






Legal Protection of the Geographical Indication of Nutmeg as a Leading Commodity in South Aceh Regency

Dara Quthni Effida¹, Eza Aulia¹, Jefrie Maulana¹

¹ Universitas Teuku Umar, Aceh, Indonesia
jefriemaulana@utu.ac.id

Abstract. Nutmeg is one of the leading commodities in South Aceh Regency in the field of agriculture, where there is a land area of 25,512 hectares with a production volume reaching 6,688 tons of dried nutmeg seeds per year. However, despite its significant potential, nutmeg is not yet considered as one of the protected intellectual properties based on geographical indications. The problems in this research is how the legal protection efforts of nutmeg geographical indications of South Aceh Regency and what are the obstacles to the legal protection efforts against the potential Geographical Indications of nutmeg. The method used in this study is a juridical-empirical approach with a qualitative analysis aimed at determining the legal protection efforts and constraints regarding the potential geographical indication of nutmeg as a prominent commodity in South Aceh Regency. The research findings indicate the lack of concrete efforts from the local government to provide legal protection for the potential geographical indication of nutmeg. The challenges faced include suboptimal coordination among relevant departments, the absence of support from the local government towards the community's protection of geographical indications as a requirement for proposing geographical indications, and the weak internal coordination among the community in their efforts to seek legal protection for the geographical indication of nutmeg.

Keywords: Legal Protection, Geographical Indications, Nutmeg.

1. Introduction

Indonesia is a country known for the production of spices, and one of the leading commodities of spices from Indonesia is nutmeg (*Myristica fragrans* Houtt). Nutmeg is a leading commodity in the agricultural sector because it has a promising market value and its demand value is quite high in the international market.[1] Nutmeg plants developed to North Sulawesi, Lampung, to Aceh Province.[2] The area of Aceh Province that produces nutmeg as a leading commodity is South Aceh Regency. As one of the regencies located on the southwest coast of Aceh Province with Tapaktuan as its capital. South Aceh Regency has economic resources that are very potential but have not been optimally utilized, especially in agriculture, South Aceh Regency is the center of nutmeg production in Aceh Province.[3]

Data from the Aceh Agriculture and Plantation Office in 2021 showed that the area of nutmeg in South Aceh Regency reached 25,512 ha with a production of 6,688

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tonnes of dried nutmeg seeds. Dried nutmeg seeds and mace can be processed into nutmeg oil; the fruit can also be processed into various food products such as candied nutmeg, fruit juice, instant drinks, jam, pickles, dodol, cider/wine, vinegar and jelly. Nutmeg production has the potential to build a local, value-added economy in South Aceh. The development of nutmeg plants in Aceh needs special attention considering Aceh nutmeg as one of the leading commodities.[4] South Aceh Regency as one of the largest producing areas of nutmeg plants that have made nutmeg as a regional characteristic needs to establish nutmeg plants as intellectual property in the field of geographical indications originating from South Aceh Regency.

Geographical Indication is a sign indicating the region of origin of a good and/or product which due to geographical environmental factors including natural factors, human factors or a combination of both factors gives a certain reputation, quality, and characteristics to the goods and/or products produced.[5] Therefore, efforts to establish certain quality, reputation or characteristics as well as the establishment of nutmeg plants as intellectual property in order to obtain legal protection for the potential of Geographical Indications need to be done.

The emphasis of the legal protection of geographical indications is that parties who do not have the rights cannot use geographical indications if such use tends to give false information to the public as consumers about the region of origin of the product.[6] Geographical Indications are a constitutional right of citizens to intellectual property rights and traditional cultural expressions, which are fundamental in terms of establishing rights owned by the community and protecting culture, promoting identity, economic and socio-cultural.[7]

The results of a search of a number of references found that there have been many previous studies both in the form of scientific theses, dissertations or journals that describe in general related to geographical indications of an agricultural commodity in the perspective of intellectual property rights, but so far there has been no research related to the legal protection of nutmeg commodities as geographical indications owned by South Aceh Regency.

The results of the initial observations made, proved that the nutmeg commodity of South Aceh District is mapped as a superior potential, but there has not been any form of legal effort to protect the nutmeg commodity as a geographical indication registered as intellectual property rights owned by the community and the Government of South Aceh Regency.

Based on the description above, a study is needed that examines the legal protection of nutmeg geographical indications as a superior commodity of South Aceh Regency. The purpose of this research is to find out and explain the efforts of Legal Protection of the potential Geographical Indication of Nutmeg as a superior commodity and to find out and explain the obstacles faced in legal protection of the potential geographical indication of nutmeg as a superior commodity. The usefulness of this research is directed to academic interests for further research by making it a reference. For practical purposes, this research is intended as input to the local government of South Aceh Regency in seeking legal protection of the superior

commodity of Nutmeg as intellectual property owned by the South Aceh Regency based on geographical indications, so that the government can formulate policies as a preventive measure to avoid potential intellectual property disputes over the South Aceh Nutmeg commodity in the future.

2. Problems

The problems in this study are:

- a. What is the effort of legal protection against the potential of the GI of nutmeg as a superior product?
- b. What are the obstacles to the legal protection of the potential of the geographical indication of nutmeg as a superior product?

3. Method

This research is a qualitative research by applying descriptive analysis method and empirical juridical approach.[8] The research stages are carried out in several stages, namely, first, researchers find legal gaps and analyze them so as to formulate research problems, theories used, methodology selection, and design data collection instruments. Second, field data collection through interviews, field observations, observations and literature studies. Third, data reduction to sort out the data used in the research. Fourth, the reduced data is then analyzed. Fifth, data analysis of research results and validation. Sixth, discussion and conclusion.

This study uses primary and secondary data collection methods. Primary sources were collected using in-depth interviews and Focus Group Discussions (FGDs).[9] This study will conduct in-depth interviews with nutmeg farmers, the nutmeg community, and the Head of the South Aceh Agriculture Office. This study will also conduct a Focus Group Discussion aimed at obtaining an overview of the perspectives of the community and the government on potential legal issues arising from the lack of legal protection and the urgency of legal protection for the Geographical Indication of Nutmeg as the leading commodity of South Aceh Regency.[9] This study will conduct in-depth interviews with nutmeg farmers, the nutmeg community, and the Head of the South Aceh Agriculture Office. This study will also conduct a Focus Group Discussion aimed at obtaining an overview of the perspectives of the community and the government on potential legal issues arising from the lack of legal protection and the urgency of legal protection for the Geographical Indication of Nutmeg as the leading commodity of South Aceh Regency.

Secondary data collection (secondary sources) is carried out through the search for written materials such as laws and regulations related to the issues studied, articles in journals, books, magazines, bulletins, newspapers / newspapers and other unpublished written materials will also be part of the analysis of this research.[10] Furthermore, all data collected will be tabulated and analyzed qualitatively.[11]

4. Discussion

4.1. Legal Protection of the Potential Geographical Indication of Nutmeg as a Leading Commodity

Geographical indication is a form of legal protection by law in Indonesia for a product either derived from natural resources or local culture that is influenced by several factors. The legal protection of geographical indications is based on the concept of social ownership.[12] By referring to the idea of joint ownership in the community, it will add value to the commercialization of products managed by local farmers for the common welfare. The existence of geographical indication products will improve the economy of the region.[13] In addition, legal protection through geographical indications provides legal clarity on the relationship between the goods with the producer as the owner.[14]

Based on observations in the field, it is known that the potential of Nutmeg plants in South Aceh Regency has not received adequate legal protection, giving rise to great potential for the utilization of reputation by certain parties in the business sector concerned. However, the utilization by parties who are not holders of geographical indication rights to the reputation certainly does not provide the benefits that should be to the community.[6] With the existence of geographical indications for superior products in the South Aceh region, namely Nutmeg, it can provide a feasible legal solution for the management and utilization of Nutmeg commodities in South Aceh Regency so that this potential can provide maximum benefits for the community, government and to development the region. Where it is also known in the concept of regional autonomy, the development of autonomy should be based on the potential owned by the region to be maximally developed.[15]

The need for legal protection of nutmeg products in South Aceh Regency through geographical indication instruments in order to maintain the identity of the original product which is a superior commodity. With this legal protection, it can be ensured that the quality of South Aceh Nutmeg which becomes a reputation of the processed products of South Aceh Nutmeg can only be utilized by legitimate rights holders, namely the South Aceh Nutmeg geographical indication protection community group or the local government.[16] Thus, all forms of product counterfeiting and other fraudulent acts against the reputation of products from the region can be avoided.

The protection of geographical indications of nutmeg products in South Aceh Regency can provide maximum economic benefits to community groups as local farmers who do business in the field of nutmeg agriculture.[17] which in turn will also have an impact on the income and regional development of South Aceh Regency. Legal protection of South Aceh Nutmeg products in terms of origin, will have an impact where local producers gain an advantage in setting the selling price and the ability to expand the market based on the image and reputation of the Nutmeg product. In general, this will certainly have an impact on creating employment opportunities and encourage regional economic growth.[13]

Nutmeg products, which are commodities of South Aceh Regency are developed based on handling that is closely related to local culture and traditions in a sustainable manner as a form of regional uniqueness of South Aceh Regency. The legal protection of the geographical indication of South Aceh Nutmeg is also a legal instrument in preserving cultural heritage and traditional knowledge in terms of production and processing of nutmeg products. In addition, it will encourage sustainable agricultural and manufacturing patterns that are environmentally friendly, which leads to the sustainability of environmental sustainability in the region.

Improving the quality and safety of products that have legal protection of geographical indications will create regulations with a high supervisory system in controlling production in terms of raw materials, processing methods and marketing mechanisms. These conditions will guarantee the quality and safety of the product, so that it will form high consumer confidence in products that have been protected by geographical indications. Through this legal protection, consumers will know that the products they buy or consume have met the standards and quality set.

Geographical indication protection creates protection for local products from similar products that try to capitalize on the popularity and reputation of the protected product. This has the beneficial impact of maintaining a competitive advantage for local producers in the global market. This in turn improves the image and attractiveness of South Aceh Nutmeg products in the international market.

Based on the description above, the legal protection of geographical indications of South Aceh Nutmeg is an urgent need to be followed up both by community groups, local farmers, and the government to be registered immediately. [18] Appropriate legal protection of Nutmeg which is a regional specialty refers to the protection of geographical indications, where the protection of geographical indications contains the concept of social ownership that can provide more benefits from various scopes both to the community, local farmers, and local governments.

4.2. Legal Protection Efforts for Potential Geographical Indications of Nutmeg in South Aceh Regency

Legal protection of the potential of Geographical Indications (GIs) is an important step to protect the economic and cultural value of products originating from a particular geographical area. Geographical indication (GIs) refers to a mark used to identify products originating from a particular place, which has a reputation, characteristics, or qualities derived from the geographical environment or human factors of the region. Legal protection of geographical indications aims to prevent counterfeiting, misuse, or illegal use of products with names or characteristics associated with certain regions by other unauthorized parties.

Legal protection efforts in the early stages of the potential of Geographical Indications begins with registering geographical indications. The government or relevant agencies can develop an official registration mechanism for GIs. This registration legally recognizes that the product originates from a particular region and meets defined criteria. This registration grants exclusive rights to producers in the

region to use the GI.[19] Many countries have intellectual property laws that protect geographical indications, such as geographical trademarks and copyrights for products with regional characteristics. Registration of products with Geographical Indication labels at an authorized government agency (such as an intellectual property rights office) steps in providing legal protection. This registration procedure ensures that only products that meet certain geographical and quality criteria can use the Geographical Indication label.

The next effort is to implement the law on the protection of geographical indications. Implement a law that specifically regulates the legal protection of GIs. This law could provide clear definitions, criteria and more detailed protection mechanisms. In addition, such a law could provide for registration, protection, associated rights, enforcement and sanctions related to violations of GIs. Some countries have laws that specifically provide for the protection of geographical indications. Countries may adopt international agreements that regulated the protection of GIs across borders. One example is the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement of the World Trade Organization (WTO), which provides a framework for the protection of intellectual property rights, including geographical indications, at the global to international level.

The next steps are certification, quality standards and labeling. GIs can be protected through intellectual property laws, such as trademarks or special geographical protection. Geographical certification and labeling, such as AOC (Appellation d'Origine Contrôlée) in France, is another way to identify and protect GI products. This type of certification helps consumers identify products that truly come from a particular region. It prevents others from using the geographical name without permission, thus protecting the reputation and quality of these products. Establishing a body or institution responsible for monitoring and certifying GI products can ensure that GI products meet established standards of quality and characteristics. This system may be overseen by government or independent bodies.

Efforts to protect GIs must be supported by law enforcement and sanctions. Establish clear legal provisions on sanctions for violations of the GI. Sanctions can be in the form of fines, suspension of production, or lawsuits against those who misuse the GI and other legal actions. The legal protection of geographical indications must be accompanied by effective sanctions against infringements. In the legal aspect, the development of alternative dispute resolution mechanisms that are quick and effective in cases of infringement of GIs will also improve the quality of legal protection of geographical indications.

In addition to law enforcement, educational efforts to raise public awareness are needed. Educate the public, especially local producers, about the importance of GI protection and its positive impact on the local economy and culture. Raising public awareness of the importance of geographical indications and indigenous products can help protect these products from counterfeiting and misuse. Raising awareness among producers, consumers and the general public about the importance of GI protection can help strengthen legal protection.

Legal protection of geographical indications is done in line with local economic development through cooperation between government and stakeholders. Encourage cooperation between government, producers and civil society to ensure effective implementation of GI protection. Government and relevant agencies can work with local producers to develop the economic and social potential of a region associated with GI products. Forms of cooperation include promotion, training and technical assistance. This can help local producers to develop branding and markets, and GI products can be better recognized and demanded by consumers.

In addition, research and documentation of a GI product by the government, stakeholders and academics will strengthen the legal protection of GIs. By collecting data and information that supports GI claims, such as history, unique characteristics of the region, and the relationship between the product and the region. So that it can be used as evidence in law enforcement cases.

It is important to note that the legal protection of GI potential may vary from country to country, depending on the existing legal framework and the specific challenges faced. The legal protection of GI potential plays an important role in preserving the cultural and economic identity of a region, while at the same time protecting consumers who are entitled to products with the expected quality and characteristics. The legal protection of GIs aims to ensure that products of high cultural and economic value of a region can be protected and preserved, while providing incentives for producers to maintain the quality and characteristics of their products.

Based on Interview Results with Ruhdi, Plant Seed Supervisor Junior Expert at the South Aceh District Agriculture Office, Efforts to protect GI of nutmeg in South Aceh Regency are still at the stage of guidance and monitoring by farmer groups in cultivation, disease and pest control on an ongoing basis. From the aspect of legal protection of geographical indications, the government of South Aceh Regency has tried, but not yet optimal. The steps that have been taken are still at the stage of preparation for the formation of a Protected Geographical Indication Community.

The geographical indication area of nutmeg in South Aceh covers 2 (two) local government areas, namely South Aceh District and Southwest Aceh District. Therefore, the cooperation between the local government and the community is needed in order to protect the legal geographical indication of nutmeg in South Aceh. Therefore, the formation of a geographical indication protection society must consist of elements of the community in the two districts, considering that the holders of geographical indications are also the two regions.

4.3. Constraints on Legal Protection of Potential Geographical Indications of Nutmeg in South Aceh Regency

Obstacles to the legal protection of geographical indications (GI) in Indonesia are generally caused by a lack of public awareness. Most people in Indonesia have not realized the potential of geographical indications owned by their region. [20] This

complicates the process of identifying a product to be registered as required in the provisions on the registration of geographical indications.

The lack of attention of the government concerned in providing guidance in terms of legal protection of a product that has the potential for geographical indications. [21] The guidance and supervision of the local government is only based on the development and preservation of products that have the potential for geographical indications, but does not touch on increasing economic value. The lack of support and active role of the government can hinder the legal protection of geographical indications. For a product that is located across local governments or in more than one regency/city, it has its own challenges, such as harmonizing perceptions between regency/city governments.

The geographical indication of nutmeg in South Aceh covers two districts, namely South Aceh District and Southwest Aceh District. Initially, the two regions were one local government area, namely South Aceh District, which also included Aceh Singkil District. However, on April 10, 2002 it was officially divided into three districts by Law No. 4 of 2002, namely Southwest Aceh Regency, Aceh Singkil Regency and South Aceh Regency. In the process of registering the geographical indication of South Aceh Nutmeg, there was an obstacle where the Regent of South Aceh and the Regent of Southwest Aceh did not agree on the naming of the geographical indication under the name of Geographical Indication of Nutmeg Tapak Tuan-Southwest Aceh according to Interview with Irmawadi, Geuchik Kampung Hilir, Nutmeg Farmers Union, Member of Aceh Nutmeg Forum and MPIG Nutmeg South Aceh. This resulted in the lack of support from the two district governments towards the Society for the Protection of Geographical Indications (MPIG). The excess of these conditions became an obstacle for MPIG in the registration of IG Nutmeg Aceh Selatan due to the non-fulfillment of administrative requirements.

Interview with the Head of MPIG PALA South Aceh, Mustafiril, Lack of resources is also an obstacle to the registration of the South Aceh Nutmeg IG. In terms of the formation of MPIG, it costs money to gather community groups covering two districts. In addition, the costs required for laboratory testing of IG products of South Aceh Nutmeg are not able to be fulfilled by MPIG. Laboratory test results are included in the IG document at the time of registration to determine the characteristics and advantages of South Aceh Nutmeg as an IG product, which is also a differentiating indicator from IG Nutmeg products in other regions based on interview with Bakri, Member of Air Pindang Village Farmer Group and MPIG. Thus MPIG South Aceh Nutmeg lacks resources, including experts and funding, to identify and register IG products properly.

The next obstacle to the registration of IG Pala Aceh Selatan is communication, both between the two districts mentioned above, between MPIG and the relevant government, and between fellow MPIG Pala Aceh Selatan administrators. The registration process of IG Nutmeg South Aceh is unilaterally pursued without the involvement of other members. This is evidenced by the fact that the process of applying for the registration of IG Nutmeg South Aceh is done by only one person

based on the results of interviews with employees of the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia, Idris. This condition is of course not in accordance with the concept of legal protection of GI, which involves elements of the local government and MPIG from various communities of South Aceh Nutmeg.

To overcome these obstacles, efforts are needed to raise awareness of the potential of GIs, encourage government support for GI development, simplify the registration process, and provide resources to assist in the identification and registration of GI products. By overcoming these barriers, it is hoped that efforts to protect GIs in Indonesia can be more effective and bring greater benefits to producers and local communities.

5. Conclusion

Legal protection for the Potential Geographical Indication of Nutmeg in South Aceh Regency can not yet be carried out, because legal protection arises from the registration of geographical indications, while nutmeg in South Aceh Regency has not been registered as a geographical indication. The efforts made by the people of South Aceh towards nutmeg are only limited to training and supervision of nutmeg cultivation, and have not led to geographical indications. The obstacles faced in the legal protection of geographical indications of South Aceh Nutmeg are caused by the lack of awareness of the importance of the protection of geographical indications, the lack of guidance on efforts to register geographical indications, the lack of good communication between districts that are the area of origin and development of South Aceh Nutmeg, and the cost of preparing both formal and material requirements that require costs that cannot be accommodated by the protection community of geographical indications of South Aceh Nutmeg. The next obstacle is the lack of participation of the local government, stakeholders and members of the GI community in the registration process of South Aceh Nutmeg.

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