

Legal Protection of Geographical Indications for Local Handicrafts in Tourism Activities in Indonesia

Muhammad Ferdian

The Aerospace Air Marshal Suryadarma University

Corresponding author. Email: muhammadferdian89@gmail.com

ABSTRACT

Indonesia is the country that has enormous potential for Intellectual Property (IP), especially those related to Geographical Indications. There are many Geographical Indication products found in Indonesia. One of them is local handicrafts that are still not registered. If this is allowed, it does not rule out the possibility that one day a dispute may occur with a unilateral claim by an irresponsible party. Geographical Indication provides legal certainty. Registration is the main requirement for legal protection. By the existence of legal protection for local handicrafts, it will increase the attractiveness of tourists to visit a tourism area that has distinctive features through the local handicrafts of the area. This research has a formulation of how to Protect Geographical Indications of local handicrafts in tourism activities in Indonesia. The method of this research is using the normative juridical method.

Keywords: *Geographical Indications, Local Crafts, Protection.*

1. INTRODUCTION

It is well known that Indonesia is geographically located between the continents of Asia and the continent of Australia, and between the Indian Ocean and the Pacific Ocean. Thus, the territory of Indonesia is in a cross position, which has an essential meaning in the climate and economic situation.

The territory of Indonesia is located in a strategic and advantageous position for several reasons as follows:

1. The location of Indonesia between the continents of Asia and the continent of Australia.
2. The location of Indonesia between the Pacific Ocean and the Indian Ocean.

Some of the advantages obtained based on the geographical location of Indonesia, among others, are as follows Indonesia, which is located between two continents and two oceans, allows it to become a crossroads of world traffic, both air and sea traffic. Indonesia is a point of intersection of world economic activities between industrialized countries and developing countries. For example, between Japan, Korea, and China with countries in Asia, Africa, and Europe.

Because of Indonesia's geographical location, Indonesia is also influenced by various cultures and world civilizations and is also influenced by monsoons.

October-April Around the wind blows from Asia to Australia, which brings a lot of water vapor from the Pacific Ocean, causing the rainy season. Around April-October, the wind blows from Australia to Asia, which brings a little water vapor from the Indian Ocean, causing the dry season.

The influence of the above seasons causes Indonesia to become a leading agrarian country. Agriculture in Indonesia is progressing rapidly and produces many materials such as rice, corn, vegetables, fruits, rubber, coffee, sugar, tobacco, and others which are very useful for the prosperity and survival of the Indonesian population and participating in international trade. The geographical location of Indonesia is as follows: Astronomically, it is located between 60 North Latitude – 11 0 South Latitude and 95 0 East Longitude – 1410 East Longitude. It is located between the Pacific Ocean and the Indian Ocean Located between the continents of Asia and the continents of Australia. Indonesia's potential for Intellectual Property is enormous, especially concerning Trademarks and Geographical Indications. Geographical Indication is one part of Intellectual Property. The regulation regarding Geographical Indications in Indonesia joins with trademark regulation, Law Number 20 of 2016 concerning Trademark and Geographical Indications and its implementing regulations through Government Regulation Number 21 of 2019 concerning Geographical Indications. Geographical Indications are protected as a sign

indicating the area of origin of an item. Geographical, environmental factors, including natural factors, human factors, or a combination of the two factors, give specific characteristics and qualities.

Geographical Indication is a sign of Indication or identity of an item originating from a particular place, area, or region, which indicates the existence of quality, reputation, and characteristics, including natural factors and human factors used as attributes in the goods. Geographical Indications include the name of the origin place and the origin of the goods. Agricultural products have qualities that stem from their local production and are explicitly influenced by local factors, such as climate and soil. Protection of Geographical Indications is not limited to agricultural products only. All products related to geographical factors, including natural and human factors, as the dominance of the formation of characteristics and quality, can be protected by Geographical Indications.

In contrast to other aspects of intellectual property, such as the naming of a product, it is accompanied by a logo and specific writing. In Geographical Indications, some products reflect the results of an area by adding the region's name to the resulting product, which is helpful as a differentiator between similar products or objects produced by other regions.² Indonesia is a country that is rich in natural resources, so it has a wide range of potential products for Geographical Indications.

Currently, many local crafts have not been registered as Geographical Indications at the Director-General of IP. The government must take the initiative to see local crafts as a product of Geographical Indications at the Director-General of IP. This effort is made in order to obtain legal protection. In Indonesia, every product potential as a Geographical Indication product must be registered first before obtaining legal protection. Thus, legal certainty is guaranteed, and it is easy to prove if there is a dispute related to the Geographical Indication product one day. They were considering that concerning tourism transactions, and it is urgently needed to protect business actors against geographically indicated intellectual property rights products so that a countermeasure to prevent intellectual property rights disputes in Indonesia. The ultimate goal is legal protection in supporting systemic tourism in Indonesia.

Therefore, it is necessary to make efforts so that local handicrafts obtain legal protection through Geographical Indications, considering the development of tourism in Indonesia is relatively developed, which is increasingly open to providing guarantees for producers and consumers.

Based on the description of the background above, the formulation of the problem can be formulated, that is, how is the protection of Geographical Indications for local crafts in tourism activities in Indonesia?

2. METHOD

This study belongs to normative law research whose character is with the character of Law; normative research is a hallmark of Law. Thus, the researcher used descriptive content analysis to analyze the Law on Intellectual Property in Indonesia to examine the notion of its existence within national and international. Legal material and related literature to national and international Intellectual Property law were used as accurate guidance in obtaining the object of the study. This research aims to find research results in the form of protection of Geographical Indications for local crafts in tourism activities in Indonesia.

3. RESULT AND DISCUSSION

3.1 Regional Local Craft

Crafts are hobbies or occupations that require specific abilities and knowledge to create works skillfully. People who work in this field are called craftsman. The term of craft is often used to describe practices within the decorative arts group that are traditionally related to products that have a function (such as the form of sculpture in the jar-making tradition) or also related to the use of natural materials, such as wood, clay, ceramics, glass, cloth, and metal.

Local crafts are ideas and types of traditional culture that exist in the community. Where traditional culture objects or products can be a source of inspiration to be developed into handicraft products, all regions in Indonesia can develop local handicrafts with the inspiration of their respective traditional cultures. From a different point of view, Indonesia has a large area with a rich culture and traditional customs that vary in each region. The traditions or culture of each region are summarized in beliefs, activities, and objects that support each other in carrying out the traditions and culture in each region. Each object related to each region's history, beliefs, and traditions will bring up the characteristics of the markers for each region so that each group of indigenous peoples in each region has differences from one another. Some examples of handicrafts taken from local culture can be miniature building objects, accessories, or handicraft products with various functions.

3.2 Legal Protection of Geographical Indications

In order to obtain the protection of Geographical Indications, an application must be submitted to the Minister. The applicant in this Law is an institution that represents the community in a specific geographical area that operates an item and/or product. Then the products that can be applied for include natural resources, handicrafts, and industrial products.

The period of protection and elimination of Geographical Indications is as long as the reputation, quality, and characteristics that are the basis for protecting for Geographical Indications are maintained. Geographical Indications may be deleted if the reputation, quality, and Characteristics on which the protection is based have not complied.

This case becomes important in realizing quality standards to protect consumers from obtaining goods that are under quality and following the history and value of their cultural existence.

In-Law Number 20 of 2016 concerning Trademark and Geographical Indications also stipulate that the one who carries out the guidance and supervision of Geographical Indications is the central government and/or regional governments by their respective authorities.

The coaching referred to includes:

1. Preparation for the fulfillment of the requirements of the Application for geographical indications;
2. Application for registration of geographical indications;
3. Utilization and commercialization of geographical indications;
4. Socialization and understanding of the protection of geographical indications;
5. Mapping and inventory of potential geographic indication products;
6. Training and mentoring;
7. Monitoring, evaluation, and coaching;
8. Legal protection; and
9. Facilitate the development, processing, and marketing of goods and/or geographically indicated products.

Some of these steps are not easy. Strategic steps are needed, from all parties' legal awareness to administrative procedures to the synergy between various interested parties, including the community, business actors, consumers, or the government.

3.3 Protection of geographical indication products in the region

The potential for geographical indications in areas where Indonesia's geographical condition has a tropical climate causes Indonesia to have a diversity of natural products and is an advantage and Indonesia's national identity. Many regional specialties are scattered in various parts of Indonesia, but, unfortunately, the diversity of these products has not been inventoried and appropriately managed.

This regional specialty product is an excellent regional potential to be developed because this product will not be obtained in other areas where the product is located. The government is expected to play a role in managing these products to obtain economic value of these products. Local governments can encourage

regional specialties to be registered as geographical indications because geographical indications can protect various natural products, food, handicrafts, and various products produced from indigenous knowledge containing the peculiarities of an area. By Examining the perspective of interests of the local community barely realizes the importance of indicating the need for awareness by the local government, which is close to people's lives and how the life of the local community is; it is also essential to know what are the characteristics or advantages of the culture or traditions of local communities in their area. Indirectly, local governments can help provide legal awareness to local communities on their characteristics or advantages that can distinguish them from other regions so that the distinguishing characteristics of the local community can provide income for the region for the welfare of the local community. Of course, this is an added value that can become an identity for local communities or specific areas and, more broadly, become an identity for the Indonesian nation.

3.4 Benefits of Geographical Indications in Indonesian Tourism Activities

Protection of geographical indications has various benefits, both for producers and consumers. For producers, the benefits of having geographical indications from an economic point of view include:

1. Prevent the transfer of ownership of the rights to use the uniqueness of the product from the local community to other parties. There will be a very high risk if a product that is not naturally a product of the local community in question. Because the quality and value contained in it are not necessarily achieved as a standard of the product.
2. Maximizing the added value of the product for the local community. Products that have so far been designated as products to support the culture and traditional activities of the local community, without reducing the meaning, are then increased in value to the economy so that the community can earn additional income by allocating the product for the benefit of souvenirs in tourism activities.
3. Protects from product counterfeiting. The possibility of counterfeiting or imitation of products of interest in the tourism sector is very high because a product or goods with economic value will be directly proportional to the possibility of committing acts against the Law on the following products. The higher value of a product, the higher the possibility of people committing acts against the Law on the product or object.
4. Increasing marketing of distinctive products. This point is related to point no. 2 above in local community-specific products with economic value to be traded in the tourism sector. It is necessary to increase the income of local communities with the help of several parties who have a synergistic

relationship with sellers of local specialty products to promote sales, which will increase the income of local communities.

5. Increase the provision of employment. This point is related to the previous point, which is related to the economy and people's incomes, increasing economic transactions for unique regional products. From the employment perspective, local communities have more significant potential in obtaining employment. The subsequent implication is reducing unemployment in areas whose distinctive feature or regional identity is the product.
6. Supporting the development of agro-tourism. Agrotourism is intended as a form of tourism. Moreover, the main tourism object is agriculture, so it can be said that agrotourism utilizes agricultural objects. Agrotourism is also a tourism activity integrated with the whole agricultural system and uses agricultural objects as tourism objects, as agricultural technology, and as agricultural commodities. This point means that the development of a more visionary Indonesia, which is historically an agrarian country, means that several regions in Indonesia have a history in agriculture or agriculture. Creative development to explore and develop the potential of local communities, then agrarian history becomes a field with great potential. This is because agriculture absorbs labor, produces results, and processing it becomes a character or identity for the local community.
7. Ensure business continuity. This point is very close to the explanation in the previous points regarding the tourism business.
8. Strengthen the regional economy. The regional economy, of course, has a very strategic position in the legal protection of geographical indication products because an increase in people's income will affect increasing regional income.
9. Accelerate regional development. The increase in regional income, which is supported, among other things, by legal protection of regional specialties in geographical indications, will, of course, accelerate the journey of regional development plans.
10. Improve community welfare. This section is the final goal of the legal protection of geographical indications in particular and regional development and national development in general. As contained in the 5th Precept of the Pancasila, namely "Social justice for all Indonesian people," there is nothing but welfare for the entire community.

From the legal perspective, the benefits of geographical indications include:

1. Provide legal protection and certainty for producers and consumers.
2. Provide quality assurance based on Law by consumer expectations of geographically indicated products.
3. Provide legal guarantees for consumers if the product does not meet the expected standards.

Judging from those points cannot be denied that the urgency of legal protection for geographical indications for local community products is very high. Considering some of the benefits mentioned above, it is hoped that it will lead to the community's welfare, which is supported by geographical indication products.

4. CONCLUSION

Protection of geographical indications in Indonesia can be seen with Law Number 20 of 2016 concerning Trademarks and Geographical Indications. The essence of all the provisions in this Law is to protect local handicraft products with distinctive characteristics that are not owned by other regions. The protection of geographical indications is not only protecting the product but also guarantees for consumers. However, in its implementation, there are still some weaknesses. The role of each party, both central and regional, has not been explicitly stated in the guidance and supervision of geographical indications. This ambiguity has resulted in many barriers to pre-registration and post-registration of geographical indications in the regions.

Along with the progress of the tourism industry, which can be relied on as an opening for business, employment, and as a source of state income, even further, the creative industry and tourism industry are national assets that are always renewable in line with the changes and progress of human civilization. Therefore, it is necessary to get protection by registering intellectual property, primarily related to geographical indications.

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