the framework of the distribution of Processed Food.¹ The product that will discuss in this research is alkaline water products in packaging. The packaging is a merchandise protector (commercial).² The retail packaging as meant in the food product is the final packaging of food which may not be opened for repackaging and trading.³

For food products in the packaging need the existence of license that already in the legislation, in Law Number 18 Year 2012 about Food that requires license on food products in packaging which consumers can be believe that the food products are good to consume or not.

In this globalization era, we can find various kinds of alkaline water products circulating in the society, which in fact does not have a license that make the circulation of alkaline water is uncontrolled. In Law Number 18 year 2012 about Food in article 91 paragraphs (1) that: *"In the term of supervision of security, quality and nutrition, every Processed Food made domestically or imported for trading in retail packaging, the subject of business must have a license"*.⁴ Therefore, the provisions concerning the procurement, storage, processing, promotion, and distribution of alkaline water shall be subjected to quality standards of food safety and quality.

Alkaline water is water that claimed to have a pH level greater than 7, rich in alkalizing compounds, including calcium, magnesium, oxygen, and

¹ News of the Republic of Indonesia Year 2016 Number 825

² A Large Indonesian Language Dictionary

³ News of the Republic of Indonesia Year 2016 Number 825

⁴ The State Gazette of the Republic of Indonesia Year 2012 Number 227

potassium. The pH scale ranges from 0-14, the number 7 is at the neutral point, below 7 means acid, and above 7 means the base.⁵ Alkaline water is water that healthy and contains no chemicals whatsoever. This water is processed through alkaline engine water electrolysis to produce alkaline water and acidic water.

The existence of alkaline water is considered as something that's become a need in the life of society. The alkaline water is consumed because alkaline water's function is believed as the medium for keeping the health and also as the medium of treatment and beauty.

The producers of alkaline water persuade consumer that the water can neutralize the acid in the bloodstream with pH content that tends to alkaline because pH content in the body tends to acid. It also serves as an antioxidant and cleanser, helping the body's metabolism of nutrients more effectively so as to make health and body performance better.⁶

If we see of this fact, surely the distribution of alkaline water can be reached by all elements of society, both urban and rural societies, coupled with the fact that it can be seen now that alkaline water has become a home industry that promises huge profits in its business.

One of the crimes in the food is that often happened in the field is a crime related to the distribution of food. The distribution of illegal food is the problem that does not happen just in Indonesia, but it has become the global problem that is still needs the way to solve it. The effort to overcome the food distribution problem cannot be possible only by one party only. This problem has been

⁵ <https://tirto.id/di-balik-klaim-khasiat-air-alkali>, accessed on 27 November 2017

⁶ <https://tirto.id/di-balik-klaim-khasiat-air-alkali>, accessed on 27 November 2017

happening because the existence of the criminal's network larger, certainly it needs the participation of all the elements to combat the distribution of illegal food from society, producers, and government.

Complemented by the shadow of the big advantage that will get from alkaline water business make the societies interest to be alkaline water's producer higher. But the high interest from society was not accompanied with the good ethics in business, it is evident from alkaline water product that distributes in the society without license. The unfair profit is taken by alkaline water producer made consumers loss. However, the consumers have the rights that guaranteed by the state, including the right to get right information in the product especially about the license from the product which used.

But in the reality, those rights in the practice is still often excluded and ignored especially about security, safety in consuming the product, and about the right information, correct and honest from alkaline water product. Although there are already the regulation which regulates it, but in the fact still found alkaline water product distributing in the market that still violate the term.

At this time, the development of alkaline water distribution more uncontrolled. The law enforcement of the distribution of illegal alkaline water not running optimally that make the naughty producer still do the violate freely.

The regulation as the Ministry of Health (Kemenkes) as well as The Medicine and food Supervisory Agency (BPOM) prohibits the sale of alkaline water that claimed as medicine. Although, sale the tools for producing alkaline water is still permitted. The permission is under the authority of The Ministry of

Health. Many of the products of alkaline water in packaging have registered by The Medicine and food Supervisory Agency (BPOM).

However, the alkaline water for health product no one has approved. The water with base pH in Indonesia is still categorized as the food product processed in packaging. So that way, the consequences from alkaline water prohibited to include the claim as a medicine. Moreover, the alkaline water that distributing in Indonesia be able to have license number as the requirement for the food product processed in the retail packaging.

This research took the case in Malang City Police Resort (Polres Malang) that happened in November. The case that has been handling in police resort of Malang city is the law enforcement of alkaline water in packaging distribution which does not have license. Of course, it considered violating the regulation in the Republic of Indonesia, where every food products that distributing be able to have license of the production. This case is about the distribution of alkaline water in packaging which does not license, and the producer of alkaline water produced and distributed alkaline water to society. After receiving the report, the police investigated the case, the law enforcement which done by police seizes the evidence and research the content of alkaline water in the Medicine and food Supervisory Agency (BPOM).

The focus of this research is about the sanction and the implementation of law enforcement of the distribution of alkaline water in packaging which does not have license by using the analysis contained in Law Number 18 year 2012 About Food as the reference of this research and supported by other regulations to

know the sanction for alkaline water producer who distribute alkaline water in packaging which does not have license, and to know the effectiveness of law enforcement of distribution of alkaline water in packaging which does not have license in society.

Then, in this research, the researcher also reviews the methods of determination of Islamic law in the form of the theory *maslahah*. *Maslahah Mursalah* according to language is a truth that can be used. While according to the term *maslahah mursalah* is a benefit by *the legitimate* does not make any law to make it happen, there is no *shar'i* theorem which shows are considered or whether the benefit was.⁷ If we reviewed according to Islamic view about the food registration is one of thing that is done to reach the kindness and avoid the badness. The kindness is can be interpreted as a safety covering all parties, while badness is the damage that can be happened. In the sale and purchase, the kindness is accessory to be an idea because whatever the actions from it must give the benefit and kindness.⁸

On the base on the background of problem above, the author researched the law research under the title, “The Distribution of Alkaline Water in Packaging Which Does Not Have License Based on Law Number 18 Year 2012 About Food (Study at Malang City Police Resort)”.

⁷ Abdul Wahab Khalaf, *Ilmu Ushul Fiqh*, (Cet ke-1: Jakarta: Pustaka Amani, 2003), 110

⁸ Zarkasyi Abdul Salam and Oman Fathurrahman, *Pengantar Ilmu Fiqh, Ushul Fiqh I*, (Yogyakarta: LESFI, 1994), 116

B. Scope and Limitation Problem

The limitation of the scope of the problem in this research is used to anticipate the different understanding of the problem which will be discussed by the author in this thesis. The problem of the license is still happen in Indonesia, especially on water product. Not the entire water product got the license. In this research, the author limits the problem about the license and the effectiveness of the implementation of law enforcement on alkaline water product. The author researches the problem in Malang City Police Resort because the problem of distribution of alkaline water which does not have license is handled by Malang City Police Resort following the report from society. And the police have same authority with the authority of The Medicine and food Supervisory Agency authority. In this research too, the author uses analysis's that have a different point of view are Law Number 18 Year 2012 About Food and *Maslahah Mursalah*.

C. Problem Formulations

1. How is the implementation of Law Number 18 Year 2012 About Food for the producer who distributes alkaline water in packaging which does not have license in Malang city?
2. How is the effort which done by Malang city police resort to the producer of alkaline water if viewed by *maslahah mursalah*?

D. Objective of Research

1. To know the implementation of Law Number 18 Year 2012 About Food for the producer who distributes alkaline water in packaging which does not have license in Malang city
2. To know the effort which done by Malang city police resort to the producer of alkaline water if viewed by *masalah mursalah*

E. Benefit of Research

This research is expected to provide the following benefits:

1. Theoretical benefit

In the theory, the results of this research are expected to be able to give benefits for all parties and can be a constructive contribution to the knowledge of the law, especially on the distribution of alkaline water in packaging which does not have license.

2. Practical benefit

Practically, the results of this research are expected be able to give information and knowledge about sanction for producer who distributes alkaline water which does not license to society, especially for students of Sharia faculty or law faculty, and as a form of positive legal scholarly works in Indonesia as well as be able to give the right benefit and not lie the public.

F. Definition of the Key Terms

1. Alkaline water is water that is claimed to have a pH level greater than 7, rich in alkalizing compounds, including calcium, magnesium, potassium and oxygen.⁹
2. Food packaging is material that is used for accommodate and packages food, either direct contact with food or not.¹⁰
3. License is the approval of the result of Processed Food Assessment issued by the Head of Agency in the framework of the distribution of Processed Food.¹¹
4. Law Number 18 year 2012 about Food is the legislation that issued as one of regulation to manage food security in the Republic of Indonesia.
5. *Maslahah Mursalah* is *maslahah* (kindness) which *the legitimate* (God and His prophet), does not establish law specifically to realize the kindness of it, and there is no theorem that shows over or cancellation.¹²

G. Structure of Discussion

Structure of discussion is a series of sequences from some descriptions of the system of discussion in scientific papers. However to get the discussion in the research structured well and the reader can understand easily, so this thesis refers

⁹ <https://tirto.id/di-balik-klaim-khasiat-air-alkali>, accessed on 27 November 2017

¹⁰ State News Republik Indonesia Year 2016 the number of HK 00.05.1.55.1621.

¹¹ News of the Republic of Indonesia Year 2016 Number 825

¹² Abdul Wahab Kallaf, *Kaidah-Kaidah Hukum Islam*, (Jakarta: Rajawali Press, 1993), 126

to the writing systematic has existed in the Guidebook of Scientific Research papers Faculty of Sharia State Islamic University of Maulana Malik Ibrahim Malang. In this research consists of five chapters, arranged systematically as follows:

Chapter I: INTRODUCTION

This chapter consists to background of problem, scope and limitation problem, problem formulation, objective of research, benefit of research, definition of keys term, and structure of discussion. This chapter refers to the introduction and describes the problem as well as a preliminary step that shows the basic framework that will be developed in the theory of the discussions of the next chapters.

Chapter II: REVIEW OF RELATED LITERATURE

This chapter contains the theory that will be used to answer the problem formulation which is detailed from background of problem that researched in this thesis. And the theory framework contains theories as the theoretical foundation to examine and analyze the problem that is discussed in this research.

Chapter III: RESEARCH METHOD

In this chapter describes the research method used in this research, including; type of research, research approaches, location of research, the data source (primary data and secondary data), technique of data collection (interview and observation), and data analysis technique.

Chapter IV: FINDINGS AND DISCUSSION

This chapter is the results of research and discussion about the effectiveness of the law enforcement of the distribution of alkaline water in packaging which does not have license that takes the studies in the field of Malang City Police Resort. And in this chapter also analyzes the data that has been found by using the analysis based on the regulation of law about food and *Maslahah Mursalah*.

Chapter V: CLOSING

This chapter is the last chapter where authors summed up the results of the research and give advice as well as possible.



CHAPTER II

REVIEW OF RELATED LITERATURE

A. Previous Research

1. Desy Lestari and Rinitami Njatrijani, Diponegoro University Semarang, Faculty of Law, 2013, Journal with the title Perlindungan Hukum Bagi Konsumen Terhadap Produk Makanan Kemasan Tanpa Izin Edar yang Beredar di Pasaran. The researchers took the problem about The Medicine and Food Supervisory Agency (BPOM) supervise the distribution of food in packaging which does not have license and the application of sanction the producer who violate.

2. Irna Nurhayati, Gadjah Mada University Yogyakarta, Faculty of Law, 2009, Journal with the title Efektivitas Pengawasan Badan Pengawas Obat dan Makanan Terhadap Peredaran Produk Pangan Olahan Impor Dalam Mewujudkan Perlindungan Konsumen. The researcher discussed the applications on the regulations that regulate the distribution of import product with consumer protection analysis. And to know The supervision of The Medicine and Food Supervisory Agency (BPOM) about the problem.
3. Meliza Edtriani, Bina Widya Campus, Faculty of social and political sciences, 2012, Journal with the title Pelaksanaan Pengawasan Balai Besar Terhadap Peredaran Makanan dan Minuman Tanpa Izin Edar (TIE) di Kota Pekanbaru. In this research, the researcher reviews about the supervisory of The Medicine and Food Supervisory Agency (BPOM) in Pekanbaru city and the indicator to determine standard of supervisory, the implementation that has been reached, and correction or sanction of violation, especially the distribution of food which does not have license.
4. Rizka Annisa Ilham, Brawijaya University Malang, Faculty of Law, 2015, Journal with the title Perlindungan Hukum Terhadap Konsumen Atas Penjualan Obat-Obatan Ilegal. In this research, the researcher discussed the illegal medicines from abroad, and focus to the distribution of medicine that sale freely in internet media.

Table 1

Table of Similarities and Differences of Object Research

Name	Title	Similarity	Different
Desy Lestari and Rinitami Njatrijani, Diponegoro University Semarang, Faculty of Law, 2013	Perlindungan Hukum Bagi Konsumen Terhadap Produk Makanan Kemasan Tanpa Izin Edar yang Beredar di Pasaran	Review about the distribution of food product which does not have license	Advertise to supervisory and the action of The Medicine and Food Supervisory Agency (BPOM) on the distribution of food that not accordance to regulations
Irna Nurhayati, Gadjah Mada University Yogyakarta, Faculty of Law, 2009	Efektivitas Pengawasan Badan Pengawas Obat dan Makanan Terhadap Peredaran Produk Pangan Olahan Impor Dalam Mewujudkan Perlindungan Konsumen	<ul style="list-style-type: none"> • Review about the distribution of food product which does not have license • Empirical research 	<ul style="list-style-type: none"> • Advertise to supervisory of The Medicine and Food Supervisory Agency (BPOM) on the distribution of imported food and the sanction for the violator who was not think about the security of peoples • The research locations are The Medicine and Food Supervisory Agency (BPOM) Jakarta and Yogyakarta
Meliza Edtriani, Bina Widya Campus, Faculty of social and	Pelaksanaan Pengawasan Balai Besar Terhadap Peredaran	• Review about the distribution of food product which does not	• Advertise to know about the role of The Medicine and

political sciences, 2012	Makanan dan Minuman Tanpa Izin Edar (TIE) di Kota Pekanbaru	have license • Empirical research	Food Supervisory Agency (BPOM) in Pekanbaru to resolve on the distribution of food which does not license in Pekanbaru city • The research location is The Medicine and Food Supervisory Agency (BPOM) in Pekanbaru
Rizka Annisa Ilham, Brawijaya University Malang, Faculty of Law, 2015,	Perlindungan Hukum Terhadap Konsumen Atas Penjualan Obat-Obatan Ilegal	Review about the distribution of food product which does not have license	This research focus to the distribution of traditional medicine which does not have license and the sanction for the producer that violated the regulation of farms

The results from four researches above, its looks obvious that there are differences of the researches, especially on term of review and objects and every research has the review focus from the various areas in Indonesia. And the author here will focus about the distribution of alkaline water in packaging which does not have license based on Law number 18 year 2012 About Food and *masalah mursalah* with the real condition in the field or society to know the effectiveness

of the implementation of Law Number 18 year 2012 About Food. And review the problem in this problem with *masalah mursalah* theory. In this research, the author took the case that handled by Malang City Police Resort about the distribution of alkaline water in packaging which does not have license.

B. Theoretical Framework

1. Alkaline water

Alkaline water is water that claimed to have a pH level greater than 7, rich in alkalizing compounds, including calcium, magnesium, oxygen, and potassium. The pH scale ranges from 0-14, the number 7 is at the neutral point, below 7 means acid, and above 7 means the base.¹³

Alkaline water is the healthy water and does not contain any chemical. The water is processed by the electrolysis of alkaline water machine which producing the alkaline water and acid water. Alkaline water is used as the daily drinking water.

2. Food packaging

The packaging is the protective wrap merchandise (commercial)¹⁴. Food packaging is material that is used for accommodate and package food, either direct contact with food or not.¹⁵

¹³ <https://tirto.id/di-balik-klaim-khasiat-air-alkali>, accessed on 27 November 2017

¹⁴ A Large Indonesian Language Dictionary

The retail packaging of food products is the final packaging of food that should not be opened for repackaged and traded.¹⁶

3. Product food license

The license is the approval of the result of Processed Food Assessment issued by the Head of Agency in the framework of the distribution of Processed Food.¹⁷ The license is a form of medicine and food registration that given by the head of the agency to distributing in Indonesia. Specificity of the food product must have license can we view on article 91 paragraph (1) law number 18 year 2012 about food that:

"In the term of supervision of security, quality and nutrition, every Processed Food made domestically or imported for trading in retail packaging, the subject of business must have a license".¹⁸

Then, clarified by The Regulation of Head of Medicine and Food Supervisory Agency of Republic Indonesia Number 12 Year 2016 about The Registration of Processed Foods in article 2 paragraph (1) that:

"Every Processed Food which produced domestic or imported for traded on retail packaging must have license".¹⁹

The regulation on the distribution of food which does not have license arranged on Law Number 18 Year 2012 About Food on article 142 that:

"The subject business of food who deliberately don't have license to every Processed Food that is made domestically or imported to be traded in the

¹⁵ State News Republik Indonesia Year 2016 the number of HK 00.05.1.55.1621.

¹⁶ News of the Republic of Indonesia Year 2016 Number 825

¹⁷ News of the Republic of Indonesia Year 2016 Number 825

¹⁸ The State Gazette of the Republic of Indonesia Year 2012 Number 227

¹⁹ News of the Republic of Indonesia Year 2016 Number 825

retail packaging as referred to in article 91 paragraph (1) are convicted with imprisonment longest 2 (two) years or a maximum fine of RP 4.000.000.000,00 (four billion rupiah)".²⁰

4. The theory of effectiveness of law

This problem needed a good system of the implementation and enforcement law of it. The system is the unity or roundness that is composed of several parts or components with mean that influence and complete each other to reach a particular goal.²¹

Lawrence M. Friedman suggests that effectiveness of law enforcement depends on three elements of the legal system; there are the structure of law, substance of law and legal culture. The structure of law includes law enforcement officers, the substance of law includes regulations and legal culture is living law shared in a society.²²

According to Friedman, the structure is a building from the framework system; the form is permanent, the institutional system, the strong bone that holds the process taking place in bond. We explain the structure of the justice system when we told about with judges, and courts adjudicate territory.²³

The Structure is a pattern that shows how law that run according to formal provisions. The structure shows how the court, lawmaker, the agency and the process of law run.²⁴

²⁰ The State Gazette of the Republic of Indonesia Year 2012 Number 227

²¹ M. Bakri, *Pengantar Hukum Indonesia* Volume 1, (Malang : UB Press, 2013), 20

²² <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accssed on 27 November 2017

²³ M. Bakri, *Pengantar Hukum Indonesia* Volume 1), 21

²⁴ <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accssed on 27 November 2017

Then, Friedman gave the meaning of substance according to substantive law regulation and legal regulation about how should institutions (created by substantive law regulation) applied.²⁵

In summary, the meaning of substance is regulation, norm, and behavior person in the system. So, the substance of law concern to the regulation which has a binding force and becomes a guide for law enforcement officers.²⁶

The last, Friedman interprets legal culture refers to parts of common cultural, opinion, the way to think that divert the social strength toward or far from law in certain ways.²⁷

Legal culture related to the legal culture which is the attitude of person (including the legal culture of law enforcement officers) faced law and legal system. As good as the structure of law to implement the regulation, as good as the quality of substance of law made if does not be supported by legal culture which is done by people involved in the system and society, so the enforcement law will not run effectively.²⁸

The good structure of law will not run well if not supported by the good substance of law too. The benefit of the good substance of law will not be felt if not supported by the good structure of law. Then, the existence of good structure

²⁵ M. Bakri, *Pengantar Hukum Indonesia* Volume 1), 21

²⁶ <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accssed on 27 November 2017

²⁷ M. Bakri, *Pengantar Hukum Indonesia* Volume 1), 22

²⁸ <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accssed on 27 November 2017

and substance of law will not felt if not supported by good legal culture from society too.²⁹

It means that the law will contribute goodly if three aspects of subsystem there are structure, substance, and legal culture interact each other and play each contribution as the function, so the law will run harmonies and balance. As a fish, it will live goodly if helped by the quality of good water and good food too. If three aspects of law do not running well, it will make problem on the function of law which as the mean of renewal and society development.³⁰

5. The Overview of Consumer Protection

In the fact, there are two important legal instruments in Indonesia, are: firstly, the constitution 1945, as one of sources on all law in Indonesia, requires that the national development has the purpose to realize fair and prosperous. The purpose of national development realized through the economic development that can grow and develop world that produces goods and service consumed by society. Secondly, Law Number 8 Year 1999 about Consumer Protection (UUPK). This regulation born to gives hope for Indonesia society to get the protection of the lose that suffered from a transaction of goods and services. Law Number 8 Year 1999 About Consumer Protection (UUPK) guarantees the existence of legal certainty for consumers.³¹

²⁹ Teguh Prasetyo, Abdul Halim Barkatullah. *Filsafat, Teori, dan Ilmu Hukum*. (Jakarta: PT Raja Grafindo Persada, 2013). 312

³⁰ Teguh Prasetyo, Abdul Halim Barkatullah. *Filsafat, Teori, dan Ilmu Hukum*. 312

³¹ Marzuki Ahmad, *Perlindungan Konsumen di Indonesia*, (Jakarta: Media Indonesia, 2007), 8

a. The Definition of Consumer.

The definition of consumer according to Law Number 8 Year 1999 About Consumer Protection in article 1 paragraph (2) that:

“The consumer is every user of goods or services available in the society, which the benefit for themselves, family, other people, or other organism and not to be traded”.³²

b. The Definition of Consumer Protection.

Based on Law Number 8 Year 1999 about Consumer Protection article 1 paragraph 1 that:

“Consumer protection is all efforts that guarantee the existence of legal certainty to give the protection to consumers”.³³

c. The Purpose of Consumer Protection

The purpose of consumer protection is to reach the kindness of business. The purpose of *maslahat* is a blend between the achievement of benefit and blessing.³⁴

³² The State Gazette of the Republic of Indonesia Year 1999 Number 42

³³ The State Gazette of the Republic of Indonesia Year 1999 Number 42

³⁴ Burhanuddin, *Hukum Perlindungan Konsumen dan Sertifikasi Halal*, (Malang:UIN Maliki Press,2011), h.1

d. Rights and Responsibility for Consumers and Subject of Business or Producers.

1. The Consumer

The term of “consumer protection” is relating to the law protection. Therefore, consumer protection contains the aspect of law. However for the material to get protection is not physical only, especially about the rights are purely abstract. Or, consumer protection is identical with protection that given the law about the consumer’s rights.

Generally, known from there are four basic consumer rights, those³⁵:

1. The right to safety
2. The right to informed
3. The right to choose
4. The right to heard

Described in the Law Number 8 Year 1999 about Consumer Protection in article 4 that talked about consumer’s rights there are³⁶:

1. The right to the comfort, security, and safety on consuming the goods or services
2. The right to choose goods or as well as to get goods or services accordance with the conditions and guarantee of goods or services
3. The right of the real information and honest about the condition and guarantee of goods or services

³⁵ CelinaTri Siwi Kristiyanti. *Hukum Perlindungan Konsumen*. (Jakarta: Sinar Grafika, 2011), 30-31

³⁶ The State Gazette of the Republic of Indonesia Year 1999 Number 42

4. The right to be heard the opinion and the complaint of goods or services which used
5. The right to get advocacy, protection, and consumer dispute resolution
6. The right to get consumer education and coaching
7. The right to served rightly and honestly and not discriminative
8. The right to get compensation, damage or replacement of goods or services received are not same with the agreement
9. The right that regulated in other regulations

Then about the consumer responsibility described in article 5, that:

- a. Read or follow the instruction of the usage or utilization of goods or services, for the security and safety
- b. Well-intentioned when transaction purchase of goods or services
- c. Pay in accordance with the agreed exchange rate
- d. Follow the settling of dispute on consumer protection law³⁷

2. Subject of Business or Producer

In article 1 point 3 Law Number 8 Year 1999 about Consumer Protection mentioned that:

“Subject of business is every subject or business entity, either in the form of a legal entity or not legal entity which built and domiciled or does the activity in

³⁷ The State Gazette of the Republic of Indonesia Year 1999 Number 42

Republic Indonesia alone or together through the agreement conducted to business activities in such areas of the economy”.³⁸

The review of consumer protection cannot be separated from the review of rights and responsibilities of producer. Based on the directive, the definition of “producer” includes:³⁹

1. The part that produces the final product in the form of manufactured goods. They responsible for all the losses of the good which they distributed to society, including when loss happened because has the damage on the good which is a component of the production process
2. The producer of raw materials or component of a product
3. Whoever who put a name, brand, or other sign in the product that indicate to producer of the good.⁴⁰

In article 6 Law Number 8 Year 1999 about Consumer Protection, producer called as the subject of business who has the rights are:

- a. The right to receive the payment in accordance with the agreement about the condition and exchange rate of the goods or services traded
- b. The right to get the legal protection of the not good intentioned of consumer
- c. The right to self-defense should be doing in the judicial settlement of consumer disputed

³⁸ The State Gazette of the Republic of Indonesia Year 1999 Number 42

³⁹ CelinaTri Siwi Kristiyanti. *Hukum Perlindungan Konsumen*. 41

⁴⁰ CelinaTri Siwi Kristiyanti. *Hukum Perlindungan Konsumen*. 42

- d. The right to rehabilitation of good name when proved in the law that the consumer's loss is not caused by the goods or services traded
- e. The right that regulated in regulations⁴¹

As in article 7 regarding responsibility of producer, as follows:

- a. Well-intentioned on doing business activity
- b. Give the right information, clear and honest about the condition and guarantee of goods or services and also give the explanation about the usage, repair and maintenance
- c. Treating or serving the consumers rightly, honestly and not discrimination
- d. Guarantee the quality of goods or services those are produced or traded on the basis of the provision of the standard quality of goods or services that apply
- e. Give the opportunity to consumer to test or try the goods or services as well as to give the guarantee or warranty of goods made or traded
- f. Give compensation, damaged of the loss resulting from the usage, consumption and utilization of the goods or services traded
- g. Give the compensation of damaged or replacement if the goods or services received or utilized does not comply with the agreement⁴²

⁴¹ The State Gazette of the Republic of Indonesia Year 1999 Number 42

⁴² The State Gazette of the Republic of Indonesia Year 1999 Number 42

In law about consumer protection (UUPK) subject of business or producer must have a good intentioned on the business activity, while for the consumer must have a good intentioned when doing the purchase transaction of goods or services.⁴³

In the law about consumer protection (UUPK) show that the good intentioned more accentuated to the producer, because it covers all the stages of the business, so it can be interpreted that the responsibility of subject of business (producer) to do well-intentioned begin since the goods are designed/produced until traded, so consumer required must have the good intentioned on the purchase transaction of goods or services. Of course, it is caused by the possibility happened the loss for consumer since the good designed/produced by producer (subject of business), while for consumer possible to lose the producer begin transaction with the producer.⁴⁴

e. Consumer Protection Law

Consumer protection law formed from the pattern of the relationship between some of the main elements that related. The relationship created from an alliance of business that gives rise of the legal consequences. On the consumer protection law, the definition of legal consequences not only stops after the agreement of parties (*ijab qabul*) happened but need to follow up until after the agreement. It means that although the alliance of business has been declared

⁴³ CelinaTri Siwi Kristiyanti. *Hukum Perlindungan Konsumen*. 44

⁴⁴ CelinaTri Siwi Kristiyanti. *Hukum Perlindungan Konsumen*. 44

finished, but the consumers have the right to get legal protection of usage the goods or services that provided by the producer.⁴⁵

6. *Maslahah Mursalah*

a. Definition

Maslahah mursalah etymologically means goodness, a benefit or a avail that released. Kindness, benefits, or avails of an action that is not found the explanation clearly from *Nash* about whether or not the action done.⁴⁶

Maslahah Mursalah, according to Abdul Wahab Kallaf perception that *Maslahah Mursalah* is *maslahah* (kindness) which the legitimate/*syar'i* (Allah and His prophet), does not establish law specifically to realize the kindness of it, and there is no theorem that shows over or cancellation.⁴⁷

So it can be concluded that *Maslahah Mursalah* is the benefit action for society which there is no *Nash* which support it or reject it.

Maslahah Mursalah means *muthlak*. In the term of *ushul* is the kindness that is not prescribed by Islamic law to set. And it is not shown by the *syar'i* theorem to support it or cancel it.⁴⁸

Maslahah Mursalah is the kindness that confirmed which according to *Ushul* scholars which the kindness does not establish law specifically to realize the kindness (*maslahah*) of it, and there is no theorem that shows over or cancellation. The kindness (*maslahah*) called absolute because *maslahah* is not

⁴⁵ Burhanuddin, *Hukum Perlindungan Konsumen dan Sertifikasi Halal*, h.6

⁴⁶ Amir Syarifuddin, *Ushul Fiqh 2*, (Jakarta:Kencana, 2011), 279

⁴⁷ Abdul Wahab Kallaf, *Kaidah-Kaidah Hukum Islam*, 126

⁴⁸ Abdul Wahab Khallaf, *Ilmu Usul Fikih*, Terj.Halimuddin, (Jakarta: PT. Rineka Cipta, 2005), h. 98

limited by the theorem that shows over or cancellation it. An example is because the kindness (*maslahah*), the Prophet Muhammad SAW's friends (*sahabat*) established the prison, print currency, and other kindness (*maslahah*) that required by the emergency situation with the purpose to need or kindness. It is established in the law, and there is no *syara'* witness which support or cancel it. The explanation of the definition is the formation of law intended to realize the kind of human. It means to bring the benefit for them and refuse the badness and also eliminate the difficulties of it.⁴⁹

b. Legal Basis

There is a few legal basis or theorem about the theory of *maslahah mursalah* which used, are:

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ ﴿١٠٧﴾

Meaning: "And we have not sent you but as a mercy to the worlds"⁵⁰

يٰۤاَيُّهَا النَّاسُ قَدْ جَاءَكُمْ مَوْعِظَةٌ مِّن رَّبِّكُمْ وَشِفَاءٌ لِّمَا فِي الصُّدُورِ وَهُدًى وَرَحْمَةٌ

لِّلْمُؤْمِنِينَ ﴿٥٧﴾

⁴⁹ Abdul Wahab Khallaf, *Ilm Ushul Fiqh*, Terj. Noer Iskandar al-Barsany dan Moh. Tolchah Monsoer, (Jakarta: PT. Raja Grafindo Persada, 1996), h. 47

⁵⁰ Q.S. Al Anbiya (21): 107

Meaning: “O men! There has come to you indeed an admonition from your Lord and a healing for what is in the breasts and a guidance and a mercy for the believers”⁵¹

The kindness of the human being is always endless actual, so if there is no *sharia* law based on *maslahah* or kindness of human based on new *maslahah* that continue to grow and the formulation of law based on *maslahah* principle that gets recognition of *syara'*, so the legal formulation will stop and the kindness which needed in every time and place will ignoring.⁵²

c. Levels of *Maslahah Mursalah*

In term of strength and quality as the theorem in establishing of legal, *maslahah* is divided to three kinds:

1. *Maslahah dharuriyah*, is a kindness (*maslahah*) that is the presence of it need urgently by the human life. Human life has no sense if one of five principles nothing. All efforts that directly guarantee or come to five principles are good. In this case, Allah commanded to do effort for fulfillment of basic necessities. Leave or stay away from the prohibition of Allah is good. In this case, Allah forbid apostasy to keep religion, forbid the killing to keep the soul, forbid drinking liquid to keep the sense, forbid adultery to keep descent, and forbid stealing to keep the treasure.

⁵¹ Q.S. Yunus (10): 57

⁵² Abdul Wahab Kholaf, *Ilmu Ushul Fiqh*, 85

2. *Maslahah Hajiyyah*, is the kindness (*maslahah*) that the level of human's need is not on the level of *dharuri*. The form of kindness (*maslahah*) is not directly for fulfillment five of basic necessities of *dharuri*, but indirectly heading toward there like in the term of a thing that gives easiness for the fulfillment to human needs. *Maslahah hajiyyah* example: study of religion to enforce religion, eat for survival, sharpening the brain to improve the sense, purchase and sale to get the treasure.⁵³

3. *Maslahah Tahsiniyah*, is the kindness (*maslahah*) that the level of human's need is not on the level of *dharuri* and also not on the level of *haji*, but the need must be fulfilled to give the perfection and beautifulness for human's life. This kindness (*maslahah*) relates to five basic necessities of human being.⁵⁴

From the three kindnesses (*maslahah*) above, the Muslims can determine the priority and understand on taking the kindness (*maslahah*). *Maslahah Dharuriyah* is a form of kindness (*maslahah*) should be priority than *maslahah Hajiyyah*, and *maslahah hajiyyah* should be priority than *maslahah Tahsiniyyah*.

And viewed on the term of the scope or coverage according to the majority of scholars divide *maslahah* into three:

1. *Al-Maslahah Al-Ammah* is related everyone such as printing currency for the kindness of a country.

⁵³ Amir Syarifuddin, *Ushul Fiqh*, 350

⁵⁴ Amir Syarifuddin, *Ushul Fiqh*, 350

2. *Al-Maslahah Al-Ghalibah* is related to the majority, but not for everyone. For example, people who work on order of other people raw materials for finished goods, then if the person made a fault or damage is obligated to replace it.
3. *Al-Maslahah Al-Khasanah* is regard to certain people. An example of the existence of kindness for a wife to judges a *fasakh* decision because her husband had been considered lost.

d. The Requirements to Charity by *Maslahah Mursalah*

Wahbah Zuhaili argued that the requirements to charity by *Maslahah Mursalah* consists of three things:

1. The action or charity is the real *maslahah* (*haqiqatan*) not just a guess (*wahmiyah*) if can realize the kindness and refused the regard (*mudharat*).
2. *Maslahah* should not contradict with the law or principle that has been established based on *nash* or *ijma'*
3. The scope of *maslahah* must be global⁵⁵

⁵⁵ Wahbah Zuhaili, *Ushul Fiqh al-Islamy*, (Beirut, Lebanon: Dar al-Fikr, 2008), Juz II, 78

e. The Ability of *Maslahah Mursalah*

There is the difference between the scholars about *maslahah mursalah*:

- a. *Maslahah mursalah* cannot be *hujjah*/theorem according to *Syafi'iyah* scholars, *Hanafiyyah* scholars, and some *Malikiyah* scholars like Ibnu Hajin and ahl *zahir*.
- b. *Maslahah mursalah* can be *hujjah*/theorem according to some scholars of *Maliki* and *Syafi'I*, but also must fulfill the requirements that have defined by *Ushul* scholars. The majority of *Hanafiyyah* and *Syafi'iyah* scholars requires about this *maslahah* should enter under *qiyas*, which there are *ashl* laws that can be explained more (*qiyas*) on it and also has *illat mudhabit* (right), so there is a legal relationship to realize the kindness.⁵⁶

⁵⁶ Rachmat Syafe'I, *Ilmu Ushul Fiqh*, (Bandung: Pustaka Setia, 2001), 124



CHAPTER III

RESEARCH METODE

A. Type of Research

This research uses empirical legal research, that the direction and the purpose of this research to describe the real condition. Empirical legal research is the research that has the purpose to reveal the reality in the field by taking the data based on the experience of the respondents, which the law is seen as a fact because law will interact with other social institutions.⁵⁷

In this research, the type of research that is used reference to type of empirical juridical field research. And this research is research conducted directly in Malang City Police Resort to find the primary data which related

⁵⁷ Ronny Hanitijo, Soemitro, *Metode Penelitian Hukum dan Jurimetri*, (Jakarta : Ghalia Indonesia, 1990), 10

with the problem that will be researched by interview and observation to get accurate data related by the distribution of alkaline water in packaging which does not have license based on Law Number 18 Year 2012 About Food and *Maslahah Mursalah*.

B. Research Approach

In this research, the author used the juridical sociological approach; it means that the research is done to the reality of real condition of society or social environment with intention and purpose to fact-finding, then to the problem identification and finally to problem solution.⁵⁸

In this research, the researcher tried to understand the existence of the license in food product especially in alkaline water which distribute in society in Malang city which regulated with Law Number 18 Year 2012 About Food, to know the implementation of the regulation with the problem that happened in society which handled by Malang City Police Resort.

C. Location of Research

The research location conducted by the researcher is located in Criminal Detective of Malang City Police Resort, East Java. Because the case of distribution of alkaline water in packaging which does not license is handled by Malang City Police Resort and happened in society especially in Malang.

⁵⁸ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press 1982), 10

D. The Data Source

The data source in this research divided into two sources, that primary source and secondary source.

a. Primary Data

Primary data is the basic data which found directly from the primary source that is taken at the Malang City Police Resort with interview directly with Mr. AL as the head of a Particular Criminal Unit to get the accurate data about the problem and analysis from the legislation that related to the problem in this research.

b. Secondary Data

The secondary data in this research as the base material data with reading and learning the materials with the problem which will be researched by learning the legislation, books, articles, and so on which related with the subject matter of discussion that will be researched, and literatures which discuss about the distribution of alkaline water in packaging which does not have license based on Law Number 18 Year 2012 About Food and *Maslahah Mursalah*, and articles on other regulations which related by the problem that will be discussed in this research.

E. Technique of Data Collection

To facilitate this research, the author used the methods as follow:

a. Interview

Interview is the one of data collection method by communication; it means that through contact or personal relationship between data collector and data sources. The interview has the function to get the information with the statement and information that related to the law enforcement of the distribution of alkaline water in packaging which does not have license in Malang city.

The interview is done to get the information orally with the purpose to get accurate information from the competent resource in this research. The resources of this research are:

1. Mr. AL as the head of a particular criminal unit in Malang City Police Resort.
2. Miss. AH as the produsen of alkaline water.
3. AM and DKM as the consumers of alkaline water.

b. Observation

The author observes and researches the problem of distribution of alkaline water which does not have license in Malang City Police Resort. And observes the phenomenon of the distribution of alkaline water in packaging which does not have license that is famous and has become culture that happening in the society.

F. Data Analysis Technique

After data and information that already collected, the researcher do editing data, the next step is according to the method that used in this research, and data analysis technique that used by the researcher are classifying, verifying, analyzing and concluding.⁵⁹

a. Editing

Sorting and selecting the capital things and focus on the important points that harmonize with the problem formulation and explain it in the research. In editing technique, the researcher will check the complete and accurate data that reach from the resource, and he is Mr. AL.

c. Classifying

Classifying is done after the data collected from the source, then classified and conducted data to get the valid data. The function of the classifying is to select data which has found from the resource and be able to adapt to the need of the research.

d. Verifying

Verifying is the way that done by the author to get data and information from the field. The researcher checks data that has gotten with the reality in the field to get the validity of data.

⁵⁹ Fakultas Syariah UIN Maulana Malik Ibrahim Malang, Pedoman Penulisan Karya Ilmiah, (Malang: UIN Press, 2012), 48

e. Analyzing

Analyzing is the process to arrange data and organize it into the categories and a basic outline. Mr. Sugiyono argues that the analyzing is the process to finding and arrange data systematically that reach from interview, field notes and documentation.⁶⁰

f. Concluding

Concluding is advice conclusion from problems, and this is the end research process and the answer of previous data explanation. In the conclusion, the researcher will focus on problem that is discussed in this research with explaining data to the arranged form statement, logical and effective to make the reader easy to understand and interpret data.

⁶⁰ Fakultas Syariah UIN Maulana Malik Ibrahim Malang, Pedoman Penulisan Karya Ilmiah, , 48

CHAPTER IV

FINDINGS AND DISCUSSION

A. The Practice of the Distribution of Alkaline Water Which Does Not Have License in Malang City and the Implementation of Law in Malang City Police Resort.

The economic development in industry and trade has brought benefit to consumers that with the growing the choices of goods and services offered, with the various types and quality.⁶¹

The condition has given many benefits to consumers. But on another side, the consumer becomes the object of business activity of the subject

⁶¹ Neni Sri Imaniyati. *Hukum Ekonomi dan Ekonomi Islam*. (Bandung: Mandar Maju, 2002). 161

of business/producer who expect big profit through sales or promotion that often harm the consumers.⁶²

Cannot be denied that the consumer position is very weak, it happened because the awareness's consumer level and education's consumer level are still slow. It is compounded by the wrong business ethos, like business must get benefit solely; the business has no conscience, and so on.⁶³

The existence of alkaline water is considered as something that's become a need in the life of society. The alkaline water is consumed because alkaline water's function is believed as the medium for keeping the health and also as the medium of treatment and beauty. If we see of this fact, surely the distribution of alkaline water can be reached by all elements of society, both urban and rural societies, coupled with the fact that it can be seen now that alkaline water has become a home industry that promises huge profits in its business. Complemented by the shadow of the big advantage that will get from alkaline water business make the societies interest to be alkaline water's producer higher. But the high interest from society was not accompanied with good ethic in business, it is evident from alkaline water product that distributes in the society without license.

Review about the alkaline water, from the data that the researcher got from one of alkaline water's producers in Malang city we can know that the difference between alkaline water and normal water is on the pH content of water, or alkali substance is higher. If on normal water has the content of alkali pH is 7, then alkaline water has the content of alkali pH range 8,5-11,0.

⁶² Neni Sri Imaniyati. *Hukum Ekonomi dan Ekonomi Islam*. 161

⁶³ Neni Sri Imaniyati. *Hukum Ekonomi dan Ekonomi Islam*. 161

Alkaline water has three types; these are Kangen water, Strong Acid, and Beauty Water. Each of types has the differences on the content and functionally.

1. Kangen Water has the pH range 8,5-9,5 and used for the therapy.

There is also alkaline water that has the pH range 11,0 but could not be drinking because the very high pH is not good for body.

2. Strong Acid has the pH 2,5. Used for antiseptic and can be used afor face and can be used as a substitute for toner. The usage is sprayed to body or face.

3. Beauty Water has the pH 5,5. Used as facial treatment. The usage particularly on the face with spray.

Most of dealers or producers produced alkaline water alone. The production process used the machine of alkaline water. And to make each type of alkaline water choose one of the buttons suitable to the needs to produce. So all the waters processed in the machine with process of ionization and electrolysis. The water entry with TDS (Total Dissolved Solids) under zero (negative), and not too much calcium content. For packaging that used in the form of bottles and gallons, according to the request.

For the license, AH as the producer said that actually, just the machine got the license. For the product yet, except for personal consumption. But, the needs of society much with the alkaline water product, the producer distributes it. Especially for kangen water, producer lists in the label with a description of its own, because on the regulation of the Medicine and Food Supervisory Agency (BPOM), kangen water does not fulfill the requirement of good drinking water, it

is evident that kangen water product has the pH range 8,5-9,0 which clearly does not fulfill the specified requirement. But because the demand and need of the society and as a medium for therapy, the producer still distribute the product.⁶⁴

Supported with other data that the author got from some alkaline water consumers that much of them felt the benefit of alkaline water, but only the types of alkaline water used for the treatment by sprayed are strong acid and beauty water. While kangen water, they still have not known and felt the benefit of kangen water for therapy.

The case that has been handling in police resort of Malang city is the law enforcement of alkaline water in packaging distribution which does not have license. Of course, it considered violating the regulation in the Republic of Indonesia, where every food products that distributing be able to have license of the production.

From the results of interview with Mr. AL at 7 December 2017 the case is about the distribution of alkaline water in packaging which does not have license from the medicine and food supervisory agency (BPOM) on the product. The case is happened in November 2017, after any report from society of the violence. The alkaline water producer produced and traded it to consumers. And this is the first case about the law enforcement of violating on alkaline water. But for the detail data about the producer who was also the dealer of alkaline water, place and other data which related to the case, the police did not dare and did not want to give the case data because the case new and the data's about it is privacy

⁶⁴ AH, *Interview*, (Malang, 11 April 2018).

sign and recently handled and still wait for the result of judiciary. And with reason of the presumption of innocence, be the reason from the police to do not want to give detailed data about it. Mr. AL added that detailed information about it is privacy which cannot inform to public, therefore the data that can the author got here just interview data which considered enough to be data that will discuss in this thesis on the enforcement of law which done by Malang City Police Resort handling the case of the distribution of alkaline water in packaging which does not have license.⁶⁵

Regarding the case of the distribution of alkaline water, the police deceive the criminal with Law Number 18 Year 2012 about food because the product of alkaline water does not have license. More explanation about the case is mentioned on two articles on the regulation of food, are in article 142:

"The subject business of food who deliberately don't have license to every Processed Food that is made domestically or imported to be traded in the retail packaging as referred to in article 91 paragraph (1) are convicted with imprisonment longest 2 (two) years or a maximum fine of RP 4.000.000.000,00 (four billion rupiah)".

It is the affirmation of the same regulation in article 91 paragraph (1), *"In the term of supervision of security, quality and nutrition, every Processed Food made domestically or imported for trading in retail packaging, the subject of business must have a license"*.

Review about the process of law enforcement is conducted by police; it can be known that the police have the right and authority similar in the term of enforcement law like the authority of The Medicine and Food Supervisory

⁶⁵ AL, *Interview*, (Malang, 7 December 2017).

Agency (BPOM). Mr. AL said that police can handle the measure for the criminal, but of the tackling on the problem, it considered to the specializations of the medicine and food supervisory agency (BPOM). In this case, the police do the cooperation and coordination with the medicine and food supervisory agency (BPOM), because it is also the civil servant that investigated about the case on food product, medicines, and cosmetics which distributing in society.

In the process of investigation, the police conduct coordination with BPOM that reputed as the specialist to ask the information of the ingredients and the license of alkaline water. From BPOM data that alkaline water does not have dangerous ingredients for human if consumed, so it could be said that the product safety to consume but problem cause the product does not have license and make it should be processed on the law because tripping with the license.

Mr. AL added, from the data that got from BPOM found the fact that kangen water is not healthy water but just suggestion water, it supported by the BPOM laboratory result, that kangen water is the illegal product because does not have license from BPOM of Republic Indonesia. Therefore kangen water is not produced based on the good processed of food production, and also not having the Certificate of Indonesia National Standard (SNI) of the drinking water in packaging. From the result of test sample is kangen water also did not fulfill the requirement on the quality of drinking water. But, if alkaline water consumed will not be a problem, it means that kangen water did not give the bad effect to human body if consumed. Then, BPOM also instructed to stop the promotional/advertising kangen water which misleads society. To the entire kangen water

seller, BPOM instructs not to produce or distribute product that did not suitable with the provision.

Review about the license, Mr. AL argued that license must exist in every product as long it is distributing in the market and consumed by the society. Because the license is the certainly to guarantee security of the product that will be consumed or used by the consumers.

In this case, police force through several steps:

1. Conducted the investigation, is after the report from society regarding the case. Then, the investigation by the police of Republic Indonesia regulation.
2. Traceability, based on the report with the regulation.
3. Crackdown on the case is done with call to the criminal.

In this case, police is not authorized to give the punishment to criminal, because police just investigate the case, and next given to the court or judiciary to crack down on the case. Police will continue if there is an instruction from the established results of judiciary or court. Therefore about the punishment to the criminal, police cannot decide it because it is the authority of judiciary or court to give punishment to the criminal. Which the punishments are amercement, criminal, or confinement. Is it same with the legislation or not on the give punishment, cause all submitted to the judiciary. And the investigation rules to the investigation regulation.

Mr. AL added the effort that can be done by the police or related agency on facing the problem to the society with socialization, and give the information

that clear and understood by society with the related authority like BPOM and strengthens the society's complaint with the problem.

The obstacle that faced by the police on handling the case is the weakness of coordination between related authority, like BPOM and judiciary. It is the hope that the handling the case quickly finish, cause police implemented the fundamental right, cheap and quick in handling a case. And give the satisfaction and justice to society.

Form the result of interview got, the author concluded from Mr AL statement that in the regulation and handling of the case by police considered effective and appropriate.⁶⁶ However, the author has different view because if we look back to the condition in society, it is still considered not effective on the law enforcement, it is because the legal culture in society still not good which the license still considered as the something that not important in product because of economic reason.

Then, it should be encouraged with socialization to the society about the importance of the license in food product, and needed the coordination between the related elements for the law enforcement of the case effective and bring the kindness for all.

⁶⁶ AL, *Interview*, (Malang, 7 December 2017).

B. The Distribution of Alkaline Water in Packaging Which Does Not Have License Based on Law Number 18 Year 2012 About Food (Study at Malang City Police Resort)

1. The Implementation of Law Number 18 Year 2012 About Food For The Producer Who Distributes Alkaline Water In Packaging Which Does Not Have License In Malang City.

Consume alkaline water has become a need in the life of society. The alkaline water is consumed because alkaline water's function is believed as the medium for keeping the health and also as the medium of treatment and beauty. The producers of alkaline water persuade consumer that the water can neutralize the acid in the bloodstream with pH content that tends to alkaline because pH content in the body tends to acid. It also serves as an antioxidant and cleanser, helping the body's metabolism of nutrients more effectively so as to make health and body perform better.

The development of alkaline water can be one industry that cannot be separated from the role of the consumer itself. Because the position of Alkaline Water has been considered and trusted consumers as a medium of therapy to maintain public health and media treatment, as well as beauty media. But the high interest from society was not accompanied with the good ethics in business, it is evident from alkaline water product that distribute in the society without license. The unfair profit is taken by alkaline water producer made consumers loss. However, the consumers have the rights that guaranteed by the state, including right to get right information in the product especially about the license from the

product which used. At this time, the development of alkaline water distribution more uncontrolled. The law enforcement of the distribution of illegal alkaline water not running optimally that make the naughty producer still do the violate freely.

In this discussion, will be explained about the sanction for the producer of alkaline water in packaging which does not have license and how far the effectiveness of law enforcement or the implementation of Law Number 18 Year 2012 About Food of the problem in the field or society. As explained in background of problem, the researcher will use the Law Number 18 Year 2012 About Food, and the explanation about the sanction on the problem contained in article 91 and article 142.

In article 91, paragraph (1), *"In the term of supervision of security, quality and nutrition, every Processed Food made domestically or imported for trading in retail packaging, the subject of business must have a license"*. And clarified in article 142 about the criminal that can be dropped to producer who distribute food product without license, which reads,

"The subject business of food who deliberately don't have license to every Processed Food that is made domestically or imported to be traded in the retail packaging as referred to in article 91 paragraph (1) are convicted with imprisonment longest 2 (two) years or a maximum fine of RP 4.000.000.000,00 (four billion rupiah)".

The meaning of the explanation on the article above is we can understand that every food product in packaging especially in Indonesia must have license, because it considered as the form of guarantee to consumer of food product which consumed. And if the producer distributed food product in packaging which does

not have license, it can be given criminal punishment as stated in Law Number 18 Year 2012 About Food.

Review about the license, Mr. AL argued that license must exist in every product as long it is distributing in the market and consumed by the society. Because the license is the certainly to guarantee security of the product that will be consumed or used by the consumers. And when the producer violates, it means that does not include the license on the food product in packaging, it can be given the criminal punishment.⁶⁷

Review about the process of law enforcement is conducted by police; it can be known that the police have the right and authority similar in the term of enforcement law like the authority of The Medicine and Food Supervisory Agency (BPOM). In Law Number 18 Year 2012 About Food has mentioned on article number 132 paragraph 1 chapter on investigation that,

“In addition to the police officers of some Republic of Indonesia, certain civil servant officials whose scope of duty and authority of responsibility in the field of food are given special powers as investigators to conduct investigations in criminal offenses in the field of food in accordance with the provisions of legislation in the field of Criminal Procedure”⁶⁸

Mr. AL said that police can handle the measure for the criminal, but of the tackling on the problem, it considered to the specializations of the medicine and food supervisory agency (BPOM). In this case, the police do the cooperation and coordination with the medicine and food supervisory agency (BPOM), because it is also the civil servant that investigated about the case on food product, medicines, and cosmetics which distributing in society. In this case, the police

⁶⁷ AL, *Interview*, (Malang, 7 December 2017).

⁶⁸ The State Gazette of the Republic of Indonesia Year 2012 Number 227

asked the information and the data about alkaline water to BPOM as the specialist of the food to know the implementation of law that will be done by police with the violating.⁶⁹

Then, about the repressive efforts undertaken by the apparatus in this case are the police and BPOM arranged in article 132 paragraphs 2 chapter about the investigation in the law number 18 yaer 2012 about food, which reads

The civil servant investigator as referred to in paragraph (1) is authorized:

- a. To examine the correctness of reports or statements concerning criminal offenses in the field of food;*
- b. Calling a person to be heard and examined as a suspect or as a witness in a crime in the field of food;*
- c. Conduct searches and seizure of criminal evidence in the field of food;*
- d. To request information and evidence from a person or legal entity in relation to crime in the field of food;*
- e. Create and sign an official report;*
- f. To stop the investigation if there is insufficient evidence of a crime in the field of food; and*
- g. Seek expert assistance in the context of the implementation of criminal investigation tasks in the field of food.⁷⁰*

And asked about the effectiveness of law enforcement from the police on the handling the case of the distribution of alkaline water in packaging which does not have license, they argue that they have done same with the procedure and consider that the law enforcement that they have done effective, as the author describes in interview result about the practice of implementation of law enforcement which has done by police before.

According to the researcher's view, if see the phenomenon in society that the distribution of alkaline water in packaging much distribute without license.

⁶⁹ AL, *Interview*, (Malang, 7 December 2017).

⁷⁰ The State Gazette of the Republic of Indonesia Year 2012 Number 227

The shadow of the big advantage that will get from alkaline water business makes the societies interest to be alkaline water's producer higher. But the high interest from society was not accompanied with the good ethics in business, it is evident from alkaline water product that distributes in the society without license. The unfair profit is taken by alkaline water producer made consumers loss. However, the consumers have the rights that guaranteed by the state, including right to get the right information in the product especially about the license from the product which used. Although there are already the regulation which regulates it, but in the fact still found alkaline water product distributing in the market that still violates the term.

This problem needed a good system for the implementation and enforcement law of it. The system is the unity or roundness that is composed of several parts or components with mean that influence and complete each other to reach a particular goal.⁷¹

Form the description above, we can view and examine the theory of effectiveness of the law from Lawrence M. Friedman as the source in this research, which in his theory explained that effective and successful law enforcement depends to three elements of the legal system, are structure of law, substance of law and legal culture. The structure of law includes law enforcement officers, the substance of law includes regulations and legal culture is living law shared in a society.⁷²

⁷¹ M. Bakri, *Pengantar Hukum Indonesia* Volume 1, 21

⁷² <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accssed on 27 November 2017

According to Friedman, the structure is a building from the framework system; the form is permanent, the institutional system, and the strong bone that holds the process taking place in bond. We explain the structure of the justice system when we told about with judges, and courts adjudicate territory.⁷³ It means that structure is a pattern that shows how the law runs according to formal provisions of law. The structure shows how the court, lawmaker, the agency and the process in law run.⁷⁴ In this case, the elements of structure of law has completed, because there is a legal institution that handled and cracks down the distribution of alkaline water in packaging which does not have license, and in this case is Malang city of police resort who handled the case, and supported by BPOM as supervisor and The judiciary as the part who crack down the case. But the structure especially in this case is the police just crack down the case if there is the report from the society because it is the the offense, but if it is nothing so there is no the law enforcement of the problem. In the reality, as we have known that many producers of alkaline water in Malang city still distribute alkaline water product without license to society.

Then, Friedman gave the meaning of substance according to substantive law regulation and legal regulation about how should institutions (created by substantive law regulation) applied.⁷⁵ In summary, the substance of law concern to the regulation which has a binding force and becomes a guide for law enforcement officers. Same as the element on the structure of law, the element on the substance

⁷³ M. Bakri, *Pengantar Hukum Indonesia* Volume 1), 21

⁷⁴ <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accessed on 27 November 2017

⁷⁵ M. Bakri, *Pengantar Hukum Indonesia* Volume 1), 21

of law has completed. It showed by the usage of Law Number 18 Year 2012 About Food as the law theorem which used by police to catch and crack down the producer of alkaline water who distribute alkaline water without license.

The last, Friedman interprets legal culture refers to parts of common cultural, opinion, the way to think that divert the social strength toward or far from law in certain ways.⁷⁶ Clearly, Legal culture related to legal culture which is the attitude of a person (including the legal culture of law enforcement officers) faced law and legal system.⁷⁷ If related by the problem that discuss in this research, we know that the legal culture of it still not effective and runs well. It is because society awareness of law still low, it showed with the distribution of alkaline water in packaging which does not have license distributing in society. The regulation of alkaline water which is one of food production has been regulated in regulation, as Law Number 18 Year 2012 About Food that require license on the food product, and supported by other regulations. And view of the structure of law are police, BPOM, and judiciary which handling the case. But in the fact it could be said that needed more intensive role as well as cooperation between the elements beside society in term of supervision and the action for the legal case in society, like the problem of the distribution of alkaline water in packaging which does not have license.

From the explanation above, the author can conclude from statement of Mr AL as the element of law structure that in the regulation and handling of the case by police considered effective and appropriate. However, the author has

⁷⁶ M. Bakri, *Pengantar Hukum Indonesia* Volume 1), 22

⁷⁷ <http://zenhadianto.blogspot.co.id/2014/01/teori-sistem-hukum-lawrence-m-friedman.html>,
Accssed on 27 November 2017

different view because if we look back to the condition in society, it is still considered not effective on the law enforcement, it is because the legal culture in society still not good which the license still considered as the something that not important in product because economic reason.

Then, it should be encouraged with socialization to the society about the importance of the license in food product, and needed the coordination between the related elements and law awareness which is not enacted to the society only but related elements that expected can more understand, intensive to monitor and crack down the case in society that the law enforcement of the problem run effectively and bring the kindness for all, without the existence of society complaint before.

Then review the consumer protection of alkaline water in packaging, as we have known that kangen water has been considered society as healthy water, but based on data that the author got from Malang City Police Resort that kangen water has not pocketed the license, so it is considered illegal food product that violate the provisions of law in Indonesia and unfit to distribute in society. Then clarified with the announcement from BPOM at 6 December 2017 that kangen water is not healthy water but just suggestion water, it supported by the BPOM laboratory result, that kangen water is the illegal product because does not have license from BPOM of Republic Indonesia. Therefore kangen water is not produced based on the good processed of food production, and also not having the Certificate of Indonesia National Standard (SNI) of the drinking water in

packaging. From the result of test sample is kangen water also did not fulfill the requirement on the quality of drinking water.

It is strengthened with the data got by the researcher from one of the alkaline water producer in Malang city, and found that one of alkaline water types is kangen water has the pH level around 8,5-9,0 which has exceeded the requirement of the quality of drinking water is allowed as regulated in the Regulation of the Minister of Health of Republic Indonesia Number 492 Year 2010 About Drinking Water Quality Requirement, described in article 3 paragraph 1, that: *"The drinking water which Safe for health if it is fulfill the requirements of purity, chemical physics, radioactive and contained in the mandatory parameters and additional parameters".*⁷⁸

The meaning of the mandatory parameter in the regulation be the requirement of drinking water quality that must be followed and obeyed for all drinking water organizer, especially the producer of alkaline water. Such as attached on the Attachment of Regulation of the Minister of Health of Republic Indonesia Number 492 Year 2010 about the mandatory parameter of drinking water:

Table 2. The Mandatory Parameter of Drinking Water⁷⁹

No	Parameter type	Unit	Maximum allowable level
1	Parameters that are directly related to health		
	a. Microbiological Parameters		
	1) E.Coli	Among 100	0

⁷⁸State News Republik Indonesia Year 2010, number 492

⁷⁹ State News Republik Indonesia Year 2010, number 492

		ml sample	
	2) Total coliform bacteria	Among 100 ml sample	0
	b. Inorganic Chemistry		
	1) Arsenic	mg/1	0,01
	2) Fluoride	mg/1	1,5
	3) Total Chromium	mg/1	0,05
	4) Cadmium	mg/1	0,003
	5) Nitrite, (As NO)	mg/1	3
	6) Nitrate, (As NO)	mg/1	50
	7) Cyanide s	mg/1	0,07
	8) Selenium	mg/1	0,01
2	Parameters that are indirectly related to health		
	a. Physical Parameters		
	1) Smell		No smell
	2) Color	TCU	15
	3) Total dissolved solids (TDS)	mg/1	500
	4) Turbidity	NTU	5
	5) Taste		No taste
	6) Temperature	C	Air temperature ± 3
	b. Chemical Parameters		
	1) Aluminum	mg/1	0,2
	2) Besi	mg/1	0,3
	3) Hardness	mg/1	500
	4) Chloride	mg/1	250
	5) Manganese	mg/1	0,4
	6) Ph	mg/1	6,5-8,5
	7) Zinc	mg/1	3
	8) Sulphate	mg/1	250
	9) Copper	mg/1	2
	10) Ammonia	mg/1	1,5

From the data which found by the researcher in the field, the pH of alkaline water content which distributed to society is around 8,5-9,5, and certainly, it does not fulfill the requirement that required is pH content around 6,5-8,5. So, it can be concluded that the content of alkaline water does not fulfill the

requirement of good drinking water as regulated on the Regulation of the Minister of Health of Republic Indonesia about Drinking Water Quality Requirement.

In the article 7 letter b, c, and d about the Consumer Protection Law that regulated the responsibility of subject of business described that the subject of business (producer) gave the right information, clear and honest about the condition and guarantee of goods or services and gave the usage, repair and maintenance, treating or serving consumers rightly and honestly and not discriminatory, and guarantee the quality of goods or services that are produced or traded based on the provision of quality standard on the goods or services that apply.

From the explanation the articles above, we known that the owner of business obliged to give right information, clear and honest about the condition of goods that will be traded or distributed to society, and guarantee quality and safety of food that produced and treating the consumer with good ethic in business with the existence of license on the alkaline water in packaging.

It has become a responsibility for subject of business or producer to gave the right information, clear and honest about the condition and guarantee of alkaline water, because the information is a consumer's right, and the absence of information that is licensed from alkaline water producer is one type of defect information that would make a loss for consumer.

The responsibility of alkaline water producer should explain rightly and put the license on the alkaline water in packaging which will be distributed and traded to society, if producer does not explain the condition of alkaline water and

not include the license on alkaline water product that distributed, so the product is considered as defect information and the producer of alkaline water considered not fulfill his responsibility as the subject of business or producer and violated rights of alkaline water's consumers, and also could give the punishment to him because he distributed alkaline water in packaging which does not have license.

And existence on the food product in packaging that will be distributed to society must follow the procedure and fulfill the criteria of safety, quality and nutrition on the food product such as explained in Regulation of The Head of Medicine and Food Supervisory Agency of Republic Indonesia Number 12 Year 2012 About the Registration of Processed Food, in article 6 paragraph (1), that: *"The Processed Food that will be registered must fulfill the criteria of safety, quality and nutrition"*⁸⁰.

And clarified in the next article, in article 6 paragraph (2) on The Regulation of The Head of Medicine and Food Supervisory Agency of Republic Indonesia Number 12 Year 2012 About the Registration of Processed Food, that:

The criteria of safety, quality and nutrition as referred in paragraph (1), are:

- a. *The security parameters, is the maximum limit of microbial impurities, physical impurities, and chemical impurities;*
- b. *The quality parameters, is the eligibility in accordance with the quality standard and requirement; and*
- c. *The nutritional parameters in accordance with the requirement*⁸¹.

Reviewed from the circular letter which published by BPOM RI at 6 December 2017 states that kangen water is the illegal product because it did not have license from BPOM RI, therefore kangen water is not produced based on the

⁸⁰ News of the Republic of Indonesia Year 2016 Number 825

⁸¹ News of the Republic of Indonesia Year 2016 Number 825

good processed of food production, and also not having the Certificate of Indonesia National Standard (SNI) of the drinking water in packaging. From the result of the test sample is kangen water also did not fulfill the requirement on the quality of drinking water. It means that alkaline water product especially on kangen water product considered not fulfills the quality standard that has regulated by BPOM RI, and it will make loss to society whom as the consumer of alkaline water in packaging.

2. The Theory of *Maslahah Mursalah* on The Effort of Malang City Police Resort to The Producer of Alkaline Water in Packaging Which Does Not Have License.

Maslahah Mursalah, according to Abdul Wahab Kallaf perception that *Maslahah Mursalah* is *maslahah* (kindness) which the legitimate/*syar'i* (Allah and His prophet), does not establish law specifically to realize the kindness of it, and there is no theorem that shows over or cancellation.⁸² It means that *Maslahah Mursalah* is the benefit action for society which there is no *Nash* on *Qur'an* and *Hadits* which support it or reject it. And it can we look from the few examples in pure daily life such as an identity card, birth certificate and other.

Maslahah viewable from two aspects, first; *maslahah* based on grade are *maslahah dhoruriyah*, *maslahah Tahsiniyyah*, and *Hajiyyah*. Second; *maslahah* based on *syara'*, are *al-mu'tabarah*, *al-mulghoh*, dan *al-maslahah al-mursalah*.

⁸² Abdul Wahab Kallaf, *Kaidah-Kaidah Hukum Islam*, 126

a. *Maslahah* based on grade

1. *Maslahah Dharuriyah*

Maslahah dharuriyah, is a kindness (*maslahah*) that is the presence of it need urgently by the human life. Human life has no sense if one of five principles nothing. All efforts that directly guarantee or come to five principles are good. In this case, Allah commanded to do effort for fulfillment of basic necessities. Leave or stay away from the prohibition of Allah is good. In this case, Allah forbids apostasy to keep religion, forbid the killing to keep the soul, forbid drinking liquid to keep the sense, forbid adultery to keep descent, and forbid stealing to keep the treasure.

The license on the alkaline water in packaging is one of means to give a guarantee of product to consumers. The existence of alkaline water is considered as important something. However, the license is not included to *Maslahah dharuriyah*, because not all people need and consume alkaline water. So it is concluded that the effort of Malang City Police Resort to the producer of alkaline water in packaging which does not have license is not *Maslahah dharuriyah* that must be completed. So, the nonexistence of license and the police effort of the problem on alkaline water in packaging are not questioned if it is seen to *Maslahah dharuriyah*.

2. *Maslahah Hajiyyah*

Maslahah Hajiyyah, is the kindness (*maslahah*) that the level of human's need is not on the level of *dharuri*. The form of kindness (*maslahah*) is not

directly for fulfillment five of basic necessities of *dharuri*, but indirectly heading toward there like in the term of a thing that give easiness for the fulfillment to human needs. *Maslahah hajiyyah* example: study of religion to enforce religion, eat for survival, sharpening the brain to improve the sense, purchase and sale to get the treasure⁸³.

The license on food product in distributing required existing on the product as a means to give guarantee to the society of the product, especially on alkaline water in packaging. The existence of the license in alkaline water considered so important, because nonexistence of license in alkaline water in packaging, it make the consumers rights as get the certainly or guarantee of alkaline water in packaging, especially on the ingredients, information of alkaline water or the food packaging has violated by alkaline water producer. The license has been responsible for the producer of alkaline water as well as regulated on the food regulation which has regulated by state as form of guarantee and consumer protection, especially the consumer of alkaline water in packaging.

Therefore, according to the researcher, the license on alkaline water is include to *Maslahah Hajiyyah*, because if the license in alkaline water nothing, it will make consumer loss because the producer considered not fulfill *Maslahah Hajiyyah*. So, the effort of the police to the producer of alkaline water on the problem of alkaline water in packaging which does not have license that handled by Malang City Police Resort, include to *Maslahah Hajiyyah* too on the grounds

⁸³ Amir Syarifuddin, *Ushul Fiqh*, 350

that it is an effort to tackle crime in the field of food and as a form of legal protection to alkaline water consumers.

3. *Maslahah Tahsiniyah.*

Maslahah Tahsiniyah, is the kindness (*maslahah*) that the level of human's need is not on the level of *dharuri* and also not on the level of *haji*, but the need must be fulfilled to give the perfection and beautifulness for human's life. This kindness (*maslahah*) relates to five basic necessities of human being⁸⁴.

The license on food product in distributing required existing on the product as a means to give guarantee to the society of the product, especially on alkaline water in packaging.

The existence of the license in alkaline water considered as the perfection, because alkaline water consuming has been a lifestyle in some society who consume alkaline water. Their trust on the benefit of alkaline water in packaging, and the license considered as the guarantee and consumer protection for them.

The license that required to the producer who distributes the product, it is the goal/purpose of the government which serves to facilitate consumers in selecting food product that they wanted. If on food product has already license, certainly the food product good to consumed and worthy, because it has been tested, supervised and approved through particular process.

⁸⁴ Amir Syarifuddin, *Ushul Fiqh*, 350

It is supported by *fiqh* rules that is considered relevant and can become the foundation for the distribution of alkaline water in packaging which does not have license, in this research use *fiqh* rule is:

التصرف الامام على الرعية منوط بالمصلحة

“The leader’s action to his society must be associated with kindness”

From this rule concluded that the Muslims leader has supervision region to society generally and on public affairs, so the action and the wisdom for society must related to global kindness. Because the leadership is given to government for the kindness, keeping the blood, dignity, and wealth of society. Whoever holds human business, so he must do to realize the kindness, because he is not ruling of them and not given the power on power lines, except to serve people under his responsibility, enforce the justice between them, and realize the kindness and the benefit for them self.⁸⁵

In the end, the wisdom of leader is not considered legal on *syara’* except for the human kindness or society generally because the leader wisdom on his society must be considered based on the kindness.⁸⁶

From the rule above, it can be concluded that the action and the wisdom which used by the leader on the existence of the license has accordance to global important not for community or himself. The kindness on *muamalah* can found by sense/idea with *ijtihad* way. For example, the human sense can know that unfair and cheat on business activity are despicable.

⁸⁵ Abbas Arfan, 99 *Kaidah Fiqh Muamalah Kulliyah*, (Malang:UIN Maliki Press, 2013), 262

⁸⁶ Abbas Arfan, 99 *Kaidah Fiqh Muamalah Kulliyah*, 263

Then, for the society, especially the producer of alkaline water and the police as the structure of law who crack down the problem should follow the regulation which has regulated by the government about license as the form of obeying government, and it is the kindness. It has explained on *An-Nisaa* paragraph 59:

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِيَ الْأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ

إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا ﴿٥٩﴾

“O you who believe! Obey Allah and obey the Messenger and those in authority from among you; then if you quarrel about anything, refer it to Allah and the Messenger, if you believe in Allah and the last day; this is better and very good in the end”⁸⁷

Therefore, the existence of the license on alkaline water and the effort of Malang City Police Resort to the producer of alkaline water in packaging which does not have license is categorized as *maslahah tahsiniyyah*, as a form of obedience to the government and the responsibility of the police as a legal structure that implements existing laws on criminal law in the field of food as set forth in law number 18 year 2012 about food.

⁸⁷ Q.S An-Nisaa 59

b. Masalah based on *Syara*’

As human being definitely, we will not free from the change in the society. And certainly, it is not we can to avoid and will create the impact, which the impact that will give the kindness or the impact that will give the badness.

In the effort which done by Malang City Police Resort to the producer who distributes alkaline water in packaging without license, the kindness is addressed to consumers. The consumer is the part that gets the guarantee of alkaline water product which distributing, and the producers must fulfill his responsibility to give or distribute alkaline water that good, clear, and does not harm consumers.

As for the license on alkaline water in packaging and the police effort to producer who distributes alkaline water without license have been explained in the Law Number 18 Year 2012 About Food requires the license and the investigation of the case on the food product which distributing in society, including the product of alkaline water. And if we explain more, there is the relation of Law about food and Law about consumer protection, which the license is medium of guarantor of security product to the society, and look at the right and responsibility from of the part alone, that the consumer has right to get the real information about product, and producer must give the information of product and guarantee quality of goods or services produced or traded based on the standard quality of goods or services apply.

A regulation or law that has been established in the territory of the Republic Indonesia should be done maximally. Because it is very clear that the

purpose of the regulation is to give the protection and empowerment to society especially in activity of business.

The license on food product and the effort which done by police of the violating on alkaline water without license are not set on *Nash* and also no one of *Nash* rejects it. In fact, the license will give good impact and the kindness for society if the regulation is applied. With the existence of the regulation gave the benefit for consumer, especially consumer of alkaline water. This benefit is called to as *maslahah*. So it is can be concluded that the nonexistence of license and the police effort of the problem on alkaline water in packaging without license is the form of does not fulfill *maslahah mursalah* for the consumer of alkaline water.

The researcher viewed from the legal bases of *maslahah mursalah*, are on *Al-Anbiya* ' paragraph 107 and *Yunus* paragraph 58.

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ ﴿١٠٧﴾

Meaning: "And we have not sent you but as a mercy to the worlds"⁸⁸

دَأْيُهَا النَّاسُ قَدْ جَاءَتْكُمْ مَوْعِظَةٌ مِّن رَّبِّكُمْ وَشِفَاءٌ لِّمَا فِي الصُّدُورِ وَهُدًى وَرَحْمَةٌ

لِّلْمُؤْمِنِينَ ﴿٥٧﴾

⁸⁸ Q.S. Al Anbiya (21): 107

Meaning: “O men! there has come to you indeed an admonition from your Lord and a healing for what is in the breasts and a guidance and a mercy for the believers”⁸⁹

Both of the legal basis of *maslahah mursalah* above, we can know that human required to improve the condition and should not harm other. And the manifestation of the paragraphs on the Law Number 18 Year 2012 About Food is meant to give the guarantee of safety and quality to consumer to the product that distributing in society. But on the fact, the regulation has not been implemented and obeyed by the producer of food product, in this case is alkaline water producer who make the alkaline water consumers do not get the guarantee of safety and quality of alkaline water which consumed by them.

The researcher also looked the license from the requirements to charity by *Maslahah Mursalah*. *Maslahah* has the criteria so that a thing can be said as *maslahah*, as expressed by Wahbah Zuhaili argued that the requirements to charity by *Maslahah Mursalah* consists to three things:

1. The action or charity is the real *maslahah (haqiqatan)* not just a guess (*wahmiyah*) if can realize the kindness and refused the regard (*mudharat*).

As for the required of the license in food product in packaging, like alkaline water and the police effort of the violating on it listed in Law Number 18 Year 2012 About Food is a essential form and not just a guess.

⁸⁹ Q.S.Yunus (10): 57

2. *Maslahah* should not be contradicting with the law or principle that has been established based on *Nash* or *ijma'*.

In this case, the required license that exists on food product especially in alkaline water is considered not contrary with the principle that has been established based on *Nash* or *Ijma'*, so the existence of license of alkaline water in packaging must be held and required to producer who distributes alkaline water to society. And the implementation of law enforcement should be done by police if the producer violated the regulation.

3. The scope of *maslahah* must be global.

The license that required on the food product which distributing in society based on the consideration of public interest, Law Number 18 Year 2012 About Food is passed as the regulation of food is common, it means to benefit many people especially alkaline water consumer and does not contain the element to give profit just to one party only.

On the first requirement, the action or charity is the real *maslahah* (*haqiqatan*) not just a guess (*wahmiyah*) if can realize the kindness and refused the regard (*mudharat*). It means a kindness will not be seen as a *maslahah* when still a guess. The license on alkaline water in packaging and the police effort according to research view is the real kindness (*maslahah*), because view from the purpose of the license as the guarantee of safety on product that will be consumed by society and as the fulfillment of the producer responsibility of the consumer's

rights are give the right information in product and guarantee safety on the product that will be distributed. And it was real evidence and has the real existence of the license on the product that can be looked by the naked eye and not be imagining without real evidence.

The second requirement is *Maslahah* should not be contradicting with the law or principle that has been established based on *Nash* or *ijma'*. The license on alkaline water in packaging and the police effort considered is not contrary with *Nash* and rejected of it.

While the third requirement is the scope of *maslahah* must be global. It means that the kindness must be universal and can be a benefit to society. In this case, the license on alkaline water in packaging is said benefit for alkaline water consumer, because it was be safety guarantee of the product. And the existence of the license and the police effort do not contain the element to give profit just to one party only.

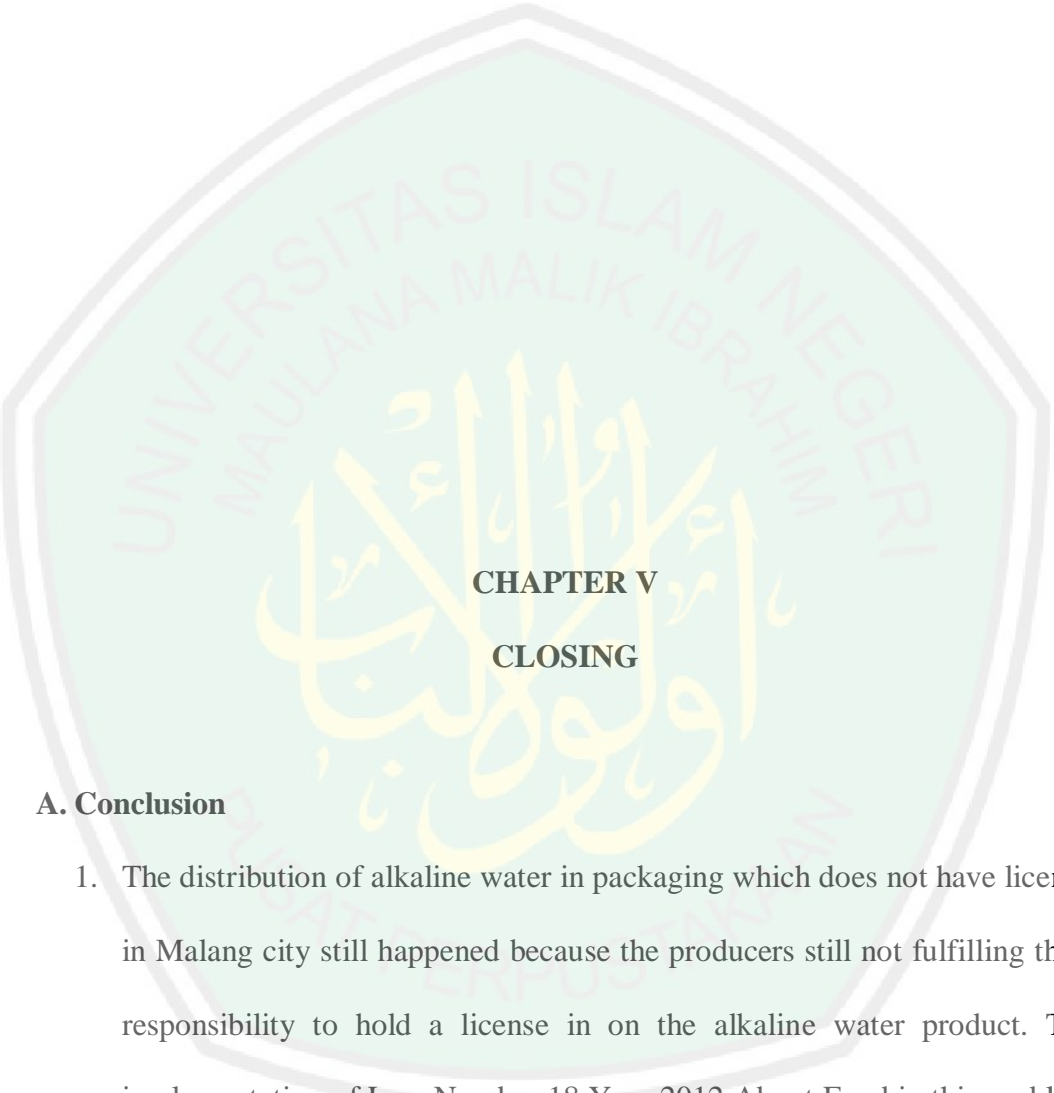
If we understand from the existence of the license and the police effort of it for consumers of alkaline water with three requirements to charity by *Maslahah Mursalah*, it can be said that the existence of license on alkaline water product and the police effort have fulfilled the requirements of *maslahah* because the license and the police effort are real, global, and do not contradict with *Nash*.

For the consumers of alkaline water, the existence of the license on alkaline water product is really given benefit for alkaline water consumers, if the existence is fulfilled. On the fact, a matter can be said a part of *maslahah mursalah* if the kindness can be felt in real life. And also with the existence of

regulation as Law Number 18 Year 2012 About Food and other regulations related about the necessity of the existence of the license on food product like alkaline water, it can be concluded that criteria of *maslahah mursalah* has been fulfilled. So, the establishment of the law is as a kindness intended for society.

Then, if we view that the license on alkaline water is not contradicting with *Nash*, cause if contradict with *Nash* the legal status is prohibited. Although there is no theorem that explains information about the existence of license, but if look from function and purpose of the license is to give kindness to society generally.

From the explanation above, the author concluded that the license on alkaline water in packaging and the effort which done by police to produser who distributes alkaline water without license are a *maslahah mursalah*, because it has fulfilled requirement and rule on *maslahah mursalah*: the license on food product for consumer and the police effort of the violating on alkaline water are real *maslahah* that can be felt by society, essential, prosper much people, universal and does not give profit just to one party only. But, in fact, the existence of the license has not been fulfilled and held by the producer of alkaline water, so the producer has not created a *maslahah mursalah* for consumer of alkaline water who needs the product.



CHAPTER V

CLOSING

A. Conclusion

1. The distribution of alkaline water in packaging which does not have license in Malang city still happened because the producers still not fulfilling their responsibility to hold a license in on the alkaline water product. The implementation of Law Number 18 Year 2012 About Food in this problem considered still not too effective, it has happened because the legal culture and legal awareness about the important of the license on the food product in packaging in society are still not effective. And the structure of law (the police department) only crack down the problem where there are reports from the society regarding an offence, so it can be concluded that

the success of the law enforcement and effectively applied by the police just their opinion only. Because if we saw from the condition in society that there is still many producers who distributed alkaline water in packaging without license in Malang city.

2. The existence of license of alkaline water in packaging and the police effort to producer who distributes alkaline water without license if view from *masalahah mursalah* considered to *masalahah hajiyyat*. Without license, the consumers will get the loss, so their rights as the consumers are not fulfilled by producers. And the effort of the police to the producer of alkaline water is an effort to tackle crime in the field of food and as a form of legal protection to alkaline water consumers.

The existence of the license on alkaline water and the effort of Malang City Police Resort to the producer of alkaline water in packaging which does not have license is categorized as *masalahah tahsiniyyah*, as a form of obedience to the government and the responsibility of the police as a legal structure that implements existing laws on criminal law in the field of food as set forth in law number 18 year 2012 about food.

Seen from the requirement of *masalahah mursalah* the existence of alkaline water has fulfilled all of the criteria's and requirements to be categorized as *masalahah mursalah*, but in the reality the license nothing, so it has not fulfill *masalahah mursalah* that can be felt in the reality by alkaline water consumers.

B. Recommendation

1. Especially for the legal structure more assertive to enforce the regulation, coordinate and provide socialization to society about the important of the license on the food product that would be distributed. And especially for producer to do the good ethics in business, and more attention to their responsibilities on the product that will be distributed and guarantee the consumer rights on the product.
2. Especially for the consumers should be more intelligent in the observed the distribution of food product that will be consumed.

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DOCUMENTATION



Picture 1. Alkaline water machine



Picture 2. Alkaline water products



Picture 3. Interview with the producer of alkaline water

PEDOMAN WAWANCARA POLRES

Hari / Tanggal : Kamis / 7 Desember 2017

Tempat : Polres Kota Malang

Narasumber : AL

M : Apakah bapak bisa menjelaskan sedikit gambaran dari kasus air alkali yang sedang ditangani oleh Kepolisian Resort Kota Malang saat ini?

N : Kasus yang ditangani oleh Polres Kota Malang sekarang adalah mengenai pelanggaran yang berupa mengedarkan produk air alkali yang tidak mempunyai izin edar. Produk air alkali tersebut diproduksi sendiri oleh seorang produsen dan diperjual belikannya. Dan kami menangani permasalahan tersebut setelah mendapatkan laporan dari masyarakat bahwa telah terjadi pelanggaran dimana produsen air alkali tersebut mengedarkan air alkali secara illegal dan tidak ada izin edar dalam produk tersebut sehingga merugikan masyarakat yang mengkonsumsinya. Sedangkan izin edar harus ada dalam setiap produksi apapun selama dia beredar di pasaran dan dikonsumsi masyarakat. Karena izin merupakan suatu kepastian untuk memberikan jaminan kepada keamanan suatu produk yang akan dikonsumsi atau digunakan oleh konsumen itu sendiri.

M : Apakah saya boleh mengetahui lebih jelas mengenai produsen tersebut?

N : Mohon maaf sekali dek, kami tidak akan memberikan data mengenai produsen tersebut karena data tersebut dianggap sebagai data privasi pelaku yang tidak boleh dibagikan kepada public. Demi menjaga kerahasiaan dan asas praduga tak bersalah. Akan tetapi, kasus tersebut memang benar ada nya terjadi di Kota Malang.

M : Kapan kejadian itu terjadi?

N : Baru saja beberapa waktu yang lalu, di bulan November ini juga. Dan sekarang berkas nya sudah masuk ke Kejaksaan untuk diproses lebih lanjut.

M : Dalil yang memperkuat untuk menjerat produsen air alkali tersebut menggunakan regulasi apa pak?

N : Untuk pelaku sendiri dijerat dengan pasal yang ada di dalam undang-undang nomor 18 tahun 2012 tentang pangan, tepatnya pada pasal 142 yang berbicara mengenai izin edar. Mengenai kasus peredaran air alkali ini kepolisian kota Malang menjerat pelaku dengan UU No 18 Tahun 2012 tentang Pangan, yakni di pasal 142 yang berbunyi, *“Pelaku usaha Pangan yang dengan sengaja tidak memiliki izin edar terhadap setiap Pangan Olahan yang dibuat di dalam negeri atau yang diimpor untuk diperdagangkan dalam kemasan eceran sebagaimana dimaksud dalam pasal 91 ayat (1) dipidana dengan pidana penjara paling lama 2 (dua) tahun atau denda paling banyak Rp. 4.000.000.00,00 (empat miliar rupiah)”*.

M : Dalam kasus ini, sejauh mana kewenangan kepolisian dalam menangani kasus tersebut?. Sebagaimana yang kita ketahui ada juga Badan Pengawas Obat dan Makanan (BPOM) yang dianggap memang lebih spesifik dalam menangani permasalahan yang berkaitan dengan pangan!

N : Kepolisian mempunyai hak dan wewenang yang sama dengan BPOM dalam hal penindakan perkara seperti ini. Akan tetapi kepolisian dapat menangani dengan upaya penindakan terhadap pelaku, namun dalam hal penanggulangan hal tersebut BPOM dianggap lebih menjadi spesialisasi dari BPOM. BPOM pun dapat menindak perkara seperti ini. Dalam menindak kasus semacam ini, maka kepolisian melakukan kerjasama dan koordinasi dengan BPOM. BPOM juga merupakan penyidik PNS yang fungsinya dianggap sebagai polisi nya terhadap permasalahan produk pangan, obat-obatan, kosmetika yang beredar di masyarakat. Dalam proses penyelidikan kasus ini, kepolisian melakukan koordinasi dengan BPOM yang dianggap sebagai ahli dengan meminta keterangan mengenai air alkali, berupa kandungan dan izin edar nya.

M : Dalam menangani kasus ini, langkah apa saja yang dilakukan kepolisian itu sendiri?

N : Adapun dalam menangani kasus ini, kepolisian melalui beberapa langkah :

1. Dilakukan penyelidikan, yaitu setelah adanya laporan dari masyarakat mengenai kasus tersebut. kemudian, penyelidikan dengan aturan kepolisian Republik Indonesia.
2. Ditelusuri, berdasarkan laporan yang ada dengan regulasi yang berlaku.
3. Melakukan penindakan, yaitu dengan melakukan pemanggilan terhadap pelaku.

M : Apakah kepolisian sepenuhnya menjatuhkan hukuman kepada produsen yang melanggar tersebut?

N : Dalam kasus ini kepolisian tidak berwenang untuk memberikan hukuman terhadap pelaku, karena kepolisian hanya melaksanakan proses penyelidikan terhadap kasus, dan selanjutnya diserahkan kepada pengadilan atau kejaksaan untuk penindakan selanjutnya. Kepolisian akan melanjutkan, jika ada perintah dari hasil yang telah ditetapkan kejaksaan atau pengadilan. Begitu pun juga mengenai pengenaan hukuman terhadap pelaku, kepolisian tidak bisa memutuskan karena itu wewenang kejaksaan atau pun pengadilan dalam pemberian hukuman terhadap pelaku. Baik dia hukuman berupa denda, pidana, atau pun kurungan. Apakah dia sama dengan yang ada di Undang-Undang atau tidak dalam penjatuhan hukuman, semua nya diserahkan kepada kejaksaan. Sehubungan dengan penyelidikan disesuaikan dengan aturan penyelidikan yang ada.

M : Apa kendala yang dihadapi oleh kepolisian dalam menangani kasus ini?

N : Kendala yang dihadapi oleh kepolisian dalam menangani kasus ini adalah berupa kurang nya koordinasi atau lebih tepatnya masih sangat dibutuhkan koordinasi yang lebih kuat antara pihak yang terkait, semisal BPOM dan Kejaksaan. Hal tersebut merupakan suatu harapan agar penanganan kasus dapat cepat selesai, dikarenakan kepolisian juga menerapkan asas tepat, murah dan cepat dalam menangani suatu perkara. Dan memberikan kepuasan dan keadilan kepada masyarakat.

M : Lantas, menurut bapak bagaimana solusi yang bisa ditawarkan kepolisian kepada masyarakat terhadap permasalahan produk pangan yang beredar tanpa izin edar?

N : Upaya yang dapat dilakukan oleh pihak kepolisian atau pun aparat terkait dalam menghadapi permasalahan tersebut kepada masyarakat adalah dengan cara melakukan sosialisasi yang lebih kepada masyarakat, serta memberikan informasi yang jelas dan dimengerti oleh masyarakat dengan melakukan koordinasi kepada aparat lain yang terkait seperti BPOM dan memperkuat aduan masyarakat terhadap suatu permasalahan yang ada.

M : Menurut bapak, Apakah penegakan hukum yang telah dilakukan kepolisian telah efektif?

N : Secara regulasi dan penanganan kepolisian terhadap kasus tersebut sudah dianggap efektif dan sesuai. Karena kepolisian telah menjalankan nya sesuai dengan regulasi dan peraturan terkait.

PEDOMAN WAWANCARA DENGAN PRODUSEN

Hari / Tanggal : Rabu / 11 April 2018

Tempat : Malang, Jawa Timur

Narasumber : AH

M : Yang membedakan antara air alkali dengan air biasa itu seperti apa?

N : Yang membedakan antara air alkali dan air biasa adalah dari segi kandungan pH nya, atau zat basa nya yang lebih tinggi. Jika di air biasa kandungan pH basa nya adalah 7, maka air alkali mempunyai pH basa berkisar 8,5-11.

M : Produk air alkali itu sendiri kan banyak jenisnya, apa perbedaan dari masing-masing produk dan manfaat nya?

N : Air alkali mempunyai 3 jenis, yaitu Kangen Water, Strong Acid, dan Beauty Water.

Sedangkan masing-masing dari jenis tersebut mempunyai perbedaan dari segi kandungan dan fungsinya.

1. Kangen water pH nya berkisar 8,5-9,5 dan digunakan untuk terapi pengobatan. Ada juga yang mempunyai pH 11, namun hanya dibatasi untuk membersihkan barang semisal kaca. Kangen water dengan pH 11, tidak dapat diminum karena pH yang sangat tinggi tidak baik untuk tubuh. Cara mengkonsumsinya sendiri bertahap, karena menyesuaikan tubuh. Semisal minggu pertama mengkonsumsi kangen water dengan pH sebesar 8,5, kemudian meningkat ke pH 9, kemudian naik lagi ke 9,5. Karena masing-masing orang mempunyai efek yang berbeda setelah mengkonsumsinya, ada yang flu, ada yang sering bolak balik kamar mandi. Tapi hal tersebut wajar, karena merupakan proses detox (pengeluaran racun dalam tubuh).
2. Strong acid, pH nya adalah 2,5. Digunakan sebagai antiseptic dan dapat digunakan untuk wajah dan dapat digunakan sebagai pengganti toner. Penggunaan nya dengan cara disemprot ke tubuh atau wajah.

3. Beauty water, pH nya adalah 5,5. Digunakan sebagai perawatan wajah. Penggunaan nya hanya khusus wajah.

M : Apakah Produk air alkali yang dijual di toko ini merupakan produksi sendiri atau mengambil dari yang lain?

N : Untuk produk yang dijual disini adalah merupakan produk sendiri. Begitu menerima pesanan kami langsung memproduksi air alkali tersebut.

M : Bagaimana proses produksi dari air alkali, mulai dari alat atau pun bahan yang diperlukan, proses pembuatan, serta pengemasan pemasaran nya?

N : Proses produksi nya menggunakan alat air alkali itu sendiri. Dan untuk membuat masing-masing jenis dari air alkali tinggal memilih salah satu tombol sesuai dengan kebutuhan air alkali yang diinginkan dan dibutuhkan untuk diproduksi. Jadi semua memang semua jenis air tersebut diproses di mesin dengan proses ionisasi dan elektrolisis.

Untuk air yang dipilih dalam air produksi air alkali menggunakan air yang berasal dari PDAM atau air isi ulang. Dengan catatan air tersebut TDS (Total Dissolved Solids) / padatan terlarut nya dibawah 0 (negative), dan tidak terlalu banyak kandungan kapur nya.

Dan untuk pengemasan nya sendiri, kami mengemas sesuai dengan permintaan. Jadi memang masih fresh. Apalagi kangen water hanya bisa bertahan selama kurang lebih 24 jam, dan efek nya lebih terasa pada saat masih fresh. Begitu pun dengan jenis strong acid dan beauty water yang hanya bisa bertahan satu bulan lamanya. Untuk kemasan yang digunakan berupa botol dan galon, sesuai dengan permintaan.

M : Berbicara mengenai usaha, pasti kan harus ada izin. Apakah untuk usaha air alkali ini ada izin nya, baik dari izin usaha mendirikan tokonya atau pun izin edar dari produk yang dipasarkan?

N : Kalo masalah izin,sebenarnya hanya mesin nya saja yang baru mendapatkan izin. Untuk produk nya sendiri belum, kecuali konsumsi pribadi. Akan tetapi karena banyak juga kebutuhan masyarakat dengan produk air alkali tersebut,

maka kami mengedarkan tersebut. Khusus untuk kangen water, kami mencantumkan di label nya dengan keterangan untuk kalangan sendiri, karena secara peraturan BPOM, kangen water tidak diperlukan. Namun karena permintaan dan kebutuhan masyarakat dan sebagai media untuk terapi dan membantu maka kami masih mengedarkan itu.



PEDOMAN WAWANCARA DENGAN KONSUMEN

Hari / Tanggal : Senin / 9 April 2018

Narasumber : AM dan DKM

Narasumber 1 (AM)

M : Apa alasan anda mengkonsumsi air alkali?

N : Alasan nya sih karena khasiat yang ditawarkan dari produk air alkali

M : Apa khasiat yang ditawarkan air alkali?

N : Khasiat nya sih buat kesehatan dan perawatan kecantikan

M : Setelah mengkonsumsi air alkali, apa manfaat yang telah anda rasakan?

N : Yang terasa khasiat nya memang perubahan di wajah saya, setelah saya rutin menyemprotkan air alkali ke wajah saya, jerawat yang ada di wajah berangsur mengering dan hilang. Saya juga mengkonsumsi air alkali dengan cara meminumnya, tapi untuk efek yang dirasa belum sih. Menurut saya biasa-biasa saja, tapi mungkin karena saya tidak ada keluhan penyakit ya. Tapi katanya sih bagi yang bermasalah dengan persendian kayak orang-orang tua, bisa merasakan khasiatnya, ya lebih ringan saja rasanya.

Narasumber 2 (DKM)

M : Apa alasan anda mengkonsumsi air alkali?

N : Untuk perawatan wajah mbak

M : Ngomong-ngomong, Apa khasiat yang ditawarkan air alkali untuk wajah?

N : Kalo khasiat nya yang saya tahu buat wajah itu banyak mbak. Kan bisa jadi pengganti toner, biar kulit lembut sama buat jerawat.

M : Setelah mengkonsumsi air alkali, apa manfaat yang telah anda rasakan?

N : Yang saya rasakan sih di wajah, wajah saya terlihat lebih bercahaya dan jerawat nya berkurang.

M : Air alkali kan selain disemprot bisa diminum juga, apakah anda pernah mengkonsumsinya dengan cara diminum?

N : Belum pernah mbak, kalo saya cuma gunain buat disemprot ke wajah saja.
Katanya sih kalo diminum sama aja kayak air biasa, cuma tidak tahu juga sih
karena saya sendiri belum pernah minum





PENJELASAN BADAN POM RI TENTANG

PEREDARAN PRODUK KANGEN WATER

Sehubungan maraknya promosi/iklan dan pemberitaan tentang Kangen Water dengan klaim berlebihan yang mengarah pada pengobatan, Badan POM RI memandang perlu memberikan penjelasan sebagai berikut:

1. Kangen Water adalah produk ilegal karena tidak punya izin edar dari Badan POM RI. Selain itu Kangen Water juga tidak diproduksi berdasarkan Cara Produksi Pangan Olahan yang Baik, serta tidak memiliki sertifikat Standar Nasional Indonesia (SNI) Air Minum Dalam Kemasan. Dari hasil pengujian sampel produk Kangen Water juga tidak memenuhi persyaratan kualitas air minum.
2. Sejak tahun 2014 Badan POM RI telah melakukan pembinaan dan memberikan peringatan keras kepada sarana yang memproduksi dan mengedarkan Kangen Water. Badan POM RI juga telah melakukan pemusnahan terhadap produk Kangen Water tersebut. Selain itu Badan POM RI juga menginstruksikan agar sarana menghentikan kegiatan promosi/iklan Kangen Water yang menyesatkan masyarakat.

Kepada seluruh penjual produk Kangen Water, Badan POM RI menginstruksikan untuk tidak memproduksi dan/atau mengedarkan produk yang tidak sesuai dengan ketentuan tersebut.

Masyarakat harus menjadi konsumen cerdas, jangan mudah percaya dengan iklan dan promosi yang menyesatkan dan dihimbau untuk turut melakukan pengawasan dengan melaporkan kepada Badan POM RI jika menemukan produk Kangen Water.

Ingat selalu Cek KLIK (Kemasan, Label, Izin Edar, dan Kedaluwarsa) sebelum membeli/mengonsumsi makanan. Jika memerlukan informasi lebih lanjut tentang Obat dan Makanan dapat menghubungi Contact Center HALO BPOM di nomor telepon 1-500-533 (pulsar lokal), SMS 0812-1-9999-533, e-mail halobpom@pom.go.id, atau Unit Layanan Pengaduan Konsumen

Jakarta, 6 Desember 2017

CURRICULUM VITAE

Personal Details

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 Address : Komplek Ponpes Al Ittifaqiah RT
 007 Kelurahan Indralaya Mulya,
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 Faculty : Sharia
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Educational Background

No	LEVEL	YEAR
1	Al Ittifaqiah Islamic Kindergarten, Indralaya	2001-2002
2	Al Ittifaqiah Islamic Elementary School, Indralaya	2002-2008
2	Al Ittifaqiah Islamic Junior High School, Indralaya	2008-2011
4	Al Ittifaqiah Islamic Senior High School, Indralaya	2011-2014
5	State Islamic University of Maulana Malik Ibrahim Malang	2014-2018

Organization Background

No	Organization	Position	Year
1	CSSMoRA UIN Malang	PSDMO Department	2015-2016
2	CSSMoRA UIN Malang	Redaksi Department	2016-2017
3	Ikappi Malang	Chief	2016-2017 2017-2018

