

Sweetened Processed Beverage Policy as A Fulfillment of Human Rights Obligations

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Article	Abstract
<p>Keywords: Health Policy; Human Rights; Sweetened Drinks</p> <p>Article History Received: Apr 25, 2023; Reviewed: Jun 08, 2023; Accepted: Jun 09, 2023; Published: Jun 09, 2023;</p>	<p>Health is a fundamental human right, the highest standard not only curative and rehabilitative but also promotive and preventive. The production and consumption of sweetened beverages in Indonesia is increasing. This coincides with an increase in obesity. Obesity is a disease and is one of the risk factors for the incidence of non-communicable diseases, so prevention is necessary. Prevention and control of obesity through a human rights approach will clarify the obligations of the state and the community to raise awareness of the right to health. The purpose of this study is to analyze the policies on sweetened beverages related to human rights of health. The method of this study is normative legal research methods and an analytical approach using secondary data. The sweetened drinks policy is not only about the rules against manufacturers but pays more attention to the impact on health. Some countries have implemented policies through excise to limit sugar consumption. Prevention and control of obesity through a human rights approach will clarify the obligations of the state and the community to raise awareness of the right to health. Inter-ministerial policies, agencies, and national commissions are needed to issue integrated recommendations and guidelines so that the highest standards of health care can be achieved.</p>



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Introduction

The right to health is a human right contained in the universal declaration of human rights. Health is also a basic human need as stated in the 1945 Indonesia Constitution so the state is obliged to protect the fulfillment of human rights to health, including from processed foods in the form of sweetened food and beverages (Filah,

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2020). One form of fulfilling human rights in this regard is the establishment of a policy on sweet processed drinks as a fulfillment of human rights obligations.

Sources of sugar in recent years are from drinks such as soft drinks, fruit juices, sports drinks, and energy drinks (Huang, et.al., 2023). In 2020, Indonesia occupies the third position in the consumption of sweetened beverages in Southeast Asia, which is 20.23 liters/per person/per year. Processed drinks are growing during the COVID-19 pandemic, claiming to be good for health in bottles and powder packaging. Based on data from the Ministry of Industry, there was an increase in soft drink production, reaching 300% within a period of 10 years (2005 – 2014). Sweetened drinks increased from 2. 100 million liters to 5,919 million liters in 2014. Not only production but Indonesian people's consumption of sugary drinks has also increased in 20 years. Soft drink consumption continued to increase, from 1996 to 2005 it increased by 105% with the majority of carbonated soft drinks switching to bottled tea water. In 2014 there was another 71% increase in the consumption of sweetened beverages (Ardiansyah, 2017). The selection of alcoholic beverages can have an impact on excess energy so the incidence of obesity increases every year. Research conducted in 2012, the consumption of powdered drinks of various flavors and carbonated drinks in adolescents reached 40% (Fanda, et.al., 2020). The sugar used in sweetened drinks in Indonesia used is white sugar, corn sugar, syrup, honey, and molasses. Sweetened drinks circulating in Indonesia contain an average of 37-54 grams of sugar. The recommendation is to add sugar to sweetened drinks by 6-12 grams, while the drinks circulating in Indonesia reach 4 times more (Akhriani, et.al., 2016).

The incidence of obesity has become a problem in the world including Indonesia, and since 1980 it has doubled. Based on basic health research data in 2018 there was an increase in obesity in adults >18 years to 21.8% and central obesity to 31%. In children aged 5-12 years overweight reaches 18.8% and obesity at 10.8% (Kemenkes, 2018). Obesity is an excessive accumulation of fat in the body due to an energy imbalance. Methane studies have proven a lot of the link between obesity and chronic diseases. In the world, based on WHO data, 71% of the causes of death from non-communicable diseases are risk factors for obesity. 77% of deaths from non-communicable diseases occur in low-growing economies. Heart disease is the leading cause followed by cancer, respiratory disease, and diabetes mellitus. The disease is the cause of premature death at the age of 30 – 69 years. Overweight and obesity have a 5-time risk of developing metabolic syndrome so it becomes one of the risk factors for non-communicable diseases

(WHO, 2017). The health effects caused by excessive sugar consumption make some countries issue several policies such as taxes, label settings, promotion, and marketing. A specific beverage safety protection policy is needed regarding non-alcoholic processed beverages in Indonesia.

Research conducted by Yin Huang et al showed that high sugar consumption does more harm than benefit. Limiting sugar consumption can reduce risks to health (Huang, et.al., 2023). Awareness and analysis of the obligation under the right of health will require to prevent childhood obesity. The rights-based approach has its foundation in international and national law, not through beneficence or political ideology (Cathaoir, 2016). In the United States, human-based rights offer guidance for invigorating the global response to obesity. Organizational and public health involvement is required to demand state action on obesity (Patterson, et.al., 2019).

Sugar shows several harmful effects, especially in products that are people's daily consumption. Several people did not realize that consuming excess sugar every day because hidden sugar in several beverages had a different name. Sweetened drinks are the most significant source of sugar consumption especially in developing countries. Especially on the type of sweet drinks that follow the culture in that country as in Indonesia the highest sweetened drink is tea. Government involvement through sweetened drink policies is still lacking, in particular, there is no imposition of excise duty on sweetened drinks except for alcohol.

Regulations that protect the right to health of citizens are coercive, not only related to manufacture but regulation of promotion to education. Legal protection is necessary especially for consumers to protect harmful effects of added sugar products. The purpose of this study is to analyze the policies on sweetened beverages related to the human right to health.

Method

The method of this study is normative legal research methods. Normative legal research uses the law as a foundation of the norm, based on library research on reading and analyzing secondary materials. Analytical approach by using secondary data as the sources such as legal theories, regulations, and books especially those related to Sweetened beverage processed food policy and human health rights.

Discussion

1. Policy on Sweetened Processed Beverages

Processed beverages are part of the processed food category. The definition of processed food is based on the regulation of the Food and Drug Supervisory Agency No. 34 of 2019 concerning food categories, namely processed food is food or beverages processed in a certain way or method with or without additives. National Agency of Drugs and Food Control (in Indonesia it is called BPOM) regulations also regulate the category of sweetened beverages, production requirements, and/or imports of processed food including processed beverages. Each category of sweetened beverages has been given a definition and set basic characteristics. Producers are expected through regulations related to sweetened beverages to be able to follow standard rules, safety supervision, and quality (BPOM, 2019).

Sweetened drinks are drinks that are added with sugar so that they increase energy content. There are various kinds of sugars used in sweetened beverages, such as white sugar, corn sugar, syrup, and honey (Akhriani, et.al., 2016). In Indonesia, when referring to National Agency of Drugs and Food Control (BPOM) regulations, sugary or sweetened drinks, namely the category of fruit juice and vegetable juice (category 14.1.2), concentrates that are at least 50% fruit, fruit nectar, and vegetable nectar with fruit content not less than 20% (category 14.1.3), and drinks based on flavored and particulate drinks (category 14.1.4) includes carbonated and non-carbonated beverages and concentrates include also based on fruit juice, vegetable juice, coffee, tea, and herbal-based. In various categories, there is a difference in the percentage of sugar allowed with an average sugar content of sucrose form of a maximum of 65% (BPOM, 2019). Government regulation number 69 of 1999 concerning food labels and advertisements regulates the inclusion of information on the nutritional content of food including sugar content. Article 38, regulates the impact of food on human health so that it can be the basis for including the impact if you consume sugar excessively.

In Indonesia, sweetened beverages are not carried out by major producers alone but are found in various regional traditional drinks that in their production use the addition of sugar. Regulations related to traditional beverages, National Agency of Drugs and Food Control (BPOM) regulation number 16 of 2020 regulates the inclusion of nutritional value information for processed food produced by micro-enterprises and small businesses (BPOM, 2020). So that micro-enterprises and small businesses are still required to include nutritional value, but those related to packaged drinks are listed in

the regulation. Sweetened beverages are listed in the regulation as only yogurt drinks. The inclusion of nutritional value information in all sweetened beverages by micro-enterprises and small businesses should always be included, especially if they contain sugar, salt, and fat. Including traditional beverage powder products and mass-produced traditional drinks. Per the regulation of the Minister of Health, people need to be protected from disease risks caused by excessive intake of sugar, salt, and fat. However, the regulation of the national standardization number 6 of 2019 on technical guidelines for the certification scheme of traditional beverage powder products only regulates factory standards, production processes, and examination of powder drink samples (BSN, 2019). There need to be regulations governing the inclusion of nutrition in micro-enterprises and small businesses products.

2. Human Rights to Health

The term human rights can be interpreted as basic rights or principal rights and not limited space or time. Human values possessed by citizens must be protected and fulfilled. National development achieves a just, prosperous society, and realizes a prosperous society. A prosperous society is a condition for the fulfillment of physical and mental well-being as well as physical and spiritual health (Abil, et.al., 2022). A healthy physical and spiritual condition is a temporary, essential condition that is impermanent so there is a health risk. Health based on juridical facts is a constitutional right. The right to health has been widely understood and widely become a human right that must be fulfilled in the community (Fisher, 2011). Society as a community in a country requires order. According to Gustav Radburch, in creating order in society there are norms such as customs, decency, and law. Legal norms are oriented towards decency and custom so the law must contain philosophical values and must include sociological elements to meet legal demands. Furthermore, people in a country not only demand justice but also need regulations that can ensure certainty in their relations with each other. Gustav Radburch gave birth to the basic values of modern law, namely justice, legal certainty, and benefit for society (Muslih, 2017).

Interaction in a community in determining rules based on agreement, choosing a ruler until an agreed state order is formed. State order which can be in the form of norms and laws in its implementation will inevitably have discrepancies or conflicts between communities. So, there could be a violation of the regulations. Violations or conflicts that occur require the state to carry out its functions with the power possessed by the ruler to enforce just rules so that order is established in society (Kamaruddin, 2016). Human

rights in the legal sense, especially in the fulfillment of public health, have the concept of non-discrimination, accountability, and participation. Several countries according to health policy focus on health medicine and services. Even though health services include preventive, promotive, curative, and rehabilitative policies should also follow to regulate (Montel, et.al., 2022). People are not aware of the high energy content of sweetened drinks, so regulations need to be made so that people are educated and aware. People are only based on good taste so they were unconsciously and naturally connominating to taste the sweetness repeatedly. Regulations should also include the refinement of clear labels and warnings.

Since long ago law was a tool of social control, forming a law-aware society is the purpose of norms to create justice and a system of mutual respect. In its implementation to raise awareness and increase compliance with the law, the community gives authority to the state to enforce the rules. The essence of health is a human right which is the responsibility of the Government, Local Government, and the community to realize it in the form of providing various health services to the entire community through the implementation of comprehensive health development in a directed, integrated and sustainable manner, fair and equitable, as well as safe, quality, and affordable by the community (Prasetyo, et.al., 2021). Health is welfare that must be realized and guaranteed the right by the State. Health as a human right is protected internationally and nationally. International law related to health as human rights not only guarantees everyone's health but also the best standards cover all human beings without discrimination of racial and inter-group religious groups, gender, or citizenship status. The Universal Declaration of Human Rights article 25, states that everyone has the right to a standard of living that guarantees health and well-being for himself and his family, including related to food. The International Covenant on Economic, Social and Cultural Rights (ICESCR) in Article 12 paragraph (1) explains not only the right to health but the right to the highest standards. Convention on the Rights of the Child (CRC) Article 24 states the right of children to obtain the highest health, obtain means of treatment, and restore health. The state is obliged to make full efforts not only related to the provision of services, but also including education for knowledge improvement, medical assistance, and guidance.

The Indonesian state recognizes the existence of Human Rights, contained in the Indonesian State Ideology of the 1945 Indonesia Constitution. Article 28H paragraph (1) of the 1945 Constitution, namely: "every person shall have the right to live in physical

and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care".

Article 28D (2) of the 1945 Indonesia Constitution provides recognition, guarantee, protection, and fair legal certainty as well as guarantees of equal treatment before the law for everyone. Gustav's thinking has been reflected in the concept of the Indonesian legal state (Julyano & Sulistyawan, 2019). The state aims to provide certainty of protection and social welfare for all citizens, including the health sector. The affirmation of the recognition, enforcement, and protection of human rights is contained in the provisions of the People's consultative assembly with the establishment of the national human rights commission. National Law based on the existing International Law, also guarantees health services for all Indonesian citizens. Law number 39 of 1999 in article 4, namely: "The rights of citizens who require special assistance such as old age, physical or mental disabilities for treatment, education, training, and special assistance at state expense to get a decent livelihood." Law number 36 of 2009 Articles 4 and 5 of the Law on Health, namely: "... are not only the right to health but everyone also has the right to access safe, quality, and affordable resources and health in addition to having the right to independently and responsibly determine their health services."

The Indonesian state is a legal country that must protect the right to life, including the right to health care. Health maintenance is not only concerned with treatment and rehabilitation but also disease prevention efforts and the provision of health information. The important public health target includes sugar-sweetened beverages. Chronic diseases such as heart disease, stroke, and diabetes mellitus caused by an unhealthy lifestyle have cost a lot of health costs (Perwira, 2014). Catastrophic diseases are severe category diseases that require long treatment and are expensive. Based on the national health insurance, catastrophic diseases with expensive costs, namely heart disease, occupy the largest financing, namely 49% followed by cancer at 18%, stroke at 13%, and kidney failure at 11%. Meta-analysis studies show that Asian populations with obesity have a risk of developing heart and blood vessel disease as well as various causes of death compared to those without overweight and obesity (Huang, et.al., 2020). Even obesity in children is a risk factor for heart disease in adulthood.

Regulations made based on state authority include providing sanctions. An individual's understanding of being able to obtain relief or tolerance from the law cannot be justified for any reason. This is done so that awareness and obedience arise in the community. The state based on the basic theory of legal philosophy explains the

authority of the state to sanction (Achmad, 2017), namely: "the state is God's representative in the world, so it has full power and power to maintain order. It is necessary to be punished for violations to establish public order. The theory of community agreement is the state has a monopoly authority on the will of the people who want order. In agreements to maintain order, people must obey all provisions made by the state and be willing to get punishment and Theory of state sovereignty is a sovereign state has the right to punish a person who disturbs public order. Laws are made by the state, so the state has the right to punish people who violate them without exception."

State regulations are basically to be used as guidelines in acting and are coercive. Health protection is a basic right of the community that must be fulfilled so regulations need to be made. There will inevitably be conflicts, but regulations are made based on considerations of legal principles, namely humanity, justice, expediency, equality, and protection (Achmad, 2017).

3. Policy on Sweetened Processed Beverages as a Protection of Human Rights

Sweetened processed beverages are one of the biggest contributors to obesity. The government to fulfill the right to health is obliged to supervise the production of sugary drinks that can harm health. Obesity is a global pandemic and the diseases it causes not only endanger human health but can affect families and the economy. National health insurance has cost a lot against chronic diseases with the main risk factor being obesity (Patterson, et.al., 2019). The Regulation of the Minister of Health in 2013 has regulated sugar as a type of nutrient that must be listed on the nutritional value information and expressed in grams. In addition to the mandatory sugar content of everyone who produces processed food for trade, it must contain health messages such as "sugar consumption of more than 50 grams, sodium of more than 2000 mg or total fat of more than 67 grams per person per day at risk of hypertension, stroke, diabetes, and heart attack". Article 5 also requires that information on sugar content be conveyed in information and promotional media. The inclusion of sugar content information must go through the results of accredited laboratory tests and carry out by the franchise business provider. Guidance and supervision of label inclusion are carried out by the head of the agency and supervision of information provision is carried out by the head of the provincial or district/city office.

The health minister's regulation states that the purpose of reducing risk is only related to non-communicable diseases. Obesity, which is a risk factor for causing non-

communicable diseases, needs to be listed. Obesity is a disease, so it needs to be explained and disseminated to people suffering from obesity. Regulations are needed to provide educational information, the inclusion of nutritional labels, and promotional arrangements to prevent obesity. The community through education and promotion is still given the right to make choices. Regulation to prevent obesity and healthy lifestyle education is the first step to preventing chronic disease. Regulations that protect the citizen from disease risk factors are the highest fulfillment of the right to health. In addition, article 3 paragraph (2) of the health message on the label is carried out in stages according to the type of processed food by looking at the large risk of non-communicable disease events. This information needs further explanation regarding the type and intent of the risk of the event. Providing information on policies requires consistency and clarity of the information to be effective. People need to realize that obesity is a disease that needs to be overcome. Obesity is the initial cause and way to prevent non-communicable diseases such as diabetes, stroke, and heart disease (Fanda, et.al., 2020). Obesity in children is likely to stay obese into adulthood, so obesity can threaten future generations of the nation.

In processed drinks, there are still many uses of other names of sugar that can cause ignorance or confusion in the community as consumers. Especially in sweetened drinks such as the use of the word sucrose, sugar beet, corn syrup, caramel, and malt. Various uses of the term sugar that are not the same in packaging, can confuse the public. Public confusion can cause not paying attention to the nutritional content of processed or ready-to-eat food. Policies without effective implementation will not be implemented. Policy implementation is necessary to link goals and realization. In its implementation, communication is not only providing good and correct information, but communication goals also need to be considered so that communication becomes effective. Proper communication between policymakers and the lower ranks will determine the success of the goal. Likewise, the provision of educational information to the community. The government needs to use the same term so that people understand what is consumed. Public attention to nutritional value information is still very lacking. Education is needed so that the public pays attention to the risk of disease and nutritional value information. The promotion of health education is indispensable.

Sweetened drinks in Indonesia will only be declared for excise. In Indonesia, only drinks containing ethyl alcohol are imposed. Law number 39 of 2007 which regulates the excise on sweetened beverages can be included in the category of goods whose

consumption must be limited. Excise is not only reserved for the possession of luxury goods but social interests. The sweetened drinks discourse that will be proposed is only carbonated drinks. This is based on risks to the environment and health. Based on the provisions of Law number 39 of 1997 about excise, excise is a state levy imposed on certain goods that have a specified nature or characteristic. The nature of excise is a social interest, so there is supervision and restriction on something that has a negative impact. (Ardiansyah, 2017). Sweetened drinks with excessive sugar content can harm human life and damage health. This has been proven in many studies. In an indirect sense, excise is a consumption tax. Consumption tax is a tax levied on the sale of commodities levied on entrepreneurs who make further sales by entrepreneurs charged to buyers. The specific tax function on the consumption of goods and services is not only to increase state revenues but an important goal is social goals. The social goal is to reduce negative externalities by making goods more expensive (Frey, 2005).

Indonesia both Internationally and in the ASEAN region is very lagging regarding excise. Some countries have imposed excise taxes on sweetened beverages. When compared to the United Kingdom which has imposed a tax on sweetened beverages, namely the policy of including sugar with a certain amount taxed is found in the soft drinks industry levy (Custom, 2018). The implementation of tiered taxes is also applied depending on the number of grams of sugar. Additional taxes begin on beverages containing 5 gr or more of sugar for every 100 ml and even higher additions on sugars that are more than 8 gr per 100 ml. Research shows that after a year of enactment of the tax policy, there is a decrease in sugar consumption of 30 g per household per week even without changes in the volume of soft drinks purchased. This shows that consumers tend to choose drinks with lower sugar content (Pell, et.al., 2021). According to a report by Public Health England, there was a 43.5% decrease in fizzy drink purchases from March 2014 to March 2020 (Amoutzopoulos, et.al., 2020). The UK government through this policy has protected the health of its citizens while still providing freedom of choice. The policy also regulates promotion. Other countries such as Mexico, France, and South Africa impose taxes on sweetened beverages with a tax range of 6-7% per liter. Even in Finland previously taxes were imposed on processed sugar. Although later changed only to soft drinks. Through excise taxes on sweetened beverages, Mexico was able to reduce consumption by up to 12% per capita per day.

There are several concerns related to the application of excise taxes on sweetened beverages in Indonesia, such as the resistance of the beverage industry because it has

been subject to consumption tax in the form of value-added tax, it is necessary to consider substitutes for sweetened drinks, technical imposition and determination of excise taxes (Ardiansyah, 2017). Some applications of excise taxes on sweetened beverages are based on the amount of added sugar per liter to facilitate calculations, but this has the potential to increase prices. In addition, the consideration of providing a substitute for sweetened drinks such as in the UK is to use sugar substitutes without calories. The use of sugar substitutes also still requires supervision.

Policies related to obesity prevention around the world are still not a concern, including in Indonesia. Prevention in the field of health is still considered a personal or parental responsibility when it comes to children. Healthy lifestyles related to healthy eating and exercise have not been the main focus of public policy and are not even included in social security protection (Patterson, et.al., 2019). International and national human rights state that the state must respect, protect and fulfill the highest right to physical and mental well-being to achieve health. The purpose of the law is essentially to create an orderly society, create security and balance. The public order that can be achieved is expected so that human interests will be fulfilled and protected. The purpose of the health law will not deviate much from the general purpose of the law. This is seen in the health sector itself which includes social and social aspects where many interests must be accommodated properly (Martin, 2008). The first purpose of the law is to create order or provisions. The health sector already has sufficient laws to be able to carry out work processes in the health sector if all statutory provisions are implemented properly and establish a mutual understanding among professional actors in each section supports the implementation of health efforts. Legal sources have also in detail regulated what is the obligation of every professional actor and what is his rights. Therefore, the greatest hope is the creation of order and balance in the fulfillment of rights and obligations (Andermann, 2016).

Sugar consumption affects not only physical but also mental. Although the factors that cause obesity involve multifactorial factors such as genetic, metabolic, cultural, environmental, socioeconomic, and behavioral, sugar greatly influences some of these factors (Akhriani, et al., 2016). Sugar can cause addiction, there are several symptoms shown in drug addiction like bingeing withdrawals, and cravings. Addiction means physical and biological dependence. Several signs of withdrawal like anxiety and behavioral depression. Craving signs of sugar abstinence as enhanced responding (Avena, et.al., 2008). Sugar that is carried out by the refining process is like the

purification of some addictive drugs. When consuming sugar, opioid, and dopamine will be released in the brain, when continuously, sensitization will occur and the need will increase (DiNicolantonio, et.al., 2018). Psychosocial factors due to obesity can also occur. In social circles, obesity can be a factor of discrimination and ridicule. Some psychosocial effects can have negative effects such as depression, low self-confidence, and loss of self-control. Energy intake through sweetened beverages is different from eating high-calorie foods because it often goes unnoticed. Someone who regularly consumes sweetened drinks does not feel full because the processing process and stimulation of satiety signals in the gastrointestinal tract are only briefly different from solid food. Some studies also show that the consumption of sweetened beverages does not reduce the consumption of high-calorie foods, so individuals tend to overconsume daily calories (Akhriani, et.al., 2016).

Law is coercive, therefore the state needs to have the power to protect society. The definition of law in general is the regulation of acting or behaving determined by the controlling power and has binding legal force. So that the state is given the authority or power as a controller to give punishment. The state as the ruler has the right to impose sanctions to maintain order in society. Prevention and control of obesity through a human rights approach will clarify the obligations of the state and for society to raise awareness of the right to health. Public awareness through a human rights approach can encourage the formation of communities that can urge the government to produce policies that are equitable towards health not only economic interests. The state is expected to produce policies in the form of recommendations, guidelines, and more integrated guidelines. Not only the Ministry of Health but can involve other ministries such as trade, agencies as well as national commissions.

Conclusion

The sweetened drinks policy is not only about the rules against manufacturers but pays more attention to the impact on health. The policy is the government's obligation to fulfill the human right to health with the highest standards. Fulfillment of health needs to prioritize preventive and promotional measures. The human rights approach to obesity prevention is expected to produce integrated policies and increase public awareness of health.

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