

Problems Of The Protection Of Geographical Indications After Registration In Indonesia

Muhammad Amir Batau^{1*}, Efa Laela Fakhriyah², Rika Ratna Permata³, Ibrahim⁴

^{1,2,3}Universitas Padjadjaran, Indonesia

⁴Universitas Muslim Indonesia, Indonesia

Email: m.amirbatau@gmail.com^{1*}, efa@unpad.ac.id², permata_rika@yahoo.com³,
ibrajustice62@gmail.com⁴

ABSTRACT

Indonesia has ratified the TRIPs Agreement through Law Number 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization, which also incorporates the TRIPs Agreement. As a consequence of this ratification, Indonesia is required to harmonize its legal system with TRIPS standards. One form of such legal harmonization is the regulation of Geographical Indications under Law Number 20 of 2016 concerning Trademarks and Geographical Indications. However, despite the legal recognition of Geographical Indications under this law, their implementation in practice still faces various challenges. These include limited public awareness of Geographical Indications, inadequate management capacity of Geographical Indication Protection Communities (MPIG), insufficient government support, inadequate regulatory frameworks and legal protection, obstacles in marketing and commercialization, as well as the limited capacity of Geographical Indication holders to supply and scale up production in response to market demand.

KEYWORDS: Intellectual Property, Geographical Indications, TRIPs Agreement, Ratification.

INTRODUCTION

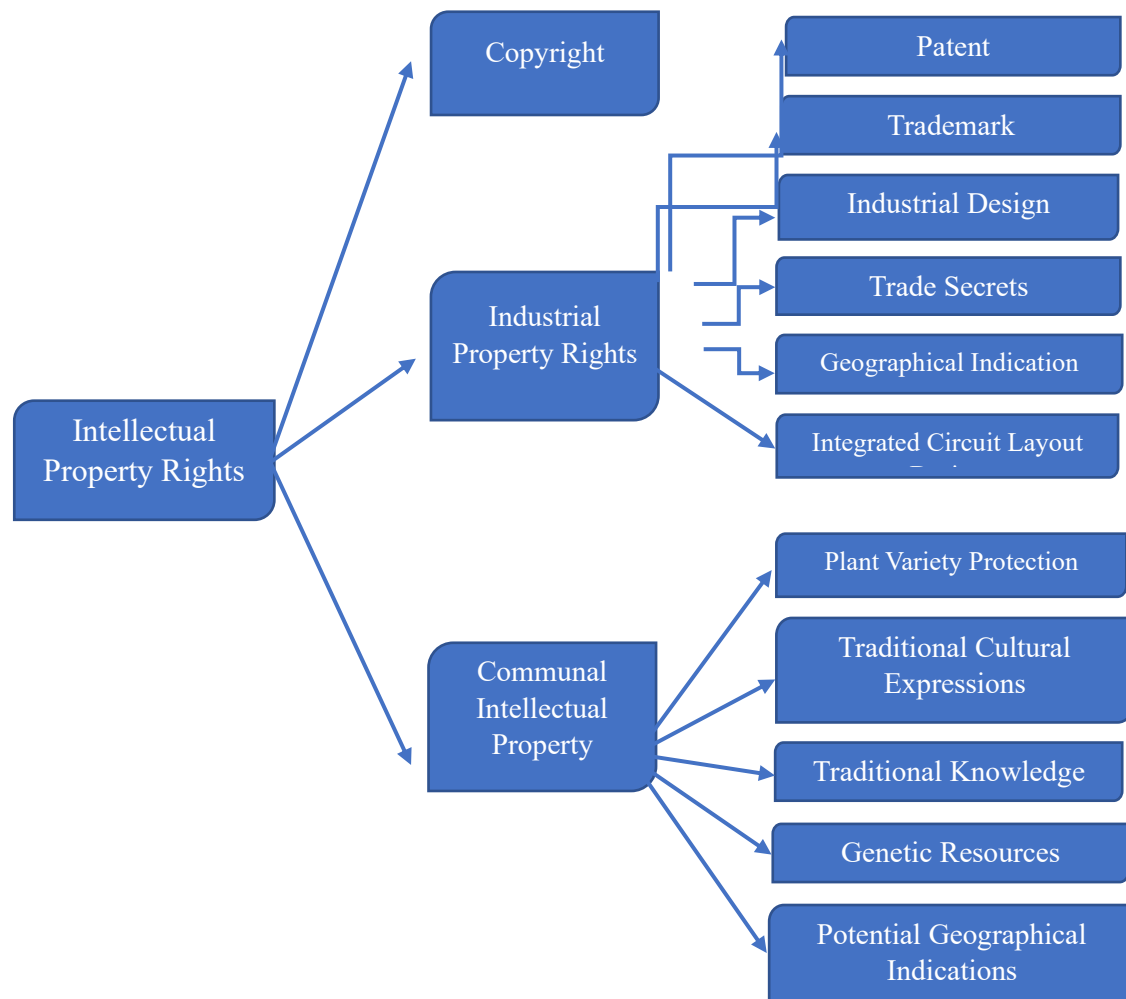
Human beings are social creatures endowed with various forms of potential physical, intellectual, emotional, spiritual, and social abilities, which, when continuously developed, can generate innovations or works with economic value. Humans possess intellectual capacity that enables them to think, innovate, and solve problems, manifested in the form of creations that can subsequently be legally protected through the intellectual property system.

Intellectual Property constitutes an intangible (immaterial) asset with significant potential when seriously developed by its owners. However, in the protection of Geographical Indications, not only the commitment of Geographical Indication holders is required, but also the active involvement of the government, both at the regional level where the Geographical Indication originates and at the central level particularly the Directorate General of Intellectual Property under the Ministry of Law of the Republic of Indonesia as the institution responsible for administering and providing protection for intellectual property.

Intellectual Property is generally defined as intangible wealth derived from human intellectual effort or creativity, resulting in creations in the fields of art, literature, science, and technology that possess economic value. This intellectual capacity serves as one of the fundamental distinctions between humans and other living beings.

Intellectual Property differs fundamentally from tangible (material) property. Tangible property is associated with physical objects, whereas Intellectual Property concerns the control of information or expressed ideas. Tangible assets, when continuously utilized and managed, may eventually diminish or even be depleted. In contrast, Intellectual Property, when continuously developed and managed, tends to grow and evolve, generating new innovations with high economic value. In general, Intellectual Property

can be classified into three main categories: Copyright, Industrial Property Rights, and Communal Intellectual Property, as illustrated in the following diagram:



Industrial Property Rights cover legal protection in the fields of patents, trademarks, industrial designs, trade secrets, Geographical Indications, and Integrated Circuit Layout Designs. Ownership of Industrial Property Rights may be held by individuals or legal entities; however, Geographical Indications differ in nature, as their ownership is communal and cannot be held by individuals. Consequently, the economic benefits derived from Geographical Indications are not enjoyed individually but collectively, and their reputation is likewise developed on a communal basis.

Communal Intellectual Property, hereinafter referred to as KIK, is intellectual property characterized by communal ownership and economic value while upholding moral, social, and cultural values of the nation. Such ownership is collective, belonging to a community rather than individuals, and is transmitted from generation to generation as part of cultural identity. The protection of Communal Intellectual Property aims to prevent misappropriation by other parties, enhance economic value, and preserve national cultural heritage that simultaneously constitutes national identity.

Intellectual Property Rights are proprietary rights over property derived from intellectual labor and rational human thought. The outcome of such intellectual effort results in immaterial or intangible objects that possess economic value. The legal definition of Geographical Indications is provided in national legislation, namely Law

Number 20 of 2016 concerning Trademarks and Geographical Indications, which defines Geographical Indications as:

“a sign indicating the geographical origin of goods and/or products, where certain qualities, reputation, and characteristics of the goods and/or products are essentially attributable to geographical environmental factors, including natural factors, human factors, or a combination of both.”

Accordingly, the primary requirement for registration as a Geographical Indication is that the product must possess a specific reputation, quality, and characteristic arising from the geographical environment of its origin, human intervention, or a combination of both factors.

Identical products originating from different geographical regions may be eligible for registration as Geographical Indications if they exhibit distinct reputations, qualities, and characteristics compared to similar products from other regions. Nevertheless, such reputation, quality, and characteristics must undergo thorough assessment before registration as a Geographical Indication can be granted.

The “sign” referred to in the definition of Geographical Indications may take the form of a place name, a regional name, or other distinctive signs indicating the geographical origin of the protected goods. Generally, Geographical Indications use the name of the place of origin; however, the use of a geographical name is not mandatory. In practice, certain Geographical Indications do not directly employ place names, such as Basmati Rice from India. The term “Basmati” is not a place name but a descriptive term derived from the Punjabi language, meaning “aromatic” or “fragrant land.” Similarly, in Indonesia, the Geographical Indication Salak Pondoh does not refer to a geographical location; rather, “Pondoh” denotes a superior variety of snake fruit originating from Sleman Regency, Special Region of Yogyakarta.

METHOD

The writing of this journal uses an empirical juridical (sociological) method by conducting observations and field studies to analyze the application of law in the community and the problems faced by the community in the management of Geographical Indications. This research method is used to make it easier for researchers to get the desired results and goals. The approach that the author uses in this study is a sociological approach or case study in the field, which is to examine the applicable legal provisions and what happens in reality in society.¹ Empirical juridical research is legal research on the enactment or implementation of normative legal provisions in action on every specific legal event that occurs in society.²

The writing of this journal was carried out using a qualitative approach using secondary data. However, the authors also use primary data to support secondary data. The primary data used in writing this dissertation was obtained through interviews with related parties, in this case the Directorate General of Intellectual Property and the public, while secondary data was obtained from the following materials:

1. Primary legal material, which is the main legal material used as a reference where in writing this journal Law Number 20 of 2016 concerning Trademarks and Geographical Indications is used, the Paris Convention for The Protection of Industrial Property, Trade Related Aspects of Intellectual Property Rights (TRIPs) and Government Regulation Number 51 of 2007 concerning Geographical Indications.

¹ Suharsimi Arikunto. Research Procedure A practical approach. (Jakarta: Rineka Cipta, 2012) page 126.

² Abdulkadir Muhammad. Law and Legal Research. (Bandung: Citra Aditya Bakti) page 134.

2. Secondary legal materials, namely legal materials that provide explanations of primary legal materials in the form of scientific books, legal journals, scientific papers, materials obtained through the internet.
3. Tertiary legal materials, which are legal materials that provide instructions and explanations for primary and secondary legal materials. This legal material is very helpful in analyzing primary legal materials and secondary legal materials consisting of: legislative abstracts, legal dictionaries, legal magazine indexes, bibliographies and materials outside the legal field related to this research material

The secondary materials used in writing this dissertation were obtained through literature studies by reviewing a number of literature included in the secondary materials as stated above. The existing data will then be analyzed qualitatively.

RESULT AND DISCUSSION

A significant change following the enactment of Government Regulation of the Republic of Indonesia Number 51 of 2017 concerning Geographical Indications is the intensified efforts by the government, particularly the Directorate General of Intellectual Property, to conduct widespread dissemination and inventory of potential Geographical Indications across the country. Likewise, local communities as holders of Geographical Indications have demonstrated strong enthusiasm in registering their products. Data verified in November 2025 indicates a substantial increase in Geographical Indication registrations in Indonesia. The total number of domestic and foreign Geographical Indication registration applications reached 261. This figure places Indonesia as the leading country among ASEAN member states in terms of Geographical Indication registrations. Details of Geographical Indication applications are presented in the following table.

Table 1 ASEAN IP Register-GI Launching Date: August 11/12 2025
Expected Number of GI is ASEAN IP Register during the launch

Office	Domestic + Foreign	Domestic	Number of GI Captured in Wiki	Status
Brunei	0	0	0	No GI as of July 18
Cambodia	12	12	12	Verified on July 18
Indonesia	261	246	261	Verified on November 27, 2025
Lao PDR	7	7	7	Verified on July 18
Malaysia	167	146	87	Pending Verification: Missing 80
Myanmar	0	0	0	No GI as of July 18
Philippines	7	2	7	Verified on July 18
Singapore	168	0	168	Verified on July 18
Thailand	257	234	257	Verified on August 6
Viet Nam	145	131	145	Verified on July 18
Total	1024	778	944	

The large number of Geographical Indication applications submitted reflects the enthusiasm and growing awareness of communities to protect their rights. However, behind this enthusiasm, several issues have emerged, including the following:

1. The Requirement for a Highly Detailed Geographical Indication Description Document

The Geographical Indication Description Document is required to comprehensively describe the entire production process of a Geographical Indication product from the initial stage to the final output. The more complex and detailed the description, the greater the need for in-depth analysis and data processing, which requires a considerable amount of time. Meanwhile, most Geographical Indication holders are farmers or artisans who primarily focus on production activities and have limited understanding of the administrative procedures involved. This condition constitutes a significant obstacle for Geographical Indication holders.

Article 1 paragraph (11) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications defines the Geographical Indication Description Document as follows:

“A Geographical Indication Description Document is a document containing information, including the reputation, quality, and characteristics of goods and/or products that are related to the geographical factors of the goods and/or products for which Geographical Indication protection is sought.”

The primary requirement for a product to be protected as a Geographical Indication is that it must possess reputation, quality, and specific characteristics. The initial information used to assess these elements in a registration application is contained in the Geographical Indication Description Document. Therefore, it is mandatory for Geographical Indication applications to be accompanied by a clear and transparent Description Document that accurately describes the product to be registered.

2. Post-Registration Challenges of Geographical Indications

A recurring issue observed in many registered Geographical Indications in Indonesia arises after the issuance of the Geographical Indication certificate. Numerous registered Geographical Indications become inactive or “dormant.” In addition to challenges encountered during the application process, particularly difficulties in preparing the Description Document, these issues are partially mitigated during registration, as applicants receive guidance and ongoing consultation from the Directorate General of Intellectual Property, which is the institution responsible for receiving and examining Geographical Indication applications. Through this process, both administrative requirements and substantive issues can generally be fulfilled.

These issues have also been acknowledged by the Directorate General of Intellectual Property, as stated by the Minister of Law and Human Rights of the Republic of Indonesia, who emphasized that, in order to enhance products registered as Geographical Indications, it is essential to develop the potential of Geographical Indications in a comprehensive manner. Such development should encompass production, protection, management, and utilization, implemented synergistically and sustainably through the National Geographical Indication Strategy as an integral part of the National Intellectual Property Strategy.

Once an application has been submitted and accepted by the Directorate General of Intellectual Property, the final stage of the registration process is the issuance of a legal title in the form of a Geographical Indication Certificate. Paradoxically, it is at this stage that many registered Geographical Indications fail to function as expected due to several factors. After registration, Geographical Indication holders face various challenges, including the lack of effective legal protection, infringements by foreign parties, difficulties in marketing and commercialization, insufficient government support, and low public awareness. These challenges may result in financial losses, time inefficiencies, reputational damage, and legal uncertainty. Several key obstacles include the following:

a. Public Awareness and Knowledge

Local communities constitute a crucial element in the registration and protection of Geographical Indications, as they are directly responsible for producing Geographical Indication products. Limited public knowledge regarding Geographical Indications has resulted in the underprotection of regional potentials. Such limited understanding includes a lack of awareness of the registration procedures, the appropriate authorities to which applications should be submitted, and the benefits that can be derived from Geographical Indication protection. This situation requires greater attention from the Directorate General of Intellectual Property, given the extensive scope of potential Geographical Indications that may be protected, including natural resources such as agricultural, plantation, and forestry products, as well as handicrafts and industrial goods. Nearly every region in Indonesia possesses Geographical Indication potential that requires special attention from both the community and the government.

Even communities that have successfully registered their Geographical Indication products continue to face challenges, particularly a lack of understanding regarding how to protect their registered Geographical Indications. In many cases, the Geographical Indication Certificate obtained does not significantly contribute to improving community welfare.

For example, in Tana Toraja, despite the establishment of the Geographical Indication Protection Community (MPIG) for Toraja Arabica Coffee, an effective and efficient Geographical Indication protection framework has yet to be developed. The primary challenge faced by the management of the Toraja Arabica Coffee MPIG lies in the limited understanding among the community, local government, and MPIG members themselves regarding the importance of Geographical Indication protection. This lack of awareness has led various parties to pursue individual economic gains without due regard for the reputation of Toraja Arabica Coffee as a Geographical Indication product. As a result, community members freely process and market coffee products using the Toraja Arabica Coffee Geographical Indication name outside the control of the MPIG and without the imposition of sanctions.

b. MPIG Management Factors

In general, one of the primary challenges faced by several Geographical Indication Protection Communities (MPIG) relates to management issues. A number of Geographical Indications fail to operate effectively and do not generate positive impacts for MPIG members or local communities in terms of improving welfare due to weak management practices. One illustrative example is the management of the registered Toraja Arabica Coffee MPIG. The lack of assertiveness among MPIG members in enforcing standardized management of Toraja Arabica Coffee in accordance with the standards stipulated in the Geographical Indication Description Document constitutes a significant problem. Unclear quality standards result from ineffective supervisory management by the MPIG, allowing community members to manage and commercialize Toraja Arabica Coffee Geographical Indication products according to individual preferences without uniform standards or guidelines.

Moreover, in the case of Toraja Arabica Coffee, the involvement of a private company, PT Toarco Jaya, in managing Toraja Arabica Coffee has further constrained the MPIG in implementing standardized management practices. PT Toarco Jaya is a joint venture between an Indonesian company (PT Utesco) and a Japanese company (Suladeco Ltd.), established in 1976, which produces high-quality Arabica coffee in North Toraja, South Sulawesi. The term "TOARCO" is an acronym for Toraja Arabica Coffee. The existence of the company's internal management standards has created challenges for the MPIG in uniformly applying the standards outlined in the Geographical Indication Description Document.

Ineffective supervisory management has also led to widespread Geographical Indication violations in the market. The misuse of Geographical Indications as trademarks remains prevalent, pricing standards are inconsistently applied, and even MPIG members themselves tend to set prices and conduct sales independently without strict oversight. Furthermore, the absence of an effective sanctions management system has resulted in a lack of consequences and deterrent effects for Geographical Indication violators.

In several countries that have successfully managed Geographical Indications, efforts extend beyond improving productivity and quality or maintaining reputation to include strong managerial capacity-building. Management is recognized as a critical factor in supporting effective governance and production. Strengthening community organizations as producers of goods protected under the Geographical Indication regime is essential, as the certification process for Geographical Indication products fundamentally depends on the Geographical Indication Protection Communities (MPIG).

c. Government Support Factors

Both the central government and regional governments play a role in the protection of products with potential Geographical Indications. Legal protection of Geographical Indications forms part of the special authority and responsibility vested in regional autonomy. Stakeholders—including regional governments, the industrial sector, higher education institutions, and community groups—are expected to actively participate in Geographical Indication management based on modern management principles while continuing to utilize local resources, given that implementation occurs within specific regions. However, in practice, many regional governments still lack sufficient awareness and understanding of their obligations to develop and promote Geographical Indications within their respective territories.

Regional governments hold a crucial role in the guidance and supervision of Geographical Indications. With the enactment of Articles 70 and 71 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, regional governments are required to maximize the authority granted to them under the law.

Article 70 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications stipulates that:

- (1) The development and guidance of Geographical Indications shall be carried out by the central government and/or regional governments in accordance with their respective authorities.
- (2) The development and guidance as referred to in paragraph (1) shall include:
 - a. preparation for fulfilling the requirements of Geographical Indication applications;
 - b. submission of Geographical Indication registration applications;
 - c. utilization and commercialization of Geographical Indications;
 - d. dissemination and public awareness regarding the protection of Geographical Indications;
 - e. mapping and inventory of potential Geographical Indication products;
 - f. training and technical assistance;
 - g. monitoring, evaluation, and continuous guidance;
 - h. legal protection; and
 - i. facilitation of the development, processing, and marketing of Geographical Indication goods and/or products.

Meanwhile, Article 71 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications provides that:

- (3) The supervision of Geographical Indications shall be carried out by the central government and regional governments in accordance with their respective authorities.
- (4) The supervision as referred to in paragraph (1) may also be conducted by the public.
- (5) The supervision as referred to in paragraphs (1) and (2) shall be conducted in order to:
 - a. ensure the continued existence of the reputation, quality, and characteristics that form the basis for the issuance of a Geographical Indication; and
 - b. prevent the unauthorized use of Geographical Indications.
- (6) The results of the supervision as referred to in paragraph (2) shall be submitted to the holder of Geographical Indication rights and/or the Minister.
- (7) Further provisions regarding supervision as referred to in paragraphs (1) through (4) shall be regulated by a Ministerial Regulation.

The lack of attention from regional governments constitutes one of the factors contributing to the limited understanding of Geographical Indications among local communities. This condition persists despite the fact that Article 70 paragraph (2) letter

(d) explicitly mandates regional governments to conduct dissemination and enhance public understanding of Geographical Indication protection.

As previously discussed, the limited level of public awareness regarding Geographical Indications represents one of the responsibilities of regional governments. As noted in practice, relevant institutions, particularly regional governments tasked with developing Geographical Indications, often lack sufficient understanding. This lack of comprehension creates further difficulties, as it affects their authority to allocate budgets. If responsibility is placed entirely on local communities, such as farmers, effective implementation becomes particularly challenging.

Synergy between regional governments and the central government is therefore essential to enhance public understanding of the importance of Geographical Indication registration and protection. However, a key challenge lies in the limited number of personnel at the central government level responsible for conducting public outreach. The number of personnel within the Geographical Indication division of the Directorate General of Intellectual Property is relatively small when compared to the vast geographical area that must be covered for effective dissemination.

The constraints faced by the central government due to limited personnel in the field of Geographical Indications may be mitigated through collaboration with external parties, such as civil society organizations that focus on Geographical Indications. One such organization is the Association of Geographical Indication Activists and Experts (PPIGI), established by alumni of the Certified Geographical Indication Training Program, Cohort I, organized by Universitas Padjadjaran, Bandung, which has now progressed to Cohort III. These individuals have received comprehensive training on Geographical Indications from both national and international experts. Nevertheless, organizational activities have remained largely inactive due to the individual commitments of its members.

Support from the central government, particularly the Directorate General of Intellectual Property, may take the form of dissemination programs and technical assistance. Regional governments, meanwhile, may provide support through capacity-building initiatives, policy formulation, the enactment of regional regulations (*Peraturan Daerah*) that favor Geographical Indication development, the provision of equipment, the allocation of necessary budgets, as well as promotion and commercialization efforts. The

limited understanding of Geographical Indications among communities and regional governments, coupled with insufficient governmental initiatives in fostering potential Geographical Indication products, remains a major obstacle to effective Geographical Indication development.

(8) Weak Supervision

Supervision of the implementation of Geographical Indications in practice constitutes a crucial factor and a key determinant of success in developing Geographical Indications. In addition to internal supervision, external supervision is also required. Internal supervision may be carried out by the Geographical Indication Protection Community (MPIG), which consists of producer groups responsible for managing and maintaining the reputation of Geographical Indication products. In conducting supervision, the MPIG is also responsible for ensuring that the products produced comply with the standards stipulated in the specification document (book of requirements).

In addition to internal supervision, external supervision is necessary not only to prevent the unauthorized use of Geographical Indications by parties who are not entitled to use them, but also to ensure that the use of Geographical Indications remains consistent with the information set out in the Geographical Indication Description Document. This obligation is expressly affirmed in Article 71 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which provides that:

1. The supervision of Geographical Indications shall be carried out by the central government and regional governments in accordance with their respective authorities.
2. The supervision as referred to in paragraph (1) may also be conducted by the public.
3. The supervision as referred to in paragraphs (1) and (2) shall be conducted in order to:
 - a. ensure the continued existence of the reputation, quality, and characteristics that form the basis for the issuance of a Geographical Indication; and
 - b. prevent the unauthorized use of Geographical Indications.

However, in practice, supervision has not functioned as effectively as expected.

Economic factors and a lack of public awareness often constitute significant obstacles. Many community members perceive Geographical Indications as equivalent to trademarks and, because they use regional names, assume that all individuals within the geographical area are free to use them without restriction or control.

The limited number of supervisory personnel also represents a major contributing factor. At the central government level, supervision is carried out by the Geographical Indication Expert Team, whose size is relatively small compared to the number of Geographical Indications requiring oversight. In addition, the vast geographical areas involved are often characterized by difficult terrain make it impractical for supervisory teams to be present on-site at all times. Consequently, effective supervision requires greater involvement from regional governments, internal monitoring by Geographical Indication holders, and, most importantly, increased public awareness.

c. Regulatory and Legal Protection Factors

Currently, the regulation of Geographical Indications in Indonesia is governed by Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The inclusion of Geographical Indications within trademark legislation has contributed to public misunderstanding, as many people perceive Geographical Indications as equivalent to trademarks. In fact, the nature of protection afforded to trademarks and Geographical Indications differs substantially. This misconception is understandable to some extent, given that Geographical Indications, like trademarks, also function as identifiers of products.

The application of a complaint-based offense (*delik aduan*) in the enforcement of Geographical Indication protection also poses a significant challenge to legal enforcement. Even when unauthorized use of Geographical Indications occurs in the marketplace, law enforcement authorities are unable to initiate legal action in the absence of a formal complaint from the injured party. At the same time, not all Geographical Indication holders are fully aware of the importance of protecting their Geographical Indications.

Geographical Indication protection in Indonesia is constitutive in nature, meaning that only registered Geographical Indications are entitled to legal protection. Similarly, only registered Geographical Indications may serve as a legal basis for refusing trademark registration applications. As stipulated in Article 21 paragraph (1) letter (d) of Law Number 20 of 2016 concerning Trademarks and Geographical Indications:

“An application shall be refused if the trademark is identical or substantially similar to a registered Geographical Indication.”

This provision differs from the previous regulation contained in Article 6 paragraph (1) letter (c) of Law Number 15 of 2001 concerning Trademarks, which stated that:

“An application shall be refused by the Directorate General if the trademark is identical or substantially similar to a geographical indication that is already known.”

Under the former law, even if a Geographical Indication had not yet been registered, it could still serve as a basis for refusing a trademark registration application, provided that the Geographical Indication was already well known. In contrast, Law Number 20 of 2016 concerning Trademarks and Geographical Indications requires that a Geographical Indication must be registered in order to be used as a legal ground for rejecting a trademark registration application. This shift has created legal challenges, as many potential Geographical Indications remain unregistered and, consequently, unprotected. In several countries, such as the European Union (EU), China, India, Switzerland, Japan, Mexico, and others, Geographical Indications are regulated under a *sui generis* system—a special legal regime that is separate from trademark law. This system facilitates public understanding of Geographical Indications and helps clearly distinguish them from trademarks.

Violations of Geographical Indications committed by foreign entities also constitute a serious issue. Several such cases have occurred and continue to persist, including the registration of Toraja Arabica Coffee as a trademark in Japan by Key Coffee Inc., a registration that has not yet been cancelled. Another notable case involves Basmati Rice, which was once registered as a patent in the United States by a Texas-based agricultural company, RiceTech Inc. A further example is a Danish company that produced and exported white cheese labeled as “Feta,” despite the fact that the term “Feta” is protected as a Protected Designation of Origin (PDO) exclusively for Greek cheese within the European Union.

The lack of effective legal protection for registered Geographical Indications results in legal uncertainty and injustice, particularly where registered trademarks bear substantial similarity to the names of registered Geographical Indications. Such violations are often difficult to address, as many Geographical Indication infringements are committed by parties within the same geographical region or by individuals with close personal or familial ties to the rightful holders. These violations typically take the form of using Geographical Indication names as trademarks. As is well established, Geographical Indications are communally owned by communities within a specific geographical area, whereas trademarks are individually owned. Consequently, the use of Geographical Indication names as trademarks in the marketplace generates economic benefits for individual actors while disadvantaging Geographical Indication holders collectively. Social proximity and kinship relationships with violators further complicate

enforcement, as discomfort or reluctance to pursue legal action often arises, compounded by the limited utilization of international protection mechanisms for Geographical Indications.

One of the major challenges faced by Indonesia in protecting Geographical Indication products at the international level is the limited understanding among local producers regarding the benefits of Geographical Indications and the importance of Geographical Indication registration in safeguarding local products circulating in international markets. Many small-scale producers do not fully comprehend how Geographical Indications can enhance the competitiveness of local products and provide quality assurance to international consumers. Dissemination and education concerning Geographical Indications, therefore, require further strengthening, particularly in regions producing distinctive products with strong potential for Geographical Indication registration. This situation may create serious problems for local producers, as their product reputations may be tarnished or misappropriated, thereby restricting market access and undermining the protection of the authentic identity of their products.

Indonesia also faces challenges in monitoring and enforcing Geographical Indication-related laws, particularly due to limitations in infrastructure and resources at the local level. Counterfeit products claiming Indonesian Geographical Indications occur in both domestic and international markets, which may damage the reputation of genuine Indonesian products in the eyes of international consumers. In the absence of effective supervision, maintaining the quality and standards of Geographical Indication products becomes difficult, ultimately eroding consumer trust in Geographical Indications.

Infringements of Geographical Indications by foreign parties may occur through the direct or indirect use of Geographical Indication signs on products that do not comply with the Geographical Indication description, or with the intention of misleading consumers regarding the geographical origin of the products. Such infringements may take the form of using Geographical Indications as trademarks. Several examples of infringements involving Indonesian Geographical Indication products by foreign parties have occurred in the coffee sector. One notable case is Toraja Arabica Coffee, which was registered as a trademark in Japan under the name "Toarco Toraja Coffee" by Key Coffee Inc. Corporation (Registration Number 75884722), using an image of a Toraja traditional house. This trademark application was filed in 1976, long before Toraja Arabica Coffee was registered as a Geographical Indication in Indonesia. The name "Toarco" is an acronym for Toraja Arabica Coffee. In Japan, Toraja coffee is widely recognized and marketed as a luxury coffee product, with approximately 5,000 restaurants and cafés serving Toraja coffee to their customers. In addition, Toraja coffee has also been registered as the trademarks "SULATCO KALOSI TORAJA COFFEE" (Registration Number 74547036) and "SULATCO KALOSI TORAJA COFFEE" with a Toraja house image (Registration Number 74547000), owned by IFES Inc. Corporation, California.

Similarly, Gayo Arabica coffee has been used in various foreign trademarks, such as Wild Gayo Luwak in the United States, Gayo Mountain Coffee and Amaro Gayo Coffee registered by British nationals, as well as the trademark "Equador: Sumatra Gayo Mountain." These infringements potentially cause economic harm to Indonesia as the rightful holder of the Geographical Indications, as they may disrupt export activities. Such registrations prevent local producers from exporting their own products to countries where the trademarks have been registered. This situation results in economic loss and injustice for local communities that produce Geographical Indication products. These communities should be the ones introducing their products to global markets, rather than foreign entities. Consequently, coffee exports may be restricted in countries where the names have been registered as trademarks.

With regard to the use of the Geographical Indication Toraja Arabica Coffee as a trademark by Key Coffee Inc. in Japan, as well as the case of Gayo Arabica Coffee, Article 22 paragraph (3) of the TRIPs Agreement provides clarification that:

"A Member shall, ex officio if its legislation so permits or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin."

The provisions of this article create room for parties acting in bad faith to continue using trademarks that are identical or substantially similar to Geographical Indications owned by others. Such latitude arises from the phrases "if its legislation so permits" or "until a request is made by an interested party to refuse or invalidate the registration of such a trademark."

The phrase "if its legislation so permits" may be interpreted to mean that if a member state's domestic legislation does not provide specific regulations addressing such situations, the member state may allow the continued use of the trademark, even when its improper nature is already known. In the absence of explicit legal provisions, the trademark may remain protected and in use, particularly if the use of the Geographical Indication generates economic benefits for the state concerned.

Furthermore, the phrase "until a request is made by an interested party to refuse or invalidate the registration of such a trademark" may be interpreted to imply that, even when the true owner of a Geographical Indication registered as a trademark is already known, the trademark may continue to be registered and used as long as no formal request for refusal or cancellation is submitted by an interested party.

Parties who suffer losses as a result of such misuse of Geographical Indications—such as producers or institutions representing them—may pursue legal remedies, including claims for damages and injunctions to prohibit the infringing use.

d. Difficulties in Marketing and Commercialization

Geographical Indications are not merely instruments of legal protection but also represent a powerful branding strategy to enhance the competitiveness of local products in both national and international markets. The ability to implement effective commercialization strategies is a key determinant of the success of Geographical Indication products in the marketplace. Even when a Geographical Indication has been formally registered, it will not generate economic benefits for its holders if it is not supported by a strong and well-executed commercialization strategy.

A concrete example of successful Geographical Indication commercialization is Bantaeng Arabica Coffee. Prior to its registration as a Geographical Indication, the price of this coffee ranged from approximately IDR 200,000 to IDR 300,000 per kilogram and was sold only in local markets. After obtaining Geographical Indication protection, its price increased significantly to approximately IDR 750,000 to IDR 1,500,000 per kilogram, with the potential to export up to five tons to global markets.

The success of Geographical Indication commercialization is also evident in international products such as Champagne from France, which recorded global sales of EUR 6.3 billion in 2023, and Kobe Beef from Japan, which reached export values of USD 250 million in the same year.

Despite these success stories, it must be acknowledged that not all Geographical Indications have generated tangible economic benefits for local communities or Geographical Indication holders. One such example is Toraja Arabica Coffee, which, although registered as a Geographical Indication, has not yet brought significant improvements to the welfare of communities in Tana Toraja and North Toraja as the

rightful Geographical Indication holders. This situation is attributable to several factors, including limited public understanding of the importance of Geographical Indication registration and protection, as well as ineffective management functions encompassing organizational management, production management, marketing, and commercialization.

e. Increasing Production Scale

Once a product has been registered as a Geographical Indication, serious commitment is required from Geographical Indication holders to ensure that product quality is consistently controlled and complies with the standards stipulated in the Geographical Indication Description Document, thereby guaranteeing high-quality output.

As the quality of a Geographical Indication product becomes widely recognized, market demand tends to increase accordingly. When demand rises, Geographical Indication holders are expected to ensure the continuous availability of products in the market. However, in practice, several Geographical Indication Protection Communities (MPIG) have been unable to meet market demand. When consumers seek products that are unavailable, this gap is often exploited by irresponsible actors who offer easily obtainable products of substantially lower quality while using the names of registered Geographical Indications. As a result, consumers may be misled into believing that such products originate from legitimate Geographical Indication holders.

While some MPIGs have succeeded in commercializing Geographical Indication products and maintaining consistent market supply, others have failed to increase production capacity. This inability to scale up production creates opportunities for Geographical Indication infringements, as unscrupulous parties market different products under the names of registered Geographical Indications, falsely presenting them as originating from the designated geographical areas and possessing equivalent quality.

CONCLUSION

Normatively, Geographical Indications are regulated under Articles 56 to 70 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The enactment of Law Number 20 of 2016 is expected to provide justice, legal certainty, and practical benefits in the regulation of Geographical Indications in Indonesia. The protection of Geographical Indications is based on a constitutive principle, meaning that Geographical Indications are legally protected only after registration. A Geographical Indication Certificate should not be regarded as an achievement that warrants excessive recognition. Rather, it should serve as a motivation for community groups as Geographical Indication holders to consistently maintain the reputation, quality, and characteristics of their Geographical Indication products. The certificate merely constitutes proof of rights, while the effective management of those rights requires sound and sustainable governance.

Many indigenous Indonesian Geographical Indications have been successfully registered; however, registration does not signify the end of the Geographical Indication management process. In practice, a large number of registered Geographical Indications encounter challenges after registration. These challenges include limited public knowledge of Geographical Indications, ineffective management by Geographical Indication Protection Communities (MPIG), insufficient government support, legal protection frameworks that fail to provide legal certainty due to their integration within trademark legislation—leading to public confusion in distinguishing Geographical Indications from trademarks—difficulties in marketing and commercialization, and the

limited capacity of MPIGs to ensure product availability and scale up production in response to increasing market demand.

SUGGESTION

To address these challenges, comprehensive public outreach and awareness-building initiatives are required, alongside the implementation of effective management practices and strengthened government support. Adequate legal protection through a sui generis system separate from trademark regulation is essential to ensure fairness, legal certainty, and practical benefits. Furthermore, enhancing capacity in marketing and commercialization, as well as increasing production scale to meet market demand, is necessary to support the sustainable development of Geographical Indications.

REFERENCES

1. Abdulkadir Muhammad. *Hukum dan Penelitian Hukum*. Bandung: Citra Aditya Bakti, 2004.
2. Achmad Zen Umar Purba, "Hak Kekayaan Intelektual Pasca TRIPs", cet. I, Bandung: Alumni, 2005.
3. Ahmad M. Ramli et. al. *Kekayaan Intelektual (Pengantar Indikasi Geografis)*. Bandung: Alumni. 2018.
4. Ahmad M. Ramli et. al. *Hukum Kekayaan Intelektual (Indikasi Geografis dan Kekayaan Tradisi dalam Teori dan Praktek*. Bandung: Refika Aditama, 2019.
5. Andy Noorsaman Sommeng dan Agung Damarsasongko. *Indikasi Geografis (Sebuah Pengantar)*. Jakarta: Direktorat Jenderal Hak Kekayaan Intelektual (DJHKI) Departemen Hukum dan Hak Asasi Manusia RI. bekerjasama dengan Japan International Co-operation Agency (JICA). 2018.
6. Djulaeka. *Konsep Perlindungan Hak Kekayaan Internasional: Perspektif Kajian Filosofis HaKI Kolektif-Komunal*. Malang: Setara Press, 2014
7. Miranda Risang Ayu. *Memperbincangkan Hak Kekayaan Intelektual (Indikasi Geografis)* Bandung: Alumni, 2006.
8. Miranda Risang Ayu. *Geographical Indications Protection in Indonesia Based on Cultural Rights Approach*. Jakarta: Nagara, 2009.
9. OK. Saidin. *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)*. Jakarta: RajaGrafindo Persada, 2004
10. Ayu Kumala Sari Hamidi dan Iyah Faniyah. "Perlindungan Hukum Indikasi Geografis atas Merek Kopi Toraja dan Kopi Gayo yang Didaftarkan oleh Negara Lain." *Journal Hukum*, Vol. 2 Issue 1, (September 2019), 39
11. Dara Quthni Effida, Etty Susilowati, dan Kholis Roisa. *Upaya Perlindungan Hukum Indikasi Geografis terhadap Salak Sidimpuan sebagai Kekayaan Alam Tapanuli Selatan*. *Jurnal Law Reform*, Fakultas Hukum Universitas Diponegoro. Volume 11, Nomor 2, Tahun 2015.
12. Echa Yuana Urvash. "Peran Indikasi Geografis dalam Menjamin Hak Konsumen Terhadap Produk yang berkualitas." *Jurnal Jurist Argumentum (Pemikiran Intelektual Hukum)*. Volume 3, Nomor 1, (2025): hlm. 2. <http://jurnal.utu.ac.id/argumentum> (accessed 2025).
13. Ganindha, R. dan Sukarmi, S. *Peran Pemerintah Daerah dalam Mendukung Potensi Indikasi Geografis Produk Pertanian*. *Jurnal Cakrawala Hukum*, 11(2), 211–221. <<https://doi.org/10.26905/idjch.v11i2.3970>> Tahun 2020.
14. Ika Saputri dan Tongat. *Hak Kekayaan Intelektual Kolektif dan Indikasi Geografis: Tantangan dan Peluang bagi Produk Khas Indonesia di Pasar Internasional*. *Jurnal Fundamental*. hlm. 217. Vol. 13 No. 2. Juli-Desember 2024

15. M. Rendi Aridhayandi. Peran Pemerintah Daerah dalam Pelaksanaan Pemerintahan yang Baik (Good Governance) di Bidang Pembinaan dan Pengawasan Indikasi Geografis. Jurnal Hukum & Pembangunan Fakultas Hukum Universitas Indonesia. hlm. 897. Vol. 48 No. 4. 2018.
16. Rianda Dirkareshza et. al. Comparative Study of State Jurisdiction: The Protection Towards Geographical Indication in Indonesia, the EU and US. Journal ACLJ Audito Comparative Law Journal, hlm. 98. Vol.4, Issue 2, 2023.
17. Sudjana, 2018, "Implikasi Perlindungan Indikasi Geografis Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Terhadap Pengembangan Ekonomi Lokal". Jurnal Veritas et Justitia, Fakultas Hukumi Universitas Padjadjaran, Vol. 4, No. 1, hlm. 46. 2018.
18. Suharsimi Arikunto, Prosedur Penelitian Suatu pendekatan praktek. Jakarta: Rineka Cipta, 2012.
19. Tornado Sinaga dan I Made Dedy Priyanto. Kendala dalam Pendaftaran Perlindungan Indikasi Geografis. Jurnal Kertha Semaya, Fakultas Hukum Universitas Udayana, E-ISSN: Nomor 2303-0569, Vol. 8 No. 11. hlm. 1830. 2020.
20. Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis
21. Peraturan Pemerintah Nomor 51 Tahun 2007 tentang Indikasi Geografis
22. Peraturan Pemerintah Nomor 56 Tahun 2022 tentang Kekayaan Intelektual Komunal