

Legal Protection of Geographical Indication on Coffee in Jember, Indonesia

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ABSTRACT: The coffee commodity has a strategic role in the plantation sector and the economy in Indonesia. Coffee commodity as a geographical indication and spread in several districts. Geographical indications are intellectual property rights, one of based on natural factors. Coffee commodities in several regions have also experienced very rapid development, as happened in Jember Regency. The types of Jember coffee commodities include Robusta, Arabica, and Liberica. This diversity represents by the enthusiasm of the community to become farmers and coffee business actors. It indicates that coffee is one of the strategic commodities that can improve people's welfare. The protection of geographical indications must go through complex and difficult registration. It is a problem for farmers and coffee commodity business actors when there is an acknowledgment from other parties of the ownership of the coffee commodity. It is due to the absence of local government regulations and policies. This research uses normative legal research to find the truth scientifically, using a conceptual approach and legislation. The conceptual approach is used to provide a perspective and analysis of legal issues from legal concepts. At the same time, the statutory method is used to examine statutory regulations in which there are still shortcomings in their normalization. Strengthening coffee commodities through government policies is part of the concept offered by industrial and agribusiness law. This study aims to provide contributions and ideas for local governments to make policies and legal protection for coffee commodities to encourage the people's economy and welfare for coffee farmers.

KEYWORDS: Local Government, Geographical Indication, Coffee.

I. INTRODUCTION

Coffee is the most familiar drink found in any part of the world, including Indonesia is a country with coffee lovers and a massive producer of coffee commodities. The contribution of coffee commodities as a foreign exchange earner is also not in doubt. In facing global trade competition, it is necessary to protect this superior coffee commodity from the threat of claims from other parties by registering the coffee commodity in intellectual property rights. Today, intellectual property rights can also be interpreted as holders of rights to ownership of ideas that arise to produce works because they can think in science, technology, art, and so on that can benefit others. (Prasetyo Adhi et al., 2019) Its definition can be interpreted narrowly that the inventor/creator can enjoy intellectual property rights to enjoy intellectual creativity economically. (Yessiningrum & Risna, 2015) This economic profit right is obtained due to the use of the intellectual property by other parties based on a license. From that fact, we can say that intellectual property is one of the objects of trade. (Muhammad, 2001)

One of the scopes of intellectual property rights that attracts attention for coffee commodity producers in Indonesia is its geographical indication. Geographical indications are intellectual property rights, one of which comes from natural factors. (Effida, 2019) Coffee commodities in several regions in Indonesia have grown quite rapidly, which also applies in Jember Regency. There are many coffee commodities in Jember Regency, namely Robusta, Arabica, and Liberica coffee. The diversity that exists in Jember Regency is marked by the enthusiasm of the coffee farmers in Jember. It makes coffee a commodity that can improve people's welfare. The definition of Geographical Indication itself is a marker in which a name indicates the regional origin of the goods/commodities that exist due to geographic-environmental factors. These include natural elements, human factors, and a combination of natural and human factors that produce an item/commodity with pretty unique characteristics and have good quality and reputation resulting from these products. (Sanjaya, 2016) Geographical Indications are communal ownership of rights because, by their nature, they are collective subjective. Therefore, cannot transfer ownership of the

Geographical Indication intellectual property license cannot be transferred to another party.(Aridhayandi, 2018)

Geographical Indications provide legal protection for registered commodities. It would add to the reputation of these commodities, which can increase the economic value of these goods and increase people's income and increase the country's economy. (Prasetyo Adhi et al., 2019) The use of Geographical names can also guarantee consumers, not only as information on where the goods come from but also ensure that the goods are products of superior quality produced from the area.(Sasongko, 2012) This Geographical Indication Protection must be registered. It is a problem for local farmers and coffee commodity business actors when one day there will be a claim from another party for the ownership of the coffee commodity. It is due to the absence of regulations and policies of the Jember local government to protect the coffee commodity into a geographical indication intellectual property.

This research method uses normative legal research to find the truth scientifically, using a conceptual approach and legislation. The conceptual approach is used to provide a perspective and analysis of legal issues from legal concepts. At the same time, the statutory method is used to examine statutory regulations in which there are still shortcomings in their normalization. This study aims to provide contributions and ideas for local governments to make policies and legal protection for coffee commodities to encourage the people's economy and welfare for coffee farmers.

II. GEOGRAPHICAL INDICATION

Firstly, the origin of the protection of intellectual property rights was in Europe, which has an individualistic and capitalist culture. In its development, Indonesia, with its membership in the World Trade Organization, has ratified the Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement.(Rifai, 2017) By law, Indonesia has been bound by the protection of Intellectual Property Rights as stipulated in the TRIPs. The definition of Geographical Indication based on the TRIPs agreement is a sign that provides information on an area of the

country or region as the goods originate and have inherent characteristics and have a reputation and superior quality from the area which is strongly influenced by natural factors and human factors. Then the interests can be protected by law.(Jazuli, 2016)

Legal protection for Graphical Indications in Indonesia is crucial after issuing Law no. 20 of 2016 concerning Brands and Geographical Indications. The provisions contained in this law are explained explicitly in Article 53 to Article 73. This regulation is expected to increase the role of local communities and local governments to register their Geographical Indications to the DJKI. (Hariyani et al., 2018)

Geographical Indications get legal protection after being registered by the Ministry of Law and Human Rights. The application for Geographical Indications is applied by institutions representing the community and local government, which strive to ensure that natural and human factors influence the goods/products produced. However, the application for Geographical Indications cannot implement carelessly. Several factors make geographical indications unable to be registered, contrary to state ideology, applicable regulations, morality, religion, decency, and public order. If the goods/products are produced from deceiving or misleading the local community regarding quality, reputation, and characteristics, the origin of the process of goods and their use. There are similarities in names that have been used in PVP rights holders who use similar names but can be excluded if there are additional words that show Geographical Indications. As the reasons for rejection of the application for Geographical Indications, if the documents described in the Geographical Indications cannot be verified, the similarities in all geographical indications have been registered.

One factor to developing an item/product into a Geographical Indication is that the resulting product must have superior quality and a unique characteristic that is not owned by other regions and can compete with products from the different areas. Furthermore, the role of the producer organization must determine the boundaries of sites that can be used as Geographical Indication products to be registered and make a specification book that has been required for complete registration. Furthermore, what is

no less important is that the registered product has received official recognition where this recognition is regulated by law, namely related agencies, non-governmental organizations, research/research institutions, and institutions that have links with the local government.(Nugraha, 2020)

It is crucial for Geographical Indications applications alongside the law. There is a name to be submitted for Geographical registration, the item's name to be applied for, an explanation of the quality and characteristics that distinguish the object from having its uniqueness that is not the same as other items belonging to the same category of goods. The same and also explains the relationship with the area where the goods originate, an explanation of the geographical environment as well as the influencing factors, namely natural factors and human factors which are an inseparable unit and have an influence on the products produced which affect the characteristics and quality of the goods, an explanation of the boundaries of the area that becomes a geographical indication, explanation of the history and traditions that are related to the use of Geographical Indications to signify goods produced from the site and including claims from the surrounding community regarding the geographical indications, explanations of starting from the production process to processing and manufacturing processes from upstream to downstream on the products/goods used so that it is possible for every producer from the area to produce, process and manufacture these goods, an explanation of the method of testing goods to test the quality of the goods made from these products and no less important is the label used for the goods which contains information about the Geographical Indications of the goods.

Geographical Indications get legal protection since the product is registered with the DJKI. The validity of geographical indications is that they do not have a period or are not limited as long as the product's characteristics and quality are still present. The features and quality of the product have been written in the requirements book applied to DJKI, which influences geographical environment and factors such as the human factor. Ownership of Geographical Indications: the applicant and community groups and the local government are interested in maintaining the Rights of Geographical Indications.(Hariyani et al., 2018)

A. Geographical Indications Potential of Jember Coffee Commodities

Coffee commodity in Jember Regency has Geographical Indication Potential which has natural resource production in Arabica, Robusta and Liberica Coffee. Coffee beans produced from coffee plantations in Jember are managed by farmers, farmer groups, and forest village community institutions, some of whom manage land owned by Perhutani. From all regions in Jember, the most coffee commodity production is Robusta coffee. The Jember Regency area has a variety of coffee plant heights; therefore, there are various species of coffee in the Jember area.(Pratama et al., 2021) The taste of the coffee produced is determined by the provisions of the site's altitude and the place of processing which causes each region in Jember to have a different taste. However, for Liberica coffee, even though it is grown in other areas, it still has a very inherent characteristic, namely the smell of Jackfruit in each production.(Nugraha, 2020)

The influence of place of planting can make a difference in the taste of the coffee produced in each region. The factors of altitude, slope, depth of the soil, and climate also affect the taste of the coffee plant. Coffee plantations in Jember are very suitable because many areas of Jember include the slopes of the Argopuro Mountains, whose soil is very fertile and can be used to plant coffee commodities.

Applications for Geographical Indications are made by applicants who have the right to represent farmer groups or local institutions and can also be carried out by the local government by completing the requirements which have been regulated in the law, namely the name of the geographical indication requested can use the proposed name Together with the local farmer group with adding the name of the area can be a village, sub-district or district. In contrast, you can add the location of the planting area, such as Arabica Argopuro, Liberica Jember, Robusta Arjasa, which indicates that the product originated from the area. Furthermore, the name of the requested goods originating from nature which is related to the goods to be registered Geographical indications,

An explanation of the characteristics and quality gives a different picture of specific goods with the same category by explaining the area where the

goods are produced. Of course, the aspects of coffee grown in various regions have differences due to differences in soil, altitude, climate, temperature, solar radiation (Supriadi, 2017). Coffee commodities grown in several areas of Jember Regency have their characteristics, namely being planted above an altitude of 1000 meters above sea level, which causes the taste of the coffee produced from the Jember area to have a robust acidic character. (Nugraha, 2020) different from the coffee made from the Bondowoso district, which has a sweet and sour taste. (Suhartono et al., 2020) The flavor produced by farmer groups in the Jember area has different characteristics from other coffee-producing sites because both farmer groups manage the coffee made from Jember Regency and forest village community (LMDH) with appropriate care; geographical, environmental factors affect the taste of the coffee produced, and this is a different thing from coffee made in areas outside Jember.

The description of the geographical environment and natural and human factors significantly influences the characteristics and quality of the coffee produced. The slopes of Argopuro and some surrounding areas, where the slopes of Argopuro have an altitude of 1000-1500 meters above sea level with a temperature of 21-24 °C utilized to grow coffee. With a height of land used for plantations and a sufficient temperature. The cold makes the coffee is grown to be fertile, which is relatively high. The area also has a reasonably high rainfall, which causes the coffee plant's water needs to always be fulfilled. The intervention of human factors is also essential where farmers use natural farming systems without using additional chemicals. With routine monitoring and care, the coffee produced also has superior quality. (Nugraha, 2020)

Explanation regarding regional boundaries or regional maps covered by Geographical Indications, the applicant is more specific in explaining the borderline to be used by the application. Namely, to register with the borderline of the Jember district or use the borderline of sub-districts in Jember. For example, Sukorambi, Arjasa, Sidomulyo, etc. Suppose the registration of Geographical Indications uses the Jember area. The northern borderline is bordered by Bondowoso district, eastern borderline with Banyuwangi district, southern borderline with Lumajang district, and

western borderline with Probolinggo district. The determination of this borderline with the approval of the community and related agencies where coffee processing is usually done per sub-district.

The history and traditions related to geographical indications indicate goods produced from the area where coffee was grown. In Jember was initiated by the impact of the cultuurstelsel system carried out by the Dutch. The large family of Victor Clemens Boon rented plantation land in Jember in 1902. He got the rights in the Pace area of the Silo sub-district, which is better known to the public as the Wangkal Curah plantation. In 1934, coffee cultivation was carried out in the Jember Regency area, which PTPN carried out, and in 1939 it was expanded to the surrounding community to jointly grow coffee in their gardens and on the forerunner of the coffee planted by the community until now. (Izzah, 2015) Based on the history and some recognition about the potentiality of coffee located in Jember could be a geographical indicator because of strong sour taste rather than another coffee from a different city.

Furthermore, an explanation of the production process, processing process, and manufacturing process allow producers from the area to process and produce related goods. In the production of coffee plantations in Jember, the farmers sell to the treasurer of the farmer group, which is then carried out in the post-harvest processing. The processing of the coffee will be processed in various ways. Namely, the Full Wash processing process is carried out by separating the meat and skin of the coffee, which will be soaked in water repeatedly to remove the mucus in the coffee cherries, then the drying process is carried out. This Full Wash process produces coffee with a more acidic taste, and this technique is usually used for Arabica coffee. Then there is the Semi Wash Technique, where this technique is almost the same as Full Wash, but this technique in the water immersion process is enough to do once and will produce a powerful coffee aroma.

Furthermore, the method is no less interesting, namely the natural processing with this straightforward technique. The coffee that has been picked from the garden is directly dried 1 (one) meter above the ground surface, without going through stages such as Full Wash and Semi Wash.

After the coffee beans are dry, some are directly sold, and some are sold in powder by roasting the coffee first and then packaged in attractive packaging. Furthermore, the technique is no less interesting, namely the natural processing with this effortless technique. The coffee that has been picked from the garden is directly dried 1 (one) meter above the ground surface, without going through stages such as Full and Semi Wash. After the coffee beans are dry, some are directly sold, and some are sold in powder by roasting the coffee first and then packaged in attractive packaging.

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In the method test, the quality of the goods produced by the coffee commodity in Jember has carried out tests at the testing laboratory of LP PUSLITKOKA. Some have UtzKapeh and UTZ Certified certificates that have met international standards with high-quality coffee processing exported overseas.(Pertiwi, 2018)

The marker, more familiarly known as the label on the goods used in the application for Geographical Indications, which contains all information related to the goods being produced, comes from using captivating words or pictures showing the area. In the marketing of coffee commodities, of course, it is written where the coffee comes from, namely Jember Regency. As well as being affixed with a picture that symbolizes the place for coffee cultivation, you can use an image of Mount Argopuro. By fulfilling the requirements described in the conditions for Geographical Indications, it is feasible for Coffee Commodities in Jember Regency to register their coffee in Geographical Indications.

B. Efforts of Legal Protection for Jember Coffee Commodities

According to Philipus M.Hadjon, there are two types of legal protection: first, preventive legal protection. The public has the opportunity to apply for government decisions to obtain definitive or protective rights to avoid disputes. The second form of legal protection is repressive, namely legal protection, which has the objective of resolving a disagreement.(Phillipus, 1988)

Goods/Products that have the potential as Geographical Indications do not rule out the possibility of many things that will interfere or even threaten the occurrence of counterfeiting of goods/products because these goods have superior characteristics and quality from other goods. It can happen because a few people want to get personal benefits, which is detrimental to the owner of the goods/products and coffee commodities in Jember, which have superior quality and characteristics, namely having a strong sour taste. This characteristic can cause coffee commodities other than Jember, which taste not like coffee from Jember, to give the reputation of the coffee commodity and coffee products from Jember, even though the place of planting and processing coffee is not in the Jember area. Following the definition of geographical indication in Article 1 point 6 of Law No. 20 of 2016, concerning Marks and Geographical Indications, from now referred to as the Law on Marks and Geographical Indications, that geographical indication is a sign indicating the area of origin of an item and/or products that due to geographical-environmental factors including natural factors, human factors or a combination of these two factors give a particular reputation, quality and characteristics to the goods and/or products produced.

Legal protection for coffee commodity products located in Jember Regency has not yet fully received strong protection because it has not yet received a Geographical Indication certification from the DJKI. Suppose some parties buy coffee from the Jember area that gives a name to the coffee product with a name that has a related geographical indication, then the farmer groups. In that case, relevant government agencies cannot take legal action against the party who gives the other name. However, if the party buys coffee from the Jember area and when it is produced and packaged, the product changes the name of the coffee to another product that has no

connection with the name of the geographical indication of Jember, then legal action can be taken.(Ridla, 2019)

When some parties produce coffee outside Jember who commit fraud by using the name of coffee originating from Jember, this can be done repressively by filing a lawsuit to the Commercial Court.(Asyfiyah, 2015) Because this is tantamount to tarnishing the name of the coffee commodity product in Jember, which has a characteristic sour solid aroma that makes coffee products in Jember a superior coffee product. As a result of this action, it will undoubtedly mislead consumers that the coffee products they enjoy are not the same as coffee products from Jember.(Nugraha, 2020)

If the coffee commodity in Jember has been registered as a geographical indication, it will undoubtedly have a considerable impact on the community's economy and the region. With the geographical indication certificate, the goods produced have characteristics that cannot be found elsewhere. However, irresponsible parties can make this an opportunity to carry out counterfeiting actions to gain the Geographical Indication certificate holder's reputation. As a result, this is very detrimental to the cultivators and producers and the Geographical Indication certification right holder.

Geographical Indication certificate holders have firm legal certainty if other parties do not have good intentions to carry out a dispute in court. The certificate can be used as evidence that the Geographical Indication certificate holder holds that right.(Sembiring, 2018) To prevent the occurrence of greater losses caused by irresponsible parties, Geographical Indication certificate holders can also apply for compensation suffered and stop production and use and destroy goods used without rights. The threat of punishment for those who violate there are also criminal sanctions and fines that have been regulated in the Law on Marks and Geographical Indications, namely a maximum sentence of 4 (four) years and a maximum fine of IDR 2,000,000,000.00 (two billion rupiah).

III. ROLE OF LOCAL GOVERNMENTS

Local government policy becomes a preventive measure in protecting national assets, like coffee. It prevents claims and violations against intellectual property rights/geographical indications, even they must be obtained through the registration stage. The local government, in this case as a government official, has a central role in autonomy in protecting coffee commodities. Protection of geographical indications can provide benefits to rights holders and increase product value even more. Geographical Indications are also considered capable of improving the economy in the area of origin; geographical Indications are registered. The concept of Geographical Indications is some form of communal protection or, together with farmer groups, non-governmental organizations, and related government agencies, cooperating in the empowerment of Geographical Indications. Geographical Indications will protect the rights holders adopted by the Indonesian HKI system registering the first recognized rights holders. (Ganindha & Sukarmi, 2020)

Intellectual property rights' linkage with other aspects is within reach, namely technology, social, culture, industry, and other elements. The connection with the technological part is quite dominant in the development of IPR, and it is elementary to promote IPR products to the world. With this condition, legal protection for rights holders is increasingly paramount because it becomes a monopoly right that aims to protect them. (Ganindha & Sukarmi, 2020). The lack of maximum attention from the local government of Jember, which until now there is no coffee commodity in Jember as one of the geographical indications, causes a lack of understanding of the local community on this matter. People are more familiar with patents and trademark rights. Geographical Indications can be used as assets that provide welfare facilities for the community with appropriate and wise use. With adequate human resources (Munawaroh, 2019)

In an aim to increase the effectiveness and efficiency of the autonomous government, it is necessary to innovate by the regional government and add additional sources of financing that are enhanced from this creativity by

encouraging the potential that exists in the region to create a prosperous society.(Lukito, 2018) Local governments have strategic authority to carry out guidance and supervision in their areas.(Munawaroh, 2019) In the provisions of the law, geographical indications are, in principle, a sign that provides information on where the goods originate. The goods/products are influenced by the geographical environment, in which these factors are a mixture of natural elements and human factors. These two factors give birth to the characteristics, quality, and reputation of the goods that make these goods superior products.

Geographical Indications are not directly attached to areas with potential but must be registered first before getting complete legal protection. Farmer groups and non-governmental organizations can make applications for geographical indications. The district/city government can make this application, and it is the district government of Jember's rights. Thus, the Jember district government can position itself as an applicant for Geographical Indications. The government also has a crucial role in terms of guidance and supervision. This guidance, as referred to in the applicable provisions, is preparation before registration is carried out, application for registration of Geographical Indications, utilization and commercial use of geographical indications, socializing related to understanding the protection of Geographical Indications, mapping, and recording so that a good inventory of the potential of Geographical Indications is carried out, conducting training and assistance to farmers, monitoring, monitoring, evaluating and educating, assisting legal protection and facilitating the development, processing, and marketing of goods / Geographical Indication products.(Darwance et al., 2021)

The critical role of local Geographical Indications experts who have qualified competencies in their fields is beneficial in maintaining the quality, reputation, and quality of the goods produced as geographical indications, which are later marketed both within the region and outside the area exported abroad. This team of experts can monitor and evaluate future-sell products; of course, good supervision is needed, and later there is no need to worry about their authenticity again.(Nugraha, 2020)

IV. CONCLUSION

A geographical indication is a form of intellectual property. Jember Regency is a specialty coffee-producing area that has the potential to be registered in geographical indications. The limited knowledge of the community and the lack of protection for coffee commodities in Jember Regency have led to claims for coffee products from outside parties. The role of local governments in providing legal protection for the intellectual property rights of coffee commodities is to apply for registration of geographical indications and form regional regulations covering planning, area directives, empowerment of planters and business actors, and marketing and institutions. Strengthening coffee commodities through local government policies is part of the concept offered by industrial and agribusiness law, which provides legal protection.

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