

Protection of Communal Intellectual Property Rights Through Geographical Indication System

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ABSTRACT

This study aims to protect the original product/goods related to geographical conditions due to natural and/or human factors to be registered for protection through a Geographical Indication system that can be owned by the community communally. The research method used is normative juridical using secondary data. The law can be one of the tools to protect the regime of Geographical Indications by way of registration as regulated in Law Number 20 of 2016 concerning Marks and Geographical Indications. Article 53 reads: "Geographical Indications are protected after Geographical Indications are registered by the Minister". The main function of law is to protect the interests that exist in society. According to Roscoe Pound, there are three interests that must be protected by law, namely: public interest, individual interest, and interest of personality. Although most intellectual property rights protect individual property rights and individual interests, geographical indications are one that can be categorized as communal property rights.

1. Introduction

Indonesia is a country that has the largest biodiversity and culture in the world. The sustainability of an ecosystem will support the creation of human life. One of the factors is the area and geographical conditions that have a lot of Natural Resources (SDA). Indonesia as a modern country can be found in paragraph 4 of the 1945 Constitution The preamble to the Constitution, is to protect the entire Indonesian nation and throughout the homeland of Indonesia and to promote the general welfare, educate life of the nation, and participate in carrying out world order based on independence, lasting peace

and social justice.¹ Indonesian development particularly in the infrastructure sector, for example, metropolitan development city, port, rail base, public road, mining, forest, agriculture, etc. Law which applies based on the concept of Western Law which has a different concept from Customary Law (individual capitalism versus communal religion).² Based on the Sustainable Development Goals in Indonesia, there are four pillars as global indicators that must be developed, namely: Social Pillar, Economic Pillar, Environmental Pillar, Legal Pillar, and Governance. The United Nations 2030 Agenda through 17 Sustainable Development Goals is an intensive step to solve the problems of countries in the world. ³Intellectual Property can be a tool to encourage innovation and creativity to achieve these goals.

In Indonesia, the protection of Geographical Indications was ratified under the TRIPs Agreement, but the provisions in the Lisbon Treaty were also included in the substantial requirements even though Indonesia had not ratified the Lisbon Treaty. Geographical Indications in Indonesia are regulated in Law Number 20 of 2016 concerning Marks and Geographical Indications, defined as a sign indicating the area of origin of an item and/or product due to geographical environmental factors including natural, and human factors, or factors of a combination of the two. provide reputation, quality, and certain characteristics on the goods and/or services produced.

TRIPS requires that WTO member states be required to make legal means to protect Geographical Indications: In respect of geographical indications, Members shall provide the legal means for interested parties to prevent: (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; (b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention.

Based on Article 22 Paragraph (2) of TRIPs, Indonesia as a member of the WTO is required to make legal rules to protect Geographical Indications. However, TRIPs do not require that the rule of law must be in a certain form and frees each country to determine the form of protection for Geographical Indications.⁴

¹ Nasution, A. I. (2021). The Changes Impact on State Ministries Nomenclature Toward National Development Progress. *Veteran Law Review*. 4(2). 94-108.

² Joesoef, I. E. (2018). The Existence of Adat Law Related To Land Right Transaction After Unification Of Indonesian Agrarian Law: The Problem Of Legal Transplant. *Veteran Law Review*. 1(1). 20-31.

³ Susiana, S. (Ed.). (2015). *Sustainable Development: Social, Economic, And Environmental Dimensions*. P3DI Secretariat General of the DPR.

⁴ Rahmah, M. (2017). *Industrial Property Rights Protection of Geographical Indications for Agricultural Products: Scenarios to Support Food Security*.

Geographical Indications in Indonesia are also the only communal intellectual property rights regulated in the TRIPs Agreement in addition to communal rights regulated in the Indonesian legal system such as genetic resources, traditional knowledge, and traditional cultural expressions.⁵ From the aspect of substance, the problem of protecting goods products through the geographical indication registration system is not only related to the concept of protection of Intellectual Property Rights, especially Mark protection which refers to The Related Aspects of Intellectual Property Rights (TRIPs Agreement), it also has to do with the concept of germplasm protection. Biodiversity) as a genetic source and protection of Traditional Community Knowledge (The farmer rights and traditional knowledge) as regulated in the Rio Conventions, Cartagena Conventions, and UPOV Conventions for Plant Varieties (plant variety).⁶

Intellectual property can be owned personally and communally, which is an exclusive right granted by the state for the results of thinking that produce a product or process that is useful for humans. Ownership division can be explained through the following figure:

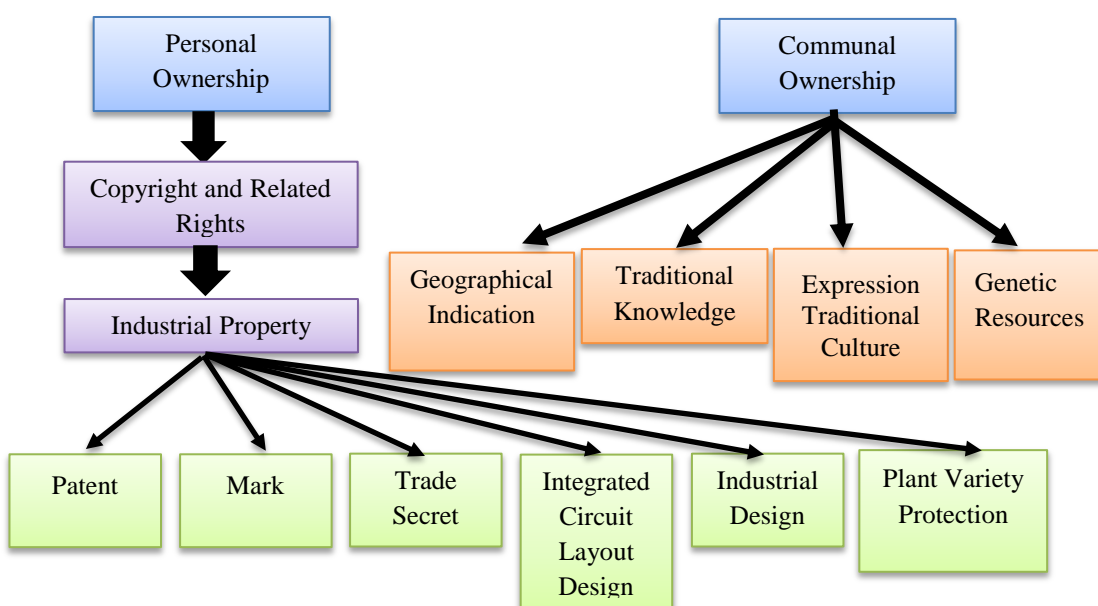


Figure 1. Intellectual Property Ownership

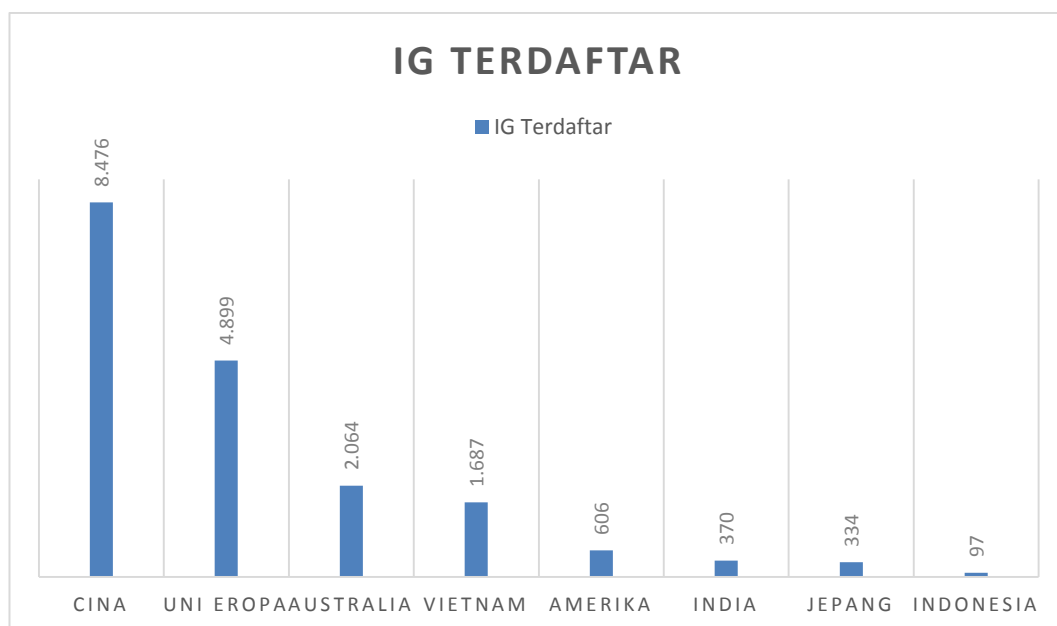
⁵ Miranda Risang Ayu Palar, Et.Al. (2018). Indonesian System of Geographical Indications to Protect Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. *Journal Of Intellectual Property Rights*.

⁶ Djaja, H. (2013). Protection of Geographical Indications on Local Products in the International Trade System. *Journal of the Horizon of Law*, 18(2).

Applications for registration of Geographical Indications can be submitted by First, Institutions representing the community in certain geographic areas and Second, Provincial or Regency/City Regional Governments. So that the registration of Geographical Indications will provide a high economic value for the goods and/or products produced. Economic opportunities can be utilized optimally by local communities and improve regional welfare in general.⁷

Currently, there are 116 Geographical Indications registered in Indonesia, 9 of which are registrations of Geographical Indications from abroad. Geographical indications originating from Indonesia such as Kintamani Bali Arabica Coffee, Java Preanger Tea, Mandar Silk Weaving, Jepara Carved Furniture, Sumbawa Honey, Purwaceng Dieng and others.

Geographical Indications are closely related to ecological and environmental factors so that the area of origin plays an important role in determining the reputation, quality and characteristics of an item and/or product registered through Geographical Indications. Even though Indonesia is considered as one of the mega biodiversity countries in the world, it seems that the protection of communal intellectual property, especially Geographical Indications, is still relatively low compared to other countries. This can be seen through the prevailing geographical indications through the national and regional authorities of several countries in the graph below:



⁷ Ahmad Ramli, Miranda Risang Ayu Palar, and the Research Team. (2019). *Intellectual Property Law (Geographical Indications and Tradition Wealth In Theory And Practice)*, First Printing, PT Refika Aditama, Bandung, p. 77

Based on the graph above, China has around 8,476 registered Geographical Indications, even Japan, which has a smaller country area than Indonesia, has 334 registered Geographical Indications. This should be a reference for Indonesia, especially the Regional Government, to be more enthusiastic about seeing and exploring the potential of Geographical Indications in every region in Indonesia.

The weak legal awareness of the public to identify and register products/goods that have the potential for Geographical Indications has led to several cases of prohibition of trade without mention of origin. As happened in the case of Gayo coffee⁹, Gayo is a highland in the province of Nangroe Aceh Darussalam which has been known for decades as the world's best Arabica coffee producer. The coffee plantation which has been developed since 1926 thrives in Bener Meriah and Central Aceh Regencies. On 15/07/1999 the word was registered by European Coffee BV with its address Zwarteweg 6 B NL-1412 GD Naarden Paises Bajos through CTM register 001242965, class 30 with the type of goods Coffee, tea, cocoa, sugar, and artificial coffee. Based on the European BV brand certificate, Holland Coffee has sent a subpoena to PT. Arvis Sanada, a national coffee exporter company owned by the son of Gayo origin domiciled in Medan, North Sumatra, not export coffee to the Netherlands using the word Gayo Coffee because the word has similarities with his trademark certificate. This caused the coffee export contract to the Netherlands to be terminated and all agreed contracts to be canceled. Then European BV also banned all coffee companies around the world from distributing gayo coffee in the Netherlands. As well as PT. Arvis Sanada, European BV has no objection to the circulation of coffee in the Netherlands as long as it doesn't use the word Gayo. Then European BV also banned all coffee companies around the world from distributing gayo coffee in the Netherlands. As well as PT. Arvis Sanada, European BV has no objection to the circulation of coffee in the Netherlands as long as it doesn't use the word Gayo. Then European BV also banned all coffee companies around the world from distributing gayo coffee in the Netherlands. As well as PT. Arvis Sanada, European BV has no objection to the circulation of coffee in the Netherlands as long as it doesn't use the word Gayo.

⁸ https://www.Wipo.Int/Edocs/Pubdocs/En/Wipo_Pub_941_2021.Pdf

⁹ Saky Septiono. (2009). *Protection of Geographical Indications and Potential Geographical Indications of Indonesia*. Sub-Directorate of Geographical Indications of the Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights of the Republic of Indonesia.

The state has a special interest in the protection system based on Geographical Indications because it is communal.¹⁰ This study aims to protect the original product/goods related to geographical conditions due to natural and environmental factors that have the potential to be registered for protection through a Geographical Indication system that can be owned by the community communally. The problem in this study focuses on "How is the Development of Protecting Geographical Indications as Communal Intellectual Property Rights in Indonesia?".

2. Method

The research method used is normative juridical using secondary data. Normative juridical research is also referred to as research that puts the law as a system of norms. The system of norms in question is about principles, norms, rules of laws and regulations, as well as agreements and doctrines (teachings).¹¹ Data collection techniques using document studies with several official WIPO documents, description documents, or the Requirements Book for Geographical Indications of Kintamani Bali Arabica Coffee; Sweet Potato Cilembu Sumedang; Sumbawa Forest Honey which is the primary legal material. Documents in the Certified Geographical Indications Training II organized by the RAKI Indonesian-Swiss Intellectual Property Project Phase II Study Center, Books, Journals and Legislation in the field of Intellectual Property and International Conventions related to this research as secondary legal materials and some internet browsing through the official website. The results of the research are described descriptively analytically through a law approach and a legal systematic approach.

3. Legal Protection of Geographical Indications as Communal Intellectual Property

Protection of Geographical Indications in Indonesia uses the sui generis system as well as Cambodia, Laos and Thailand. In contrast to the protection of Geographical Indications in several other ASEAN countries. For example, Brunei Darussalam and the Philippines protect Geographical Indications through Collective Marks and Certification Marks. Malaysia, Singapore, and Vietnam protect Geographical Indications hybrid with a combination of Trademark and Geographical Indication protection. In contrast to Myanmar,

¹⁰ Ayu Palar, MR, Ramli, AM, Sukarsa, DE, Dewi, IC, & Septiono, S. (2021). Geographical Indication Protection for Non-Agricultural Products In Indonesia. *Journal Of Intellectual Property Law & Practice*. 16(4-5). 405-414.

¹¹ Mukti Fajar, ND, & Achmad, Y. (2010). *The dualism of Legal Research: Normative & Empirical*. Student Library. Thing.

the protection of Geographical Indications is a sub-system under the Trademark system.¹²

The Indonesian legal system is heavily influenced by the Continental European legal system, where the position of written legislation and their vertical layers is the main source of law.¹³Laws are the main joint, while Government Regulations and other regulations are implementing regulations. Although currently Geographical Indications are listed in Law Number 20 of 2016 which is mixed with brand regulations, Government Regulation Number 51 of 2007 concerning Geographical Indications is also still valid as an implementing regulation. In addition, the Minister of Law and Human Rights Regulation Number 12 of 2019 concerning Geographical Indications regulates Applications for Geographical Indications submitted by Applicants who reside or have permanent domicile outside the territory of the Unitary State of the Republic of Indonesia.

3.1. Procedure for Registration of Geographical Indications in Indonesia

The procedure for registering Geographical Indications in Indonesia can be said to be complicated. This is related to the product or goods being registered must have an attachment to the environment of the geographical area, it can be due to natural factors or human factors and it can be both factors. In Government Regulation Number 51 of 2007 concerning Geographical Indications, provisions regarding the procedure for registering GI are regulated with the following stages:

a. Application Submission

The application is submitted by filling in the application form, special power of attorney (if submitted by proxy), proof of payment of fees, and a book of requirements. The Requirements Book is a document containing information about the quality and distinctive characteristics that can be used to distinguish goods of the same category. In detail, GI products to be registered are described including GI name, name of goods, description of characteristics, geographical environment, regional boundaries and/or regional maps, history, production process, method of testing quality of goods, labels used, recommendations from authorized agencies and abstracts. or a summary of the contents of the Requirements Book.

b. Administrative Check

¹² Miranda Risang Ayu Palar, etc. 2022. *Environmental Sustainability and GI Protection In Indonesia*. Presentation About GI At 4th IPIRA Conference. 9-12 February.

¹³ Manullang, EFM (2017). *Overview: The Legal System In Indonesia*. date. Thing.

At this stage, an examination of the requirements document is carried out to check whether there are deficiencies. If there is, then the applicant is given time to correct it within a grace period of 3 (three) months. If not corrected, the application will be rejected.

c. Substance Check

The IG Expert Team who has the capability and capacity in their field examines, tests, and corrects the truth of the statements submitted. If appropriate, an Audit Report will be issued which will be submitted to the Directorate General. However, if rejected, the applicant can submit a response. Substance examination is carried out for a maximum of 2 years.

d. Announcement

Announcement containing: Registration Number, Full Name and Address of Applicant, Name, and Address of Proxy. The date of acceptance, the GI in question, and the Abstract from the Requirements Book shall be announced by the Directorate General within a maximum period of 10 (ten) days in relation to the decision of the GI which is registered or rejected in the Official Gazette of Geographical Indications for 3 (three) months.

e. Opposition Registration

Everyone can file an opposition to the Geographical Indication Registration Agreement listed in the GI Official Gazette to file an objection accompanied by the reasons and the GI applicant/registrant can file a rebuttal to the objection.

f. Registration

If the GI application is approved, there is no opposition, and/or there is a final decision on the opposition to remain registered, the registration date is the same as the date when the application was submitted. The Directorate General then provides a GI Registration Certificate, if there is an error the certificate can be corrected.¹⁴

g. Supervision of the Use of IG

Each party can submit the results of supervision of GI users to the Directorate General which will be submitted to the GI Expert Team to organize and monitor supervision so that the GI used remains in

¹⁴ Yessiningrum, WR (2015). Legal Protection of Geographical Indications as Part of Intellectual Property Rights. *IUS Journal of Legal and Justice Studies*, 3(1).

accordance with what is stated in the registered GI Requirements Book.

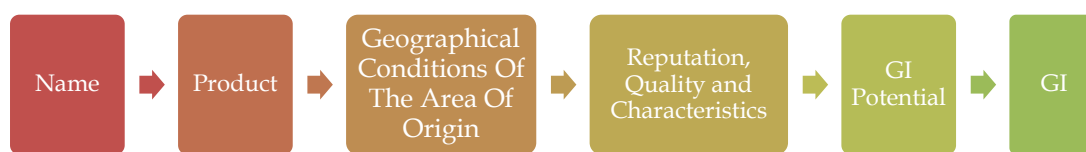


Figure 2. Proposal for a National GI Strategy, 2016. (TFC and DJKI)

Products or goods to be protected through Geographical Indications shall be given a name or label in accordance with the product or goods and the area of origin, which is not a name that has been used as a plant variety and is used for a similar plant variety unless there is an addition of equivalent words indicating a geographical indication factor. similar.¹⁵

Reputation, Quality, and Product Characteristics Geographical indications in the description document must be based on scientific data, including physical and organoleptic data (taste) including descriptions of color, shape, size, texture, composition, aroma, taste, and appearance. Reputation must be proven that the Geographical Indication product or goods are widely known. This can include reputation in the local, national, and even international markets by conducting interviews with consumers and even producers, collecting information from various scientific publications, mass media, and so on.

After products or goods with potential Geographical Indications are registered and have obtained certificates, the next challenge is to maintain production, reputation, quality, and characteristics of products or goods, increase marketing, increase income for economic welfare and prevent counterfeiting of products or goods that have been registered through Geographical Indications. the.

3.2. Registered Geographical Indication Products

Types of products or goods of Geographical Indications can be in the form of natural resources, handicrafts, or industrial products. There is no classification of the types of products or goods that can be registered through geographical indications in the provisions of legal products in Indonesia.

¹⁵ Effida, DQ (2019). Juridical Review of Geographical Indications as Non-Individual (Communal) Intellectual Property Rights. *Ius Civile: Reflections on Law Enforcement and Justice*, 3(2).

However, the Association of Indonesian Geographical Indication Experts classifies the types of Geographical Indication products or goods, as follows:

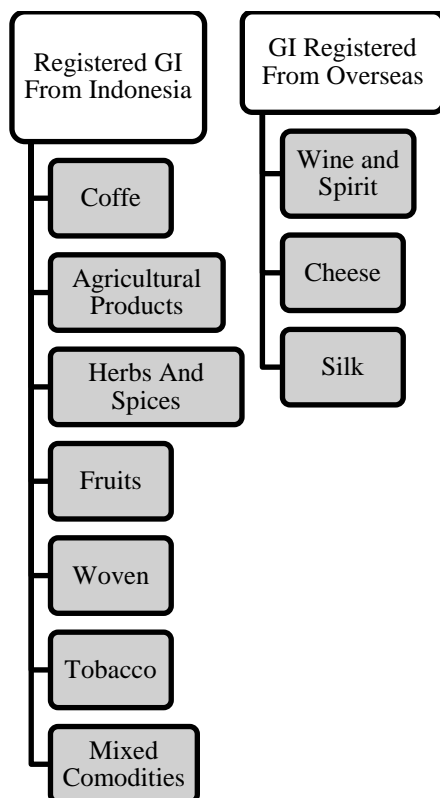


Figure 3. IG product classification based on Indonesian legal practice¹⁶

Geographical Indication Products are closely related to the geographical environment or area of origin, which can be in the form of:

a. Natural Factor

The description contains the average temperature, level of rainfall, rainy days, humidity, and sunlight. Geological factors such as altitude, type/condition/nutrient content in the soil, and irrigation.

b. Human Factor

Matters related to the production of goods such as traditional knowledge, which contains elements of local wisdom and culture. Standard Operating Procedures, such as ripening or salting techniques, agricultural cultural techniques to produce superior varieties, drying coffee beans, and so on. This includes the creation of traditional motifs and their philosophies on handicraft products.

Here are some examples of Geographical Indication products that have been registered in Indonesia:

¹⁶ Ayu Palar, MR, Ramli, AM, Sukarsa, DE, Dewi, IC, & Septiono. 2020. *Loc. cit*

a. Kintamani Bali Arabica Coffee

Kintamani Bali Arabica Coffee is the first product¹⁷ in Bali, even in Indonesia, which was given legal protection by the Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights of the Republic of Indonesia on December 11, 2008, with certificate number IG ID 000000001. The granting of Geographical Indication Protection to Kintamani Bali Arabica Coffee was considered for various reasons.

Kintamani Bali Arabica coffee comes from a specific area with an altitude above 900 m above sea level (most coffee plants are above 1000 m). The Kintamani Bali Arabica Coffee Agroecosystem is suitable for Arabica coffee and the farming system is homogeneous in the Kintamani area. This area has a distinctive climate, namely, the air is cold and dry with quite high-temperature fluctuations. The rainy season usually lasts 6-7 months, and the dry season 4-5 months, during which there are 3 months of the dry season. This climate is unique to the northern region of Bali (including the Kintamani area). Volcanic soil with soil types Entisol and Inceptisol has a potential production of 3,000 tonnes of Ose coffee/year. Therefore, the coffee produced in this area has its own uniqueness and the potential for high quality.

In addition to the natural factors above, Kintamani Bali Arabica Coffee has the advantage of the human factor. This coffee is a product that has high quality and reputation because it is grown by people who have a concern for quality. This community is incorporated in a traditional farmer institution called Subak Abian, with the principle of Tri Hita Karana. These communities desire to maintain the quality and reputation of the coffee they produce.

With legal protection for Geographical Indications of Kintamani Bali Arabica Coffee, MPIG has been able to differentiate coffee products in the face of global market competition. MPIG (Society for the Protection of Geographical Indications) for Kintamani Bali Arabica Coffee is an institution that was grown and formed by the Coffee Society in the Kintamani area to represent it, whose members consist of Subak Abian and the Kintamani Bali Arabica Coffee Processing Unit (wet processing).

The owner of the Right to Protection of Geographical Indications for Kintamani Bali Arabica Coffee (certificate) is the Society for the Protection of Geographical Indications of Kintamani Bali Arabica which was formed in 2005 by a combination of several Abian Subak in

¹⁷ Apriansyah, N. (2018). Protection of Geographical Indications in the Framework of Encouraging the Regional Economy (Protection Of Geographical Indications Within The Scope Of Improvement Of Regional Economy). *De Jure Journal of Legal Research*, 18(4).

the Kintamani region of Bali. In a further development in 2007 Private Processors joined this group so the composition of the organization changed. With the growth of this organization, they submitted an application for the protection of Geographical Indications to the Ministry of Law and Human Rights of the Republic of Indonesia in 2007.

Protection of Geographical Indications through submission by MPIG to the Directorate General of Intellectual Property Rights (HKI) of the Ministry of Law and Human Rights of the Republic of Indonesia in September 2007 by attaching: 1. Requirements Book, namely a book that contains requirements for producing Geographical Indications for Kintamani Bali Arabica Coffee. The Requirements Book is a reference for IG coffee production, which is the result of discussions by stakeholders carried out in the form of meetings and workshops conducted through 8 (eight) meetings in November 2006, February, March, and April 2007, where each meeting was attended by 50 to 60 representatives of local organizations and are decided democratically. 2. Regional map, which is a boundary map of the Kintamani Bali Arabica Coffee area. 3. Recommendation by the Governor of Bali, With the receipt of the certificate of Geographical Indication of Kintamani Bali Arabica Coffee in November 2008 by MPIG, MPIG is the legal owner of the Geographical Indication of Kintamani Bali Arabica Coffee, and MPIG is the only legal institution and has the right to produce, process, label, market Coffee Kintamani Bali Arabica as stated in the Requirements Book or for now, is referred to as a description document.

Kopi Arabika Kintamani Bali ← Kembali

BALI

5 Desember 2008

ID G 000000001

Karakteristik Lingkungan Batas Wilayah Sejarah Proses Produksi

Karakteristik

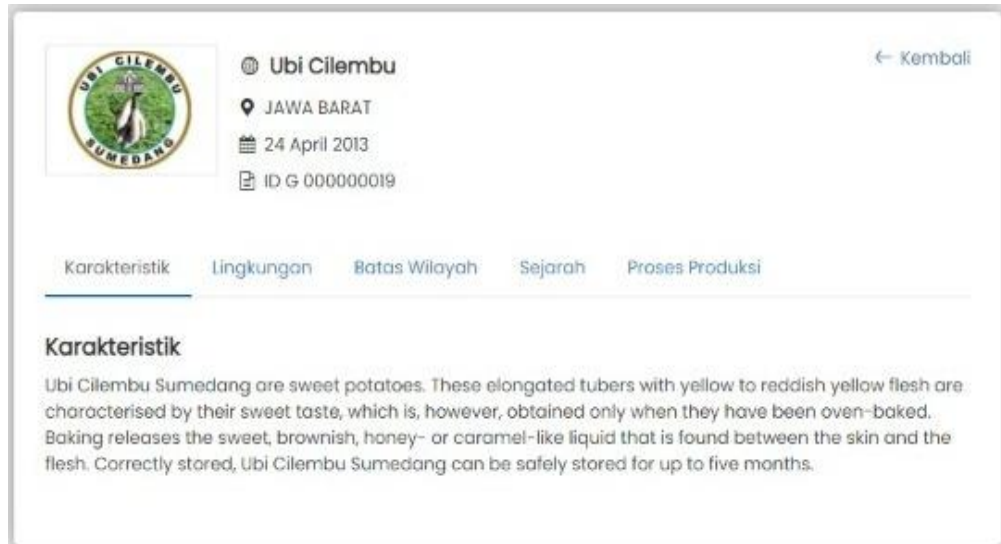
3.1 Karakteristik Kopi Kintamani Bali adalah kopi Arabica yang ditanam di dataran tinggi Kintamani dengan ketinggian di atas 900 m dpl, di lereng-lereng gunung berapi Batur yang tanah serta iklimnya sangat mendukung bagi tanaman kopi. Biji kopi Kintamani Bali mutu 1 dengan nilai cacat fisik kurang dari 5 per 30 gr menurut standar Standar Nasional Indonesia (SNI) dan Standar Coffee of America (SCAA) - Kadar Air biji maksimum 12 % - Biji Kopi berwarna hijau keabu-abuan - Ukuran biji kopi diameter 16 mm atau lebih besar 3.2 Cita Rasa Pada derajat sangrai sedang (Medium Roast) Kopi Kintamani Bali menunjukkan hasil sangrai yang relative homogen, serta aroma kopi bubuk terkesan manis ada sedikit aroma rempah-rempah Profil cita rasa - bebas dari cacat cita rasa - rasa asam bersih dari tingkat sedang sampai tinggi - rasa pahit yang tidak terdeteksi - mutu dan intensitas aroma yang kuat, kadang rasa buah khususnya jeruk peras.

b. Sweet Potato Cilembu Sumedang

Sumedang Regency is one of the sweet potato production centers in West Java, from year to year it continues to increase its productivity and until now it is still around 12.5 tons per hectare. Regarding Geographical Indications, it is proposed to protect Geographical Indications by ASAGUCI and the Government of Sumedang Regency so as to avoid counterfeiting.¹⁸ As an effort to protect superior products in Sumedang Regency.

The advantage of this sweet potato is that if the sweet potato has been stored is more than 10 days, and cooked in the oven for 30-90 minutes (depending on size), the tubers will produce a very sweet liquid like honey. A sweet, brownish liquid will appear between the skin and flesh of the tuber. Cilembu sweet potatoes are sweeter because the sugar content of Cilembu sweet potatoes is higher than other sweet potatoes, namely raw sweet potatoes reaching 11-13% and cooked sweet potatoes 19-23%, so they are very popular with consumers. Cilembu sweet potato planting locations are spread across 34 villages in 4 sub-districts, namely Pamulihan, Rancakalong, Tanjungsari, and Sukasari sub-districts with an area of 462.03 hectares.

¹⁸ Purba, AZU, & Zen, A. (2005, April). *International Regulation on Geographical Indications, Genetic Resources, And Traditional Knowledge. In Workshop on The Developing Countries Interest to Geographical Indications, Genetic and Traditional Knowledge, PIH FHUI And Dit. Gen Of IPR's, Dept. Of Law and Human Rights, RI, Jakarta (Vol. 6).*



c. Sumbawa Forest Honey

Sumbawa is one of the best honey-producing areas in Indonesia, and the existence of this honey is well known throughout the country. Honey from Sumbawa is known as Honey Sumbawa. Sumbawa Island is inhabited by two major ethnic groups in West Nusa Tenggara Province, namely the first, Tau Samawa who inhabit Kab. Sumbawa and Kab. Sumbawa Besar. Second, Mbojo is the name for the people who inhabit Kab. Bima, Kab. Dompu and Bima City. Tau Samawa calls Honey Aning or Ai Aning. While the Mbojo people call the forest bee Ani, Madu = Oi Ani/Oi Niwa.

The geographical situation of Sumbawa is very supportive of the development of various types of wasps. Mountains or highlands dominate the shape of the earth's surface here, and above it is overgrown with various types of grasses and woody plants. Honey by the community is mostly taken from forest areas. Usually taken on cliffs and tall trees. However, there are also honey-seeking communities digging the ground to find honeycombs (but there are very few of them).

Sumbawa is known as one of the best honey-producing areas in Indonesia. Even since 2008 Sumbawa forest honey has been designated as a superior non-timber forest product commodity by the Indonesian Ministry of Forestry. The superiority of Sumbawa honey is because Sumbawa honey comes from forest honey produced by wild bees with feed that is only found on the island of Sumbawa.

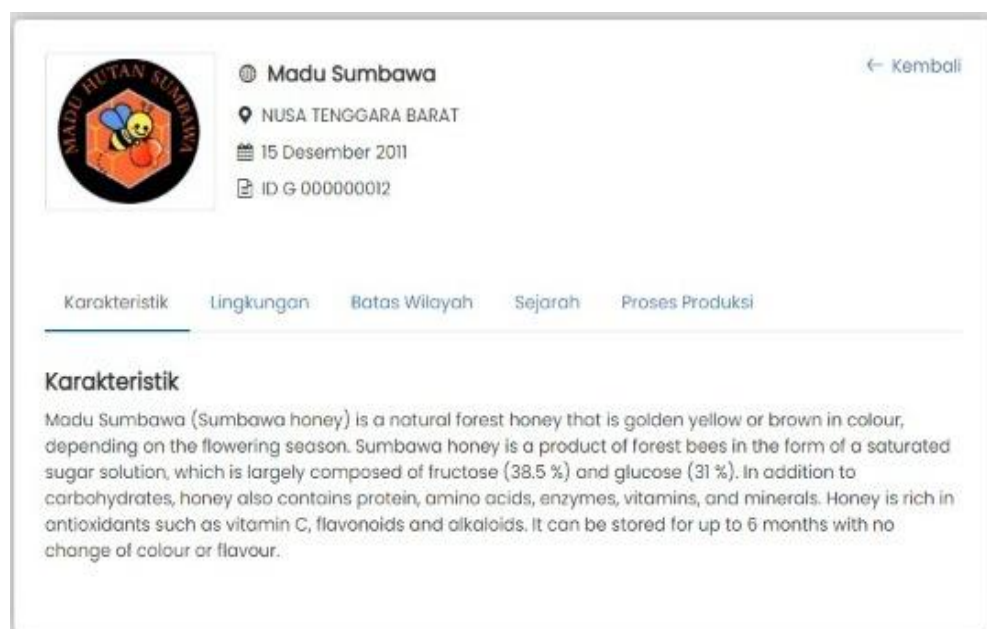
The condition of the forest is still good with certain types of trees that serve as food and a place for honey bees to nest, making Sumbawa an area with great potential for forest honey with a distinctive honey taste. The potential of Sumbawa forest honey can reach 125 tons/year. On the other hand, honey, especially Sumbawa honey, is

also a very vulnerable product to be faked. In the market, there are many low-quality honey products circulating with the label of genuine Sumbawa honey. The counterfeiting has a negative impact on both honey producers and consumers.¹⁹

Registration for Geographical Indications of Sumbawa Forest Honey was requested by the "Sumbawa Forest Honey Network (JMHS) on Sumbawa Island, West Nusa Tenggara Province (NTB). This organization is the embodiment of the Forest Honey community institution on Sumbawa Island, which is an integral part of the Network

The National Forest Honey is the Indonesian Forest Honey Network (JMHI). JMHS was formed by the forest honey community on Sumbawa Island on 10 May 2007 in Sumbawa Besar.

Protection of Geographical Indications (GI) is expected to be a legal umbrella to maintain and protect the characteristics and quality and sustainability of Sumbawa forest honey. Because of this Geographical Indication protection, the product in question cannot be misused by dishonest commercial actors.



3.3. Challenges and Obstacles to Protecting Geographical Indications in Indonesia

¹⁹ Sudjana, S. (2018). Implications of Protection of Geographical Indications Based on Law Number 20 of 2016 on Local Economic Development. *Veritas Et Justitia*, 4(1), 30-58.

The formation of various international trade organizations such as the WTO (World Trade Organization), APEC (Asia Pacific Economic Cooperation) acts as a forum for economic cooperation between nations, which are also in certain (regional) regions.²⁰ make trade competition more rapid.

So many natural resources in Indonesia have the potential to be registered through the protection of geographical indications, moreover, it is regulated in the TRIPs Agreement, which requires member countries to draft regulations on Geographical Indications and decide how to apply minimum standards and law enforcement guidelines in their territories. alone.²¹ Support for the protection of Geographical Indications in Europe, Asia, and the rest of the world should be supported as the proposition that granting exclusive rights to geographical names related to products originating in a particular area will translate into providing incentives and promoting local and rural development in the region.²²

The Indonesian people, traditionally do not recognize the concept of Intellectual Property Rights with individual and monopolistic concepts, because in the agricultural way of life in general ownership of something is generally collective. geographical indications are still used by farmer groups/communities) become one of the intellectual property rights protection systems that are different from the ownership system in the WTO and the private TRIPs Agreement. And the demand for equality with the IPR formal system as a consequence of WTO member countries and following the development of industrial society in a global world order.²⁰

Access to genetic resources and traditional knowledge that have the potential to be registered as geographical indications in Indonesia is very large so Indonesia as a developing country must fight for the recognition of these communal intellectual property rights. This is in line with the thinking of George Wilhelm Friedrich Hegel²³ who sees intellectual property rights as an "ongoing expression of its creator, not as a free, abandonable cultural object", that Geographical Indication herbal products that are valued for their reputation, quality, and characteristics purchased by a person are a form of acknowledgment of the work/creation of the community communally that affects social and economic well-being.

²⁰ Eman. Suparman, "Harmonization of Law in the Global Era Through Nationalization of Transnational Rules." *Syar Hukum*, Vol. 11, No. 3, 2009, Pp. 245-262.

²¹ Huala, Adolf. "TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS AND DEVELOPING COUNTRIES." *The Developing Economies* 39.1 (2001): 49-84.

²² Irene Calboli And Wee Loon Ng-Loy, Eds. *Geographical Indications at The Crossroads of Trade, Development, And Culture*. Cambridge University Press, 2017. Pg. 33.

²³ Talib, A. (2016). *Thoughts on Business Law and State Administration in Indonesia: Intellectual Property Rights in National Development*. Unilak Press: Pekanbaru. Thing. 211.

According to Laurence Be'ard and Pahilippe Machenay, there is a link between the quality or reputation of agricultural products and the geographical elements of the area where these products are produced.²⁴ Thus, Geographical Indications are a crucial tool in promoting products with local ecological or agricultural characteristics and traditional cultural characteristics.

The law can be one of the tools to protect the regime of Geographical Indications by way of registration as regulated in Law Number 20 of 2016 concerning Marks and Geographical Indications. Article 53 reads: "Geographical Indications are protected after Geographical Indications are registered by the Minister". The main function of law is to protect the interests that exist in society. According to Roscou Pound, there are three interests that must be protected by law, namely: public interest, individual interest, and interest of personality. Although most intellectual property rights protect individual property rights and individual interests, geographical indications are one that can be categorized as communal property rights. That means that the interests protected by law can change according to the development of society.²⁵

Based on Posner's Theory of Economic Analysis, namely Wealth Maximization which focuses on the principles of efficiency in a situation where resources are allocated so that the value is maximized.²⁶ Focus on ethical criteria in the context of making social decisions concerning the welfare of society. This is in line with the Economic Growth Stimulus Theory which recognizes that the protection of Intellectual Property Rights is a tool of economic development and what is meant by economic development is the overall purpose of establishing an effective protection system for Intellectual Property Rights.²⁷ So it is necessary to have a model of protecting Geographical Indications for products in Indonesia to increase the economic value of these products and improve welfare and sustainable development.

4. Conclusion

The development of the protection of communal intellectual property rights in Indonesia through the Geographical Indication system is considered very appropriate, in addition to the wine and spirit products listed in the TRIPs, the expansion of the classification of products from Indonesia has begun to

²⁴ Nugraha, YA, & Haryanto, I. (2020). Obstacles to Registration of Geographical Indications of Sumedang Tofu as a Regional Potential Asset. *Justice*, 18(1), 1-19.

²⁵ Purba, B., Sudarmanto, E., Syafii, A., Nugraha, NA, Zaman, N., Ahdiyati, M., & Umarama, A. (2020). *Political Economy: Theory and Thought*. Our Writing Foundation.

²⁶ Oktavinanda, PA (2013, August). *Legal Positivism and Law and Economics--A Defense*. In Third Indonesian National Conference of Legal Philosophy (Pp. 27-28).

²⁷ Landes, WM, & Posner, RA (2003). *The Economic Structure of Intellectual Property Law*. Harvard University Press.

vary. Geographical Indication Products that have been registered receive legal protection and label that the product is a superior product with high economic value and has a good reputation, quality, and characteristics guaranteed. Petitioners who come from the community communally provide benefits for farmers to apply the principle of gotong royong to promote collective welfare. Registered Geographical Indication Labels/Logos function as a means of regional promotion and guarantee the authenticity of the origin of the product.

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