

Launching Fuel Oil According to The Perspective of Positive Law and Sharia Economy (Study of Pelangsir in Palangka Raya City)

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ABSTRACT

Fuel oil is currently the main need of the community in supporting various activities to drive the economy. Starting from providing electrical resources at home, motorized vehicles, and to trade as a source of income. To ease the burden on society and increase the wheels of the economy, the Government made a policy by providing subsidies for fuel. So that the price of fuel is not too high and affordable for the community. However, subsidized fuel is prone to misuse and even frequent irregularities, one of which is the practice of shifting. Shifting or known as 'Melangsir' to the people of Palangka Raya city means buying subsidized fuel at gas stations and selling it at retail. This is qualitative research in which research data is obtained through observation, interviews, and documentation with suppliers or retailers, consumers. Furthermore, the data that has been collected is analyzed using descriptive analysis method. From the results of this study, it is explained that, according to the positive law regulated by Oil and Gas Law of Indonesian Law number 22 of 2001, Melangsir and buying and selling of retail fuel in Palangkaraya is a criminal act that is prohibited by the government, this is stated in Article 53. In Islamic Economic Practice shifting and buying and selling of retail fuel is permitted as long as it applies Islamic economic principles and aims for the benefit of all parties.

Keywords: Melangsir, Shifting, Oil and Gas, Positive Law, Islam

JEL Codes: K29; K32; N70; O12

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INTRODUCTION

In an economic activity, one of the implementations of muamalah that we often do is in buying and selling goods, both to meet needs and as a way to earn a living. Buying and selling is a way to fulfill unlimited human wants. The human need for buying and selling will never be interrupted and will not stop as long as humans are still alive (Fatmawati, 2019). One of the main commodities in buying and selling is fuel oil (BBM). Currently, fuel oil (BBM) is the main need of the community in supporting various activities to drive the economy. Starting from providing electrical resources at home, motorized vehicles, to being traded as a source of income (Putra, 2010)

To ease the burden on society and improve the economy, the Government makes a policy by providing subsidies for fuel. So that the price of fuel is not too high and affordable for the community (Kurniawati, 2017). However, subsidized fuel is prone to misuse and even irregularities occur, one of which is the practice of melangsir. Langsir itself in the Big Indonesian

Dictionary means launching, broadcasting, preaching. In contrast to the Big Indonesian Dictionary, for the people of Palangka Raya, passing through means buying subsidized fuel at gas stations and selling it again at retail.

These retail fuels sometimes have different dosages and often lead to shortages due to hoarding and even some traders do not have business licenses. However, there are also those who think that the fuel that is sold in retail has value because it is considered more practical, fast and easy to reach. The positive legal review that discusses the launch of BBM according to the author is stated in Law no. 22 of 2001 concerning oil and gas Article 23 paragraphs (1), (2) and (3). Paragraph (1) Downstream Business Activities as referred to in Article 5 point 2, may be carried out by a Business Entity after obtaining a Business Permit from the Government. Paragraph (2) The business permits required for Petroleum business activities and/or Natural Gas business activities as referred to in paragraph (1) are divided into (Processing Business Permits, Transportation Business Permits, Storage Business Permits, Trading Business Permits. Paragraph (3) Each Business Entity may be granted more than 1 (one) Business Permit as long as it does not conflict with the provisions of the applicable laws and regulations.

In Islamic law, especially muamalah, this case is closely related to Al-Bay', where in the practice of selling fuel through retail, whether or not it is in accordance with the conditions of sale and purchase that are prescribed in Islam. This is because Islam has regulated in such a way regarding the practice of buying and selling. Buying and selling carried out in accordance with the Shari'ah will provide benefits for Muslims. The existence of retail traders themselves may cause benefits if the practices carried out are appropriate, and vice versa if the practice of launching and selling fuel through retail is not carried out in accordance with Islamic law, it will not provide benefits. Departing from this background, the authors are interested in reviewing the issue in the form of a journal entitled "Releasing Fuel Oil According to the Perspective of Positive Law and Islamic Economics (Study of Pelangsir in Palangka Raya City)".

METHOD

In this study, the author uses a field research method, namely research conducted by directly visiting activities in the field. The reason the author chose this location is because the author lives in that city and encounters the practice of slashing BBM every day. A research method that systematically describes the facts and characteristics of the object or subject being studied appropriately. The approach taken in this study is a qualitative approach, namely research that produces descriptive data in the form of written or spoken words from people or actors that can be observed. Data collection techniques used by interview, observation and documentation. After collecting and processing the existing data, the next step is to analyze the data. The data obtained from the field will be analyzed by the author using a descriptive analytical method, which is a method that describes and describes the practice of launching BBM. Then the data obtained will be processed and analyzed with a deductive mindset which is a mindset by using an analysis that is based on general understanding or facts to then be examined and can solve specific problems (Fatmawati, 2019).

RESULTS AND DISCUSSION

Before the author discusses the problems in the author's research, the author first explains about the definition of fuel oil or commonly abbreviated as BBM. Basically, the formation of fuel comes from the processing of natural gas. This petroleum based on Law Number 22 of 2001 concerning Oil and Gas is the result of a natural process in the form of hydrocarbons under conditions of atmospheric pressure and temperature in the form of a liquid or solid phase, including asphalt, mineral wax or ozokerite, and bitumen obtained from mining, but does not include coal or other hydrocarbon deposits in solid form obtained from activities not related to Oil and Gas business activities (Tajuddin, 2016). Then Based on the provisions of

Law Number 22 of 2001 concerning Oil and Natural Gas, the definition of BBM is: "Fuel originating and/or processed from petroleum"

The term launching fuel that is being discussed this time according to the author is commercial transportation contained in Law number 22 of 2001. The word launches if you look for an equivalent word in the Big Indonesian Dictionary is not relevant and has nothing to do with this study, so according to the author, launching is more appropriate. we include it in the meaning of Commercial Transportation. The term commerce is the equivalent of the term trade, namely the activity of running a business by buying goods and selling them again, renting goods, or selling services with the aim of making a profit or profit. If the use of the means of transportation is accompanied by payment of a sum of money as compensation or rent, the transportation is called commercial transportation. Commercial transportation is the use of transportation means by passengers or shippers to transport passengers or goods to an agreed destination with payment of a sum of money as fees or rent. Payment of a sum of money as transportation costs proves that the carrier carries out the company's business activities in the field of transportation by collecting transportation costs, which is called commercial transportation (Tajuddin, 2016).

In carrying out commercial activities, it takes several requirements and various licensing processes that must be taken from the series of processes, one of the requirements needed is a business license for commercial entities. Business entities apply for a business license to the Minister of Energy and Mineral Resources through the Director General of Oil and Gas by attaching the administrative and technical requirements that have been determined (Hadi, 2019).

According to the review of Positive Law contained in Law no. 22 of 2001, which has been mentioned above, states that the practice of selling retail fuel by individuals is a criminal act that is prohibited by the government, in other words, it can be categorized as a crime. Because based on the author's interviews and observations, the majority of individual retailers in Palangkaraya do not have a business license. This is stated in Law 22 of 2001 Article 53 which reads:

1. Processing as referred to in Article 23 without a Processing Business License shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 50,000,000,000.00 (fifty billion rupiah).
2. Transportation as referred to in Article 23 without a Transportation Business License shall be subject to a maximum imprisonment of 4 (four) years and a maximum fine of Rp. 40,000,000,000.00 (forty billion rupiah).
3. Storage as referred to in Article 23 without a Storage Business License shall be punished with imprisonment for a maximum of 3 (three) years and a maximum fine of Rp. 30,000,000,000.00 (thirty billion rupiah).
4. Commerce as referred to in Article 23 without a Commercial Business License shall be punished with imprisonment for a maximum of 3 (three) years and a fine of a maximum of Rp. 30,000,000,000.00 (thirty billion rupiah).

It is different if what is sold is subsidized fuel, then it can be punished by Law 22/2001 Article 55 which reads as follows: Everyone who misuses the Transportation and/or trade of Government-subsidized Oil Fuel shall be punished with imprisonment for a maximum of 6 (six) years and a maximum fine of IDR 60,000,000,000 (sixty billion rupiah)(OFFICIAL, yy). Commerce in Islam is also known as Al-Bay' (Buying and Selling). Buying and selling is one of the means for humans to fulfill their needs. In Islamic law buying and selling has pillars and conditions that must be met, so that buying and selling can be said to be legal by syara'. If the conditions and pillars are not met, the sale and purchase become invalid or fasid. The pillars and terms of the sale and purchase are as follows: (Fatmawati, 2019)

1. Buying and Selling Pillars

There is a difference of opinion between the Hanafiyah and the Jumhur regarding the pillars of buying and selling. In the Hanafiyah, the pillars of buying and selling are Ijab (an expression of buying from a buyer) and Qabul (an expression of selling from a seller). This is shown by exchanging or giving each other (Muathah). Meanwhile, the pillars of buying and selling among Jumhur are:

- a. *Bai' Waal-Musytari* (seller and buyer);
- b. *Tsama* (Price or Exchange rate replacement);
- c. *Mabi'* (goods for sale);
- d. *Sighat* (Ijab and Qabul).

2. Terms of Sale and Purchase

In buying and selling there are several conditions that affect the validity of the contract. In terminology, what is meant by conditions is the existence of a law that regulates everything. If one of the conditions is not implemented in the practice of buying and selling, it can be said that the transaction is invalid. The terms of sale and purchase are as follows:

- a. Willingness of both parties. A sale and purchase will be absolutely valid if there is a willingness from both parties. If the owner of the goods is forced to sell the goods in his possession in a way that is not legally justified, then the sale of the goods is void and there is no transfer of ownership;
- b. Contract actor. Some people who are allowed to do a contract are people who are mature, have good sense, and understand. However, buying and selling can be done through or with the permission of the guardian if the contract actor is a minor, crazy person, or idiot. However, some rules exclude small children from contracting if the goods they buy are of low value, such as buying candy or snacks;
- c. The assets that become the object of the transaction have been previously owned by both parties, if they do not get permission from the owner of the goods, the sale and purchase of goods that are not legally owned is invalid;
- d. Objects of transactions that are allowed by religion. Therefore, it is not allowed to trade in illicit goods, such as: khamr, pornographic films, pork, and others;
- e. The object of the transaction is an item that can be handed over. It is not legal to sell a car that has been lost, fish in the sea, and so on because it cannot be handed over;
- f. The object of the transaction is known by both parties when the contract takes place. It is not legal to sell something that is not clear. For example, the seller says, "I sell the motorbike to you" and the buyer says, "I accept", while the buyer has not seen and knows the condition of the motorbike;
- g. The price must be clear at the time of the transaction. It is not valid if a sale is made if the seller says, "I sell this motorbike to you at a price that we will agree on later". This makes the sale and purchase made gharar (unclear).

In addition to the conditions and pillars of buying and selling that are determined, the scholars of fiqh also put forward several other conditions, which are related to the legal conditions of buying and selling. The fiqh scholars state that buying and selling is only considered valid if the sale and purchase is known, both in type, quality, and quantity, the amount of the price is clear, the sale and purchase does not contain elements of coercion, elements of deception, harm, and the existence of other conditions that make the sale. buy it is broken (Tajuddin, 2016).

Islamic values that can be used as the basis for carrying out economic activities are mutual honesty, namely a situation where all parties, both business actors and consumers, know information about these goods, both quality, quantity and quantity of goods and prices of goods. In the author's understanding, one of the characteristics of Islamic economics in the implementation of buying and selling is the achievement of maslahah besides that this economic

activity brings blessings to consumers. As for consumption activities that bring blessings if (Sri Dewi Anggradini, 2017):

1. Goods consumed are not illegal goods;
2. Goods consumed are not done excessively;
3. Goods consumed are based on the intention to get the pleasure of Allāh.

In the principle of buying and selling of Islamic economics, the practice of slashing and buying retail fuel is included in the Bai' Al-Murabahah scheme, namely buying and selling of original goods with an agreed additional profit. The terms of Bai' al-Murabaha are: (Ghofur, 2017):

1. The seller informs the buyer of the cost of capital;
2. Must be free from usury;
3. The seller must explain to the buyer if there is a defect or the amount of the goods being traded.

In addition to the above, Islam recommends for traders to be wise in setting prices for buyers and traders must be trustworthy as in the Word of Allāh in QS Al-Isra', (17):35,

وَأَوْفُوا الْكَيْلَ إِذَا كِلْتُمْ وَزِنُوا بِالْقِسْطَاسِ الْمُسْتَقِيمِ ذَٰلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا

Meaning: "And give full measure when you measure, and weigh with an even [i.e., honest] balance. That is the best [way] and best in result".

In this verse we are commanded to correct the measure and the scales. In addition to the above, there are several basic principles that Islam recommends in supporting trading/buying activities:

1. Honesty, Merchants must not lie, must not cheat, must not break promises, and other similar things;
2. Trust, there must be trust between traders/between sellers and buyers;
3. Mutual Pleasure, Trading / Buying and Selling must benefit both parties, traders must also be willing to each other without coercion, no one party is oppressed as in the Word of Allāh in QS An-Nisa', (4): 29, "O you who have believed, do not consume one another's wealth unjustly [179] but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allāh is to you ever Merciful".

According to the perspective of Islamic Economics that has been explained above, as long as the practice of traveling and buying and selling retail fuel in Palangkaraya, according to the author, has applied the principles of Islamic economics and aims for the benefit, then this is allowed in Islam.

CONCLUSION

Based on the description and analysis above, the following conclusions can be drawn. First, according to the Positive Law regulated by Law 22 of 2001 concerning Oil and Gas, launching and buying and selling of retail fuel in Palangkaraya is a criminal act that is prohibited by the government, this is stated in Article 53. In the Islamic Economic Perspective, the practice of slashing and buying and selling retail fuel is allowed as long as it applies the principles of Islamic Economics and aims for the benefit of all parties.

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