Rethinking the Future of Indonesian Coffee: Legal, Social, and Political Perspectives

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Abstract
The idea of the Geographical Indication (IG) for coffee is not only to achieve high-quality of products but also to enhance the standard of benefits for coffee farmers. This article demonstrates discrepancies between hope and reality; quality and economic impact prevailing in the case of coffee products in Jambi Province of Indonesia. It is argued that such discrepancies potentially degrade coffee’s future in Indonesia due to farmers’ ignorance. Besides, the government policy concerning the IG has ended up with gaps between farmers’ orientation and the government’s political interest and policy in utilizing the coffee GI rights. Data were collected to analyze and address the problem from legal, social, and political perspectives. Our findings emphasize the government’s role as the grantor of rights to manage GI rights in a holistic context beyond legal positivism in order to enhance the benefits of coffee farmers in Indonesia.

Keywords: geographical indications; Indonesian coffee; farmers; government

A. Introduction
Geographical indications (GI) as part of the wealth that can be granted rights by the state havemonopoly consequences commu-
nally. Trade-Related Aspects of Intellectual Property Rights (TRIPs) stress that upon the granting of monopolies, right holders are simultaneously expected to fulfill their social responsibilities associated with their inventions. The TRIPS Agreement also recognizes that Members may adopt necessary measures to protect public health and nutrition, and to promote public interests in sectors of vital importance to their socio-economic and technological development.¹

The GI has become a topic of discussion among world organizations such as the Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) 1994. Provisions regarding Geographical Indications internationally can be found in the Paris Convention for the Protection of Industrial Property in 1983 and the Madrid Agreement in 1891. Both agreements it mentions “Indication of Source as an indication referring to a country or a place in that country, as being the country or place of origin of a product. The Lisbon Agreement (Lisbon Agreement for Protection of appellation of origin and their International Registration) for the protection of Indications of Origin in 1958 governs international registration of Indications of Origin. GI registration provides benefits for regionalism, communal society, the ecotourism sector, state income and foreign exchange as well as regional branding, if managed properly. The use of GI aims to achieve a balance between the individual’s personal role and the interests of society, by using several principles, namely justice, economics, culture, and social.² The GI is hoped to provide additional value to any product.³ Potentially having the GI, coffee is considered an excellent commodity in Indonesia since it is granted with huge land and various characteristics. Indonesia was recorded as the fourth largest coffee producer country in the world in 2015, after Brazil, Vietnam and Colombia.⁴ Indonesia has 3 Coffee Varieties

¹ Phobe Li, 3D Bioprinting Technologies (Law innovation and technology, 2014) p. 282-304
² Sumiyati et all, Sociological Juridical Study Concerning Geographical Indications as a Source of Regional Original Income (Mimbar, 2018) p. 79-88
³ Wongprawmas et al, Gatekeepers (Journal of International Food and Agribusiness Marketing, 2012) p. 185-200
⁴ Lestari, Analisis Daya Saing Kopi Indonesia (Jurnal Ekonomi Pertanian dan
Arabica Coffee can optimally bear fruit above 1,000 MDPL. Robusta Coffee at an altitude bear until 400-800 MDPL. Liberika Coffee is stronger as it can grow in the lowlands or peatlands. Among the Provinces in Indonesia, Jambi has been known as the world’s best coffee producer. Coffee is usually managed exclusively in groups, the private sector, plantations, and cooperatives, and generally for export needs. This potential need protection of geographical indications as communal intellectual property rights. Coffee is registered with the Directorate General of Intellectual Property of the Republic of Indonesia to obtain legal protection. The application is made by the Geographical Indication Protection Society (MPIG) together with the Regional Government where the geographical indication coffee product is located.

The implication of registering a geographic indication product is obtaining legal protection. The problem that generally occurs in Indonesia is that people do not fully understand the legal protection of geographic indication products. Not many people are aware enough that legal protection of geographical indications is crucial as a part of communal rights. As Devinca has suggested that not many understand the importance of protecting GIs from economic, cultural, and national aspects. Awareness will usually arise when the GI is used by foreigners without any benefit sharing, and only then considered that it is an injustice.

The product usually increases sales value locally and nationally by obtaining GI certification. This GI product has even international markets orientation. As Ranti has suggested, the GI has become a product protection regime rooted in the locality but has been ac-

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5 Mardianis, Prospective Analysis of Coffe Agroindustry in Kerinci (Prosid-Senantias,2020)  
6 Apriansyah, Perlindungan Indikasi Geografis Dalam Rangka Mendorong Perekonomian Daerah (Jurnal Penelitian Hukum De Jure, 2018) p. 525-542  
7 Masrur, Perlindungan Hukum Indikasi Geografis Yang Telah Didafatarkan Sebagai Merek Berdasarkan Instrumen Hukum Nasional Dan Hukum Internasional (Lex Jurnalisca,2018) p. 201
accepted internationally as an essential aspect of product marketing. This orientation should have been accessible to farmers and cooperatives who manage the GI products. However, the GI coffee products in Jambi have not widely been opened for the international market. On top of that, the GI problem in this region is that many coffee products are marketed without following the rules regarding the GI products, by for example, not using the IG logo. Besides, many non-GI products also use names indicating origin, so they are products with GI. As a result, the GI protection does not bring benefits as long as the objectives are concerned. On the contrary, the fact that coffee with certification sometimes gets unfair treatment is inevitable.

In Jambi Province, there are three Coffee products with Geographical Indications namely Arabica Sumatera Korintji Coffee, Robusta Sumatera Merangin, and Liberika Tungkal Composite. Legal protection for coffee with GI needs to be studied since not all components might realize the importance of legal protection. Legal protection is needed to uphold legal certainty for any party who exercises legal action, both publicly and privately.\(^8\) (Registration of GIs has the effect of exclusive rights, although to date, based on the Intellectual Property Database of the Directorate General of Intellectual Property, only 92 GIs have been registered among Indonesia’s potential which is rich in natural and cultural resources. The GI products registered in the PDKI dominantly focus on coffee products comprising 2 types of Liberika Coffees, 17 types of Arabica, and 12 types of Robusta. It is not comparable to the amount and potential of Indonesia’s resources, which should have received a lot of geographic indication certificates. This can be due to a lack of understanding about GI among stakeholders and the lack of attention from the local government to the potential for GI resulting in a minimum number of products from regions registered as the GI products at DJKI.\(^9\)

\(^8\) Mayana and santika, Pengembangan Produk Indikasi Geografis Dalam Konteks Sharing Economy Di Era Disrupsi Digital (Ligitasi, 2020) p. 128-146
\(^9\) Waspiah, Rodiyah, dan Latifiani, Kopi, Kamu, Dan Kita (Jurnal Pengabdian Hukum Indonesia, 2020) p. 40-55
\(^10\) Apriansyah, Perlindungan Indikasi Geografis Dalam Rangka Mendorong
This article addresses why implementing supervision and guidance and facilitating the coffee GI in Jambi is not optimal. So, it is necessary to rethink the application of registration of GI rights. The reason for raising such an issue is due to the adversity of obtaining a GI, which requires complex efforts and concerns with benefits sharing of the community. Legal, social, and political factors, as multidisciplinary approaches, are discussed in this article.

This study-based research uses legal norms supported with different study objects, namely Liberika Tungkal Jambi Coffee in West Tanjung Jabung Regency, which is located in the Lowlands and peatland, and Korintji Sumatera Arabica Coffee which is located in the Highlands on the slopes of Mount Kerinci Regency of Jambi Province. The highlands where Arabica coffee grows have become a mainstay tourist attraction yet without any product indications, while Tungkal Jambi Liberica coffee do not grow such a potential tourism area.

Studies on geographical indications have been conducted by researchers. Among others is Ibnu Maulana, whose research exercised Hadjon’s theory of legal protection. Another research was also conducted by Khoirul Hidayah who observed the government’s policy in protecting coffee GI in Lereng Semeru by using the legal enforcement theory of Friedmann. Unlike the two researches above, this article employs theories prevailing in public and private laws as the tools of analyzing the GI a sui generis rights. The theories of Rechtstaat and Stureen are chosen for public law, while for private law, the theory of rights in communal intellectual property rights is applied.

This article will look at how the state and/or government are present continuously in exercising rights and managing them. It is studied that the right to geographic indications have to be observed

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*Perekonomian Daerah (Jurnal Penelitian Hukum De Jure, 2018) p. 525-542
11 Wicaksono, Perlindungan Hukum Potensi Indikasi Geografis Guna Meningkatkan Ekonomi Masyarakat (Jurnal Magister Hukum Udayana, 2021) p. 309
12 Hidayah and Nasyi’ah, Potensi Pendaftaran Indikasi Geografis Kopi Lereng Semeru Oleh Pemerintah Daerah Dalam Menghadapi ASEAN Economic Community (Kertha Patrika, 2020) p. 132*
from the side of the state as a power that grants and legitimizes rights. The state with its power and authority has to continuously monitor and manage the rights it has been given. The research will discuss how to implement the utilization of geographical indication rights for coffee by the community and analyze the Government’s responsibility regarding the development, supervision and utilization of geographical indication rights communally. So that the GI concept that applies globally also has an impact locally.

The rights in the GI products include the role of the regional government and/or the central government as a part of the government’s authority over the area as mentioned in the Indonesian Law of Brand and IG. Article 70 states the roles as long as the coaching is concerned, namely; a. preparation for fulfilling the requirements for an Application for Geographical Indications; b. Application for registration of Geographical Indications; c. utilization and commercialization of Geographical Indications; d. socialization and understanding of the protection of Geographical Indications; e. mapping and inventory of potential Geographical Indication products; f. training and mentoring; g. monitoring, evaluation, and coaching; h. legal protection; and i. facilitating the development, processing, and marketing of goods and/or Geographical Indication products. While the supervisory role is stated in Article 71 which comprises: a. ensuring the reputation, quality, and characteristics, as the basis for the issuance of Geographical Indications; and b. preventing the unauthorized use of Geographical Indications.

B. Research Method

Data was collected using various methods including interviews, informal discussions, documents, and observation. The process used to select informants was guided by purposive sampling targeting the MPIG members, farmers, cooperative members and administrators, and community leaders, including the Ministry of Law and Human Rights through Jambi Provincial Office.

Respondents were interviewed using semi-structured and open-
ended questions to ascertain their perceptions and experiences in developing coffee products with GI in their region. Papers related to IG like journals, unpublished reports, books, government policies, council minutes, and online sources, are used as secondary data to supplement the primary data. Using a qualitative approach, data are selected, presented, and verified, after which they are interpreted by way of the analytical-descriptive method, to explain and analyze the content and structure of the applicable laws.

Only coffee farmers who had an agreement to form the MPIG to be selected as a sample. They are the mainstay of the production of coffee with the IG products. They agreed to be interviewed because they are directly involved in the coffee production process. In addition to coffee farmers, 3 members of cooperative management were also interviewed from whom another information are obtained. Interview with the local government was conducted to dig out information about the policy on the coffee IG in the region.

C. Result and Discussion

In Jambi Province, there are three coffee products registered by the MPIG by the help of regency governments. They are Korintji Sumatra Arabica Coffee by the Kerinci Government, Sumatera Robusta Merangin by Merangin Government, and Liberika Tungkal Composite by West Tanjung Jabung Government respectively. Local governments are motivated to apply for rights to achieve reputation and welfare as Atika suggests that GI rights can produce a good economic climate for a country. The most important is the impact of communal economic rights utilization. The social impact should have an influence on increasing welfare and political impact, giving birth to local government responsibilities according to the law on trademarks and geographical indications. GI is an ethical endeavor whereby “landscape and traditions become part of the products”. which puts the “region” and “locality” at the helm of value creation. Legal expert

13 Nasution, Metode Penelitian Hukum (Bandung: Mandar Maju, 2008
14 Fontefrancesco, Crafting the Local (Social Analysis,2013) p. 89-107
Aarti Kawlra is therefore justified in saying that “the GI was associated with empowering producer groups with greater responsibilities through the devolution of state control to local certification bodies where spaces of production are transformed into ‘places of origin’”.  

For the farmers, achieving the IG rights would mean having the guarantee of the world-standard quality of the coffee products. The motivation to obtain such a standard appears to have caused them abandon their potential and economic benefits like the ones found in the cases of the IG of Sumatra Liberika Coffee Korintji and Sungai Penuh Arabica Coffee. On the other hand, collective rights legally provide space for local communities to exercise their rights jointly or through legal entities. Hal ini sejalan dengan pendapat yang men-takan bahwa The existing concept is closely related to the fair distribution of benefits. because it has become an important debate in the conservation and development of biological resources.

In Indonesia, to obtain the GI rights, according to existing regulations, takes long terms and procedures. It would begin with forming a community to represent the product’s origin, submitting an application, making an indication book, having an inspection stage, and up to a decision. Therefore, it requires all parties to have enthusiasm. Despite the internal conflict of interest during the formation of the MPIG among the community members, the success in obtaining GI rights is a prestige for the government. The problem usually occurs after it. However, the objectives of the GI rights to enhance quality and, particularly, reach an export market is far from reality.

One of the problems among the farmers is that the GI rights is not well socialized through, for example various media, resulting in ignorance about legal fiction. It was found in the research, several farmers did not even understand the meaning of the IG. We surveyed 324 dried persimmon purchasers about their awareness of GI for forestry products, including dried persimmons. We found that 32.4%

15 Bose, Geographical Fixity or Affective Ties (Journal Of Modern Craft, 2016) p. 117-37
16 Ghenasyarifa et all, Konsep Access and Benefit Sharing (Belli Ac Pacis, 2017) p. 14-c26
of the respondents were aware of GI. The most common awareness route was broadcasting media at 14.5%, followed by an acquaintance at 10.2% and the Internet at 3.7%. About half of the purchasers were aware of GIs for forestry products through the broadcasting media, and this difference was significant (P < 0.05) (Table 3).

Since the broadcasting media mediated about half of the purchasers to be aware of GIs, it was more effective to utilize broadcasting media than other methods to raise awareness of GIs and promote GI products. This is in line with the finding of this study that the community and coffee farmers do not understand the context of the GI. It is proven by the large number of IG coffees circulating in the local market without using the mark set by the Regulations. They do not aware of how to maximize its beneficiaries. In this sense, GIs work as collective property rights can be compared to a perpetual patent owned by all the producers of the demarcated region whose products comply with the specification outlined in the code of practice. The application of origin is owned by the collective of producers, but each can exercise that right independently from one another. GIs protect the investments made by producers and traders and offer consumer protection by certifying the unique qualities that characterize a product.

In the context of intellectual property law, intellectual property rights can be owned individually and communally in the context of private law. IG is a form of communal intellectual property rights. Either individually or communally, it turns out that intellectual property rights give birth to obligations and the role of the state that is carried out by the government in public. In GI rights, there is a role for the government as a public service that has an important responsibility to guarantee public good. Delphine Marrie suggests that government involvement is also linked to the recognition of GIs’ high potential multidimensional character. Belletti et al. in this special is-

17 Oh et all, Geographical Indication and Development Plans in South Korea (Forest Science and Technology, 2018) p. 41-46
18 Crescenzi et all, Geographical Indications and Local Development (Regional Studies, 2022) p. 381-93
issue identify the multiple ties of GIs with public goods and discuss different justifications for proactive public policies.

However, it is worth reaffirming that salient state intervention can only effectively support the fulfillment of the different public objectives of GIs if there is proper recognition that sustaining their collective reputation depends on market development, as also argued by Belletti et al. in this special issue.\(^\text{19}\) Indeed, the government authority (bestuur) in public law bring significant impact towards the implementation and utilization of the IG. Ngu Yen argues that the government can use GI policies to support producers in marketing their products better while legally protecting them from misuse or falsification of a product name to ensure agricultural product quality. Despite many studies’ consensus on GIs, including the emerging but growing focus on the role of the governments in GI development, extremely few have examined the role of the governments in the governance of GI systems to promote agricultural product quality, and nearly none of them have analysed the contribution of local producers.\(^\text{20}\)

It is learnt that granting the GI rights to coffee products in Jambi is not only an object of intellectual property law but also an object of state administrative law exercised under the government authority (bestuur) which contains sturen which covers elements like; 1) continuous activity; 2) the use of power; 3) legislative and judicial fields; 4) goals (doelgericht). This concept is originally developed by, among others, Immanuel Kant, Paul Laband, Julius Stahl, and Fichte, using the German term, namely “rechtsstaat.” The power approach relates to the authority granted according to law based on the principle of legality or the principle of rechtmatigheid. The authority to give rights belongs to the state in which the government as the executor. Such an approach determines the control or supervision over the use of power by the government. Therefore, the government should not just grant rights without considering the implementation of rights.

\(^{20}\) Hoang, Geographical Indications and Quality Promotion of Agricultural Products in Vietnam (Development in Practice) p. 513-22
If there are irregularities or violations against the use of power by the government, state responsibility is carried out on the basis of the principle of legality or the principle of *rechtmatigheid*, both formally concerning with authority and procedures, as well as substantially concerning with objectives.

The *stureen* concept is employed to offer a different perspective of the GI rights. Originally, the GI rights can be given after the application is proposed under the protection of the applicable law. According to Indonesian Law on Trademarks and Geographical Indications granting these the GI rights results in the government’s responsibility to provide optimal benefits to these communal intellectual property rights. The role of the government is found in the Article 70 of the Trademark and GI Law which states; (1) the development of Geographical Indications is carried out by the central government and/or regional governments in accordance with their Authority, (2) the development as referred to in paragraph (1) includes: a. preparation for fulfilling the requirements for application for Geographical Indications; b. Application for registration of Geographical Indications; c. utilization and commercialization of Geographical Indications; d. socialization and understanding of the protection of Indications; Geographical; e. mapping and inventory of potential Geographical Indication products; f. training and mentoring; g. monitoring, evaluation, and coaching; h. legal protection; and i. facilitating the development, processing, and marketing of goods and/or Geographical Indication products. From these provisions, the continuity of GI is largely determined by how the local government collaborates in product management. The training which includes preparation for fulfilling application requirements, mapping and inventorying product potential looks quite good. Not all roles and responsibilities go well, but they must be cumulative in order to create the purpose of the law.

The interviews found that there are still problems and inadequacy in terms of training, mentoring, facilitation of product development, processing and marketing, as well as supervision. One the MPIG members of Coffee Liberika Tungkal Jambi expressed that
they have difficulty in marketing their GI products. Despite the production process requiring more effort, the results are not comparable to the results they received. Meanwhile, the Mekar Jaya Cooperative management stated that the cooperative finds difficulties due to the low demand, and incompatible with production. This could be a boomerang for GI rights if the government is reluctant to tackle with their functions and obligations according to the GI instructions. Things could be worst due to misuse IG brand that is also found in Jambi local market.

This means that farmers, cooperatives or partners and the government must carry out the management of GI rights together. Farmers cannot be left to work alone. Cooperatives as farmers’ partners in product marketing must continue to be developed. The government must provide sufficient instruments for this. Not just giving rights. But exercising that right is also an obligation in this context. Moreover, this right is a communal right, so the distribution of benefits must be calculated clearly. On the other hand, intellectual property rights are exclusively communal, there are rights to obtain economic benefits in various ways specified in laws and regulations. One of them with a license agreement for example. The license becomes a contract for the usufructuary. Contracts or agreements generally originate from an agreement (1233 BW) with the freedoms as stipulated in Article 1338 BW. The contractual principle is used as the basis for know-how protection before the contract is closed, the contract is running, and at the end of the contract. With the existence of a contract for the utilization of geographical indication rights, it can be seen that the balance between the parties involved is a form of legal protection. Legal protection in this case is that the government is obliged to provide a portion so that IP owners, whether individuals, groups or business entities, can take advantage of their rights and exploit them comfortably. So that it can present a good economic climate for the nation and the State. From the field study, it was found that there was a lack of evaluation of the management of IG Coffee

21 Interview with a coffee farmer in Mekar Jaya Village, Betara, West Tanjung Jabung Regency, Jambi Provinsi.
rights in Jambi. The form of the agreement that fulfills the communal profit-sharing principle has not yet been seen. Market access for Jambi coffee products with GI is still hampered. So that the future and its sustainability are very concerned.

D. Conclusions

From legal perspective, possessing the IG rights, coffee in Jambi has legal protection from the government. The legal protection can ensure and maintain the originality of the region and local wisdom, and increase its level to international trade in commodities. It is found in the research that the concept of connecting paradigm between among farmers, communities, government, and users is urgent to uplift the level of the coffee. In practice, such paradigm is not well implemented in in Jambi. Government functions like supervision and coaching as well as providing market access fail to meet the objectives of the coffee IG rights. As a consequence, farmers are not aware enough about their rights after the obtaining the coffee IG resulting in the failure to achieve global market which is the objective of having the IG rights. Political factor significantly plays significant role in the registration process of Jambi coffee with IG rights. Less political will from the government bring loss to export distribution channels, and consequently degrade the sustainability of local coffee with IG rights. The failure to exercise the function of stureen has evidently caused failure in the implementation of the utilization of GI rights to Jambi coffee. As a result, farmers do not enjoy fair benefits, yet they have been consistently maintained the characteristics of GI products. It is suggested that the government pay serious attention to opening export routes for Jambi coffee with GI rights. In addition, having commitment to rechtstaat (welfare state) ideals, the government is hoped to continue to accompany, evaluate and supervise the implementation of the sustainability of GI products, and make sure that the IG rights are beneficial for the farmer and the community, thus motivates in maintaining the future of coffee in Jambi.
References


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