

Mapping of the Potential of Geographical Products as Intellectual Property Rights in Bangka Belitung Islands

Darwance Darwance¹, Rafiqa Sari², Tiara Ramadhani³
Universitas Bangka Belitung

e-mail: darwance@yahoo.co.id

Abstract. Geographical indications in Indonesia start to work well, marked by almost every year there is an increase in geographic indication registrations. There are about 92 geographic indications registered at the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights. However, when we refer to Muntok White Pepper which is the only registered geographical indication from Bangka Belitung Islands, questions arise related to guidance in the form of mapping the potential products of geographic indication, especially those carried out by local governments in Bangka Belitung Islands. This is juridical empirical research which analyzes and examines the work of law in the midst of society, especially the role of local government in the process of implementing legal rules. From the results of the research, each local government in Bangka Belitung Islands in general has been done it both regional government and city government, but it has not done optimally and seriously. It is caused by the mapping which has not touched the potential product if geographical indication directly, conducting by many agencies, the problem of main task and function which specifically does not take care of intellectual property, added by the lack of competent human resources in the field of intellectual property in legal department of regency/city government.

Keywords: mapping, geographical indications, intellectual property rights

1 Introduction

In general, intellectual property relates to the protection of ideas and information application that have commercial value.¹ The definition of intellectual property in general contains more descriptions of the types of intellectual property, such as copyrights, patents, trademarks, industrial designs, integrated circuit layout designs, trade secrets and new varieties of plants.² The meaning of intellectual property in the form of definition in sentence formulation of relational form is difficult to find, including by the experts in a number of literacy. It is due to the difficulty in providing a single definition of intellectual property. Otherwise, intellectual property will be easier to be explained with direct examples which is existing in daily life, for example copyrights is song, patent is a tool found in technology, and so on.

Intellectual property develops fast and dynamic, including protected objects and derivations of intellectual property itself. At first, intellectual property is only a trademark, copyright, and patent, then it increased one by one including geographical indication. The benefits of geographical indication are to give legal protection on every product and goods commodity, and also as marketing strategy for goods or product of geographical indication in trading, either domestically or abroad.³ The protection of geographical indication is also needed internationally because it gives some benefits, they are it can be used as a strategy of marketing product in domestically or abroad trading, it will increase the reputation of geographical indication product in international trading, it gives equal treatment as a result of promotion from abroad, and it is as a tool to avoid unfair competition.⁴

Geographical indication protection is based on the fact that goods and/or products are born due to a combination of natural factors and human ability to be creative. One of the considerations for providing geographical indication protection is because of the economic value attached to the product or goods. Therefore, the use of geographical indication label or sign is to represent the quality of the products or goods produced by a particular geographic area.⁵ It must be admitted that currently the protection of geographical indication is still has an issue of if it is appropriate to include it as a type of IPR branch. Besides that, a number of countries in their regulation have made geographical indications as one of the objects of intellectual property protection, including Indonesia which is rich of potential geographical indication.

As an archipelago state, Indonesia is rich of traditional knowledge, tradition, and culture. Geographical indications as one of the potentials possessed by Indonesia that should be protected and used optimally.⁶ Moreover, Indonesia's tropical climate causes this country has diversity of natural products which is not only as the excellence but also Indonesian national identity. In other words, there are many typical products scattered in various regions, but they have not been inventoried and managed properly.⁷ It closely related to the mapping carried out.

Geographical indication in Indonesia starts to grow well, marked by almost every year there is an increase in registration of geographical indications at the Directorate General of Intellectual Property Rights, the Ministry of Law and Human Rights of the Republic of Indonesia.⁸ But, when it is viewed from the potential wealth of geographical indication products owned by Indonesia, only a few are legally registered.⁹ Until now, there is about 92 geographical indications registered in the Directorate General of Intellectual Property Rights, the Ministry of Law and Human Rights of the Republic of Indonesia, one of them is Muntok White Pepper registered by Pepper Management, Development and Marketing Agency (BP3L) of Bangka Belitung Province with ID of G 000000004 on 28 April 2010. The increasing number of geographical indications registered in Indonesia indicates that the level of public awareness to protect geographical indications is also rising. In other side, with huge potential, this amount indicates that the appreciation of the Indonesian people for the importance of protecting geographical indications through registration is not too

¹ Tim Lindsey at al. 2013. *Hak Kekayaan Intelektual Suatu Pengantar*. Alumni, Bandung. Page. 3.

² Candra Irawan. 2011. *Politik Hukum Hak Kekayaan Intelektual di Indonesia (Kritik Terhadap WTO/ TRIPS Agreement dan Upaya Membangun Hukum Kekayaan Intelektual Demi Kepentingan Nasional*. Mandar Maju. Bandung, Page. 43.

³ Ayup Suran Ningsih, Waspiah, & Selfira Salsabilla, *Indikasi Geografis Atas Carica Dieng Sebagai Strategi Penguatan Ekonomi Daerah*, Jurnal Suara Hukum, Volume 1, Nomor 1, Maret 2019, page. 109.

⁴ Indra Rahmatullah, *Perlindungan Indikasi Geografis Dalam Hak Kekayaan Intelektual Melalui Ratifikasi Perjanjian Lisabon*, Jurnal Cita Hukum, Volume II, Nomor 2, Desember 2014, page. 308.

⁵ Trias Palupi Kurnianingrum, *Pelindungan Hak Ekonomi Atas Indikasi Geografis*, Negara Hukum, Volume 7, Nomor 1, June 2016, page. 19-20.

⁶ *Ibid*.

⁷ Nizar Apriansyah, *Perlindungan Indikasi Geografis Dalam Rangka Mendorong Perekonomian Daerah (Protection of Geographical Indications within the Scope of Improvement of Regional Economy)*, Jurnal Penelitian Hukum De Jure, Volume 18, Nomor 4, Desember 2018, page. 533.

⁸ Asma Karim & Dayanto, *Perlindungan Hukum dan Pengembangan Potensi Indikasi Geografis Minyak Kayu Putih Pulau Buru*, Jurnal Rechtsvinding, Volume 5, Nomor 3, Desember 2016, page. 382.

⁹ Trias Palupi Kurnianingrum, *Op. Cit.*, page. 27.

significant.¹⁰

In accordance with the provisions of Article 53 of Law of the Republic of Indonesia Number 20 of 2016 concerning on Trademark and Geographical Indications, other than the provincial or district/city government, the applications can indeed be submitted by institutions that represent the community in certain geographic areas that produce a goods and/or product in the form of natural resources, handicrafts, or industrial products. The institutions are producer associations, cooperatives, and geographic indication protection societies (MPIG). However, geographical indication is not only limited to typical plants in certain areas which has a different reputation with similar plants in other areas, such as Muntok White Pepper in Bangka Belitung Province, but the scope also includes natural resources, handicrafts, or industrial products with their various derivatives. The reputation of geographical indications can be an important marketing tool to strengthen the position of product in the market while penetrating new markets.¹¹

In accordance with the provisions of Article 70 Paragraph (1) Law of the Republic of Indonesia Number 20 of 2016 concerning on Trademarks and Geographical Indications, the development of geographical indications is carried out by the Central Government and/or Local Governments according to their authority, involving geographical indication product potential mapping. From the management side, the arrangements on development and supervision is important because it aims to create decent job field and stimulate economic activity. Besides, the process must be appropriate with local government authority in realizing local revenue and the welfare level of geographical indication owner.¹²

If referred to Muntok White Pepper which is the only registered geographical product from Bangka Belitung Province at the Directorate General of Intellectual Property Rights, the Ministry of Law and Human Rights, there is a question related to the construction in the form of mapping the geographical indication product potential, especially to those carried out by the local government in Bangka Belitung Islands. Some areas in Sumatera have more than one geographical indication, such as Aceh (3), West Sumatera (2), North Sumatera (6), South Sumatera (3), and Jambi (3). For example, South Sumatera has been successfully registered *Semendo* Robusta Coffee, Robusta coffee of *Empat Lawang*, and *Duku Komerang*.¹³

As an archipelago state that is rich of the potential of traditional knowledge, traditions and culture, Indonesia should have an adequate geographical indication protection system, because by having an optimal geographic indication protection, not only environmental sustainability can be maintained but also the empowerment of natural and human resources in the region.¹⁴ Therefore, refers to the scope of protection and the potential possessed based on that scope, besides Muntok White Pepper, there are many other products that can be registered as geographical indications such as durian, pineapple, and honey. Moreover, there are some potential product of geographical indication, such as *teras*, *rusip*, *jeruk kunci* drinking, and others.¹⁵ The latest data per February 2021, after Muntok White Pepper, there has not any other geographical indications registered at the Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights. In fact, it has been more than 10 years.

In addition, although Indonesia has many potential geographical indications, the public does not fully understand it. In other words, not many people in the area know that the result in their area such as handicraft products and agricultural products including geographical indications are able to give economic value which in turn will open up opportunities for piracy crimes and counterfeiting of goods and services in Indonesia, such as was the case of *Aceh Gayo* Coffee dan *Toraja* Coffee. The low number of geographical indication registrations is caused by the lack of public understanding of geographical indications. Moreover, the government both Local Government and the Directorate General of Intellectual Property Rights, the Ministry of Law and Human Rights of the Republic of Indonesia is also less active in conducting socialization related to geographical indications.¹⁶

Based on the study background of the study that has been presented previously, there are several problem formulations; it is the mapping efforts to the geographical indication potential product as intellectual property rights by Local Government of Bangka Belitung Province. In addition, it is also important to know the problems faced by local governments in the mapping process which is the background for not registering a number of potential geographic indication products in Bangka Belitung Province

¹⁰ *Ibid.*

¹¹ Sudjana, *Implikasi Perlindungan Indikasi Geografis Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Terhadap Pengembangan Ekonomi Lokal*, Verita et Justitia, Volume 4, Nomor 1, June 2018, page. 47.

¹² *Ibid.*, page. 45-46.

¹³ Look at www.dgip.go.id, accessed on 10 June 2021.

¹⁴ Trias Palupi Kurnianingrum, *Loc. It.*, page. 27.

¹⁵ Nizar Apriansyah, *Loc. It.*, page. 533.

¹⁶ Trias Palupi Kurnianingrum, *Op. Cit.*, page. 27-28.

2 Methodology

This article is based on research method that has been arranged, which is juridical empirical. Therefore, this research analyzes and examines the working of law in the society, especially those related to compliance with the law, how is the role of legal institutions in the law enforcement process, and the implementation of the rule of law,¹⁷ and also the research of legal effectiveness.¹⁸ These steps are carried out to find out the stages of the work of law in society.¹⁹ In collecting the data, interviews were carried out to all of local government in Bangka Belitung Province. The research used legal approach which is analyzed qualitatively.

3 Results and Discussions dan Pembahasan

3.1 The Mapping Effort of Geographical Indication Potential Product by Local Government in Bangka Belitung Province

In the globalization era and free trade as it is today, Indonesia is required to be able to protect itself while respecting other countries. It is done in order to make international relationship are maintained. One of the efforts that can be done is by protecting intellectual property.²⁰ Respect and appreciation for intellectual property is very important now. Respect and appreciation are not only given to individual intellectual property, but also to communal intellectual property, such as geographical indications protection that have been recognized as part of intellectual property since the signing of the TRIPs Agreement in 1994.²¹

The definition of geographical indication varies greatly, both in terms of definition and scope of protection. This is because the geographical indication is one of the intellectual property regimes which are influenced by the values of the local community or the culture of a community group or nation in a country.²² In accordance with the provisions of Article 1 Point 6 of the Law on Trademark and Geographical indication, in principle geographical indications is a sign indicating the original place of an item that is due to geographical environment factors. Geographical environment factors are including natural factor, human or combination of both which in turn create the reputation, quality, and certain characteristics of the goods and/or products produced. So that geographical indication closely related to the environment as a factor that affects the reputation, quality and certain characteristics of the goods and/or products produced. The example of geographical indication is Muntok White Pepper that has been registered at the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights.²³

In geographical indications, there should be special aspects of original name of goods which can be used as a distinguishing mark, and the place of origin has a big influence on improving the goods quality so it can increase the economic value.²⁴ Potential local goods or products having unique characteristics to protect geographical indication which is able to increase a welfare and benefits for the local community where the product is located. As stated by Robert M. Sheerwood that economic development is the whole goal of establishing an effective intellectual property protection system.²⁵ Therefore, geographical indication protection is not only about legal protection, but also economic benefits as a positive implication of the protection provided.

The importance of geographical indications protection is emphasized by World of Intellectual Property Office (WIPO) which reveals that basically geographical indications have economic significance because it will create a market characteristic/identity and if advertised correctly with good intentions it will lead to a high price of a product. It will also be the way for local producers to develop their brands and to trade under their own market identity. The last, geographical indications protection relates to property rights or economic, and this is the most important meaning in geographical indications protection.²⁶

¹⁷ Salim HS & Erlies Septiana Nurbani, 2017, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, Jakarta: RajaGrafindo Persada, page. 20.

¹⁸ Soerjono Soekanto, 2012, *Pengantar Penelitian Hukum*, Jakarta: UI Press., page. 51.

¹⁹ Bahder Johan Nasution, 2008, *Metode Penelitian Ilmu Hukum*, Bandung: Mandar Maju, page. 123.

²⁰ Dara Quthni Effida, Etty Susilowati, Kholis Roisah, *Upaya Perlindungan Hukum Indikasi Geografis Terhadap Salak Sidimpuan Sebagai Kekayaan Alam Tapanuli Selatan*, Jurnal Law Reform Program Studi Magister Ilmu Hukum, Volume 11, Nomor 2, 2015, page. 189.

²¹ Trias Palupi Kurnianingrum, *Op. Cit.*, page. 21.

²² Isnani, Ali Masyhar, Alifah Karamina, Fendi Setyo Harmoko, Dewi Sulistianingsih, *Identifikasi dan Pemanfaatan Indikasi Geografis dan Indikasi Asal Melalui Program Pembinaan Pada Masyarakat*, Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement) JPHI, Volume 02, Nomor 1, 2019, page. 42.

²³ Darwance, Dwi Haryadi, & Yuktani, *Geographical Indication Protection for Pepper: Its Environmental Implications for Bangka Belitung Islands, IOP Conference Series: Earth and Environmental Science*, Volume 599, 2021, page. 2.

²⁴ Isnani, Ali Masyhar, Alifah Karamina, Fendi Setyo Harmoko, Dewi Sulistianingsih, *Op. Cit.*, page. 41-42.

²⁵ *Op. Cit.*, page. 27.

²⁶ *Ibid.*, page. 25.

Related to geographical indication, it is relevant to correlate that Indonesia is a rich and abundant natural resources country which grows many kinds of uniqueness both biological and vegetable. This potential results vegetable and biological cultivation which characterizes geography where the potential is located. Related to the diversity of natural resources, it is needed a legal protection for national asset²⁷ in Indonesia especially in relation to the legal protection of intellectual property. One type of intellectual property that has an appeal which describes a type of product indicating the area where the product originates is a geographical indication. However, due to the lack of understanding of local community regarding intellectual property itself, it tends to make people do not have interest to create something that contains inventive steps, such as things that can generate economic benefits. One of the factors is the lack of local government attention.²⁸

Basically, the protection of geographical indication product brings a number of benefits, both from an economic side, ecological and legal side. From economic side it prevents the transfer of ownership of the rights to use the uniqueness of the product from the local community to other parties, maximizes the added value of the product, and improves the welfare of the community.²⁹ From ecological side, geographical indication protection is able to protect and preserve nature, to improve the reputation of the region, and to maintain the sustainability of germplasm. From the legal side, geographical indication protection can give legal certainty, product quality guarantee, and also legal guarantee if the product does not meet the expected standard.³⁰

In addition to the benefits categorized as economic, ecological and legal, there are a lot of benefits obtained from geographical indication. The protection of geographical indication clarifies the product identification and set process standards among geographical indication stakeholders. The protection of geographical indication also avoids the practice of fraudulent competition in trade, give protection to the consumers from abusing geographical indication reputation by selling product originating from other regions that have different characteristics, moreover lower than claimed. Those benefits give trust in consumers as the main users. Besides that, the protection of geographical indication will support coordination and strengthen organization of fellow rights holders in order to create, provide and strengthen the image of the name and product reputation.³¹ Therefore, the role of local government is much needed in this context.

Related to intellectual property, it turns out that not all laws on intellectual property give authority to local government. Granting authority to local governments is only in the Law Number 20 Year 2016 concerning on Trademark and Geographical Indication, especially specific articles concerning on geographical indication.³² According to the Article 53 the Law of Trademark and Geographical Indication stated that geographical indication is protected after registered by the minister, in this context is the Ministry of Law and Human Rights. Thus, the protection of geographic indications is not automatic, but needs to be registered first. Therefore, the application must be submitted first to the minister by an institution that represents the community in a certain geographical area that produce goods and/or product in the form of natural resources, handicrafts or industrial products. The applications can also be made by the local government; provincial government or district/city government. Thus, the local government can be the applicant, especially to protect the potential geographical indication in the area. This is one of local government roles which is given normatively by the Law of Trademark and Geographical Indications.

In addition to be acting as an applicant, local government also has role in terms of coaching and supervision in geographical indication protection. This is in accordance with the provisions of Article 70 paragraph (1) the Laws of Trademark and Geographical Indication conducted by central government and/or local government in appropriate with their authority. There is no further explanation about what kind of authority is meant in this provision. Therefore, there are some alternatives to interpret the contents of this provision; one of them refers to the laws and regulations that specifically regulate the authority of local governments or affairs division between central and local government.³³

The coaching as stated on Article 70 Paragraph (2) includes the mapping of geographic indication product potential. The mapping is steps in determining the potential product of

²⁷ Winda Risna Yessiningrum, *Perlindungan Hukum Indikasi Geografis Sebagai Bagian Dari Hak Kekayaan Intelektual*, Kajian Hukum dan Keadilan IUS, Volume 3, Nomor 1, page. 42.

²⁸ *Ibid.*, page. 43.

²⁹ Nizar Apriansyah, *Op. Cit.*, page. 534.

³⁰ *Ibid.*

³¹ Trias Palupi Kurnianingrum, *Op. Cit.*, page. 27-28.

³² Darwance, Yokotani, & Wenni Anggita, *Politik Hukum Kewenangan Pemerintah Daerah Dalam Pengaturan Hak Kekayaan Intelektual*, Journal of Pilitical Issues, Volume 2, Nomor 2, January 2021, page. 130.

³³ *Ibid.*, page. 131.

geographical indications and their geographical location, and also the action against the potential itself. Based on the result of research conducted at all regencies/city in Bangka Belitung Province that the mapping of product potential of geographical indication has been carried out in a number of local governments, some of them are West Bangka Regency, Central Bangka Regency, Belitung Regency, and East Belitung Regency, while in Pangkalpinang, Bangka Regency, and South Bangka Regency have not been mapped.

Mapping has not been carried out in Pangkalpinang because based on the interview result with Legal Department of Pangkalpinang, mapping of potential geographic indication products is not the main task and function. The same thing was stated by Legal Department of Bangka Regency Government and Legal Department of South Bangka Regency Government. Legal Department of South Bangka Regency Government said that there is no related field to deal with intellectual property structurally. There are only sub-sections of legal aid and human rights, sub-section of legislation and sub-section of administration. Meanwhile, there are not any main tasks and functions related to intellectual property. They said that Legal Department works related to the main tasks and functions according to the regulations from the regent, they cannot create new ones.

The mapping of geographical indication product potential has been started at West Bangka Regency, Central Bangka, Belitung, and East Belitung. In West Bangka, the mapping is conducted to the potential that can be proposed, more specifically, it becomes the main task and function of the Cooperative Service, Small and Medium Enterprises and Industry Office. Although in particular there is no mapping program for potential products of geographical indications, but in general it has been included in regional regulations for legal aid as a form of fulfillment of human rights. The regulation is the District Regulations of West Bangka Number 1 Year 2019 concerning on Legal Aid for the Poor, technically further regulated in Regent's Regulation of West Bangka Number 77 Year 2019 on the Implementation Guidelines of Local Regulation of West Bangka Number 1 Year 2019 on Legal Aid for the Poor.

Based on the result of interview with Legal Department of Central Bangka Regency Government, it is stated that mapping of potential product of geographical indication handled by technical agency, such as Regional Planning and Development Agency, especially Research and Development Department. It also conducted by several agencies, such as Agency of Industry and Trade, Cooperatives, Micro, Small and Medium Enterprises (MSMEs). Legal Department only publishes guidelines, procedures, rules, and stipulations. In other words, they only coordinate matters related to laws and regulations.

The mapping of potential product of geographical indication is also conducted by the Government of Belitung dan East Belitung Regency. The mapping in Belitung Regency has been conducted by related agencies, some of them has entered the stage of the submission process in coordination with the authorized institution. While, in East Belitung Regency, the mapping is conducted by Tourism Office. Legal Department of Regency Government is only as the facilitator, for example dealing with matters related to cooperation as the efforts to protect geographical indications, such as cooperation agreement with the Ministry of Law and Human Rights.

Based on the result of the research, it can be concluded that although most regencies/cities have started mapping potential products for geographic indications, it has not been carried out optimally, and even it is even a priority work program. This statement is based on the fact that intellectual property has not been made, especially geographical indication into the work program of district/city government as a part of the work program of Legal Department. Most of Legal Department in every regency/city positions their selves as facilitator or coordinator, for example in the formulation of laws and regulations, either local regulation, regency/city regulation, or region/mayor decision. Besides that, most of work programs of regency/city government focus on legal aid services, legal complaints, documentation of legal products, and dissemination of information in the legal field, and also settlement of problems/disputes in the field of law, both litigation and non-litigation related to main work of local government.

In the context of local government role in the protection of geographical indication, the Laws of Trademark and Geographical Indication gives a space to local government to take an active role in efforts to protect potential products of geographical indications, one of them is in terms of coaching which includes mapping. Beyond this normative authority issue, it is important to know that the potential existed in certain areas, the one who knows it more detail is the area concerned. In this case, local government is able to cooperate with relevant agencies, for example Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia in managing the potential of geographical indication including mapping. But, based on the research conducted by Nizar Apriansyah, the fact that there are several local government and related agency who do not know about geographical indication.³⁴ This is an irony in the

³⁴ Nizar Apriansyah, *Op. Cit.*, page. 534-535.

midst of the great potential it has and also the regulation that seek to protect potential geographical indications in a number of areas. Moreover, the registration of geographical indication does not depend on individual, but on the society, which does not only need support from manufacturers but also from the government,³⁵ in this context is local government.

3.2 Some Obstacles Faced in Implementation; From Main Tasks and Functions to Multi-Agency

Geographical indication base on Trade-Related Aspect of Intellectual Property Rights Agreement (TRIPS Agreement) is a sign that identify a territory of a member state, or a region or an area within the territory as the origin of goods, where the reputation, quality and characteristics of the goods are largely determined by those geographical factors. Therefore, TRIPs agreement prohibits the manufactures to use label or sign (trademark) on their goods produced which is not appropriate to geographical indication.³⁶ This prohibition is stated in Article 22 (2) of TRIPS agreement, it is “In respect of geographical indications, member shall provide the legal means for interested parties to prevent: the use of many means in the designations or presentation of a good that indicates or suggest that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the goods.”

The arrangement of geographical indications globally emphasizes that the protection given to geographical indications departs from natural factors affecting an item. The natural factors are weather, climate, the type and quality of soil, the quality and quantity of water, the type and quality of plant, and also the type and quality of animals.³⁷ While in Indonesia, at first geographical indication was regulated in the Laws Number 15 Year 2001 concerning on Trademark, then further regulated by the government by issuing Government Regulation Number 51 Year 2007 concerning on Geographical Indication as implementing regulations. Next, geographical indication is regulated in the Law Number 20 Year 2016 concerning on Trademark and Geographical Indication. In the Law Number 20 Year 2016 concerning on Trademark and Geographical Indication, the applicant of geographical indication is expanded including provincial government and regency/city government, otherwise it deletes consumer group as the applicant.³⁸

The demand for protection of geographical indications in the intellectual property legal system is an effort to protect local community products in the country.³⁹ Moreover, Indonesia is a country which is rich and abundant in natural resources. There are a lot of uniqueness, both biologically and vegetable in this country, and this is the extraordinary potential that characterizes the geography where the potential is located.⁴⁰ Therefore, the protection of geographical indication in Indonesia should be able to answer global challenge (international-based trade), that is by giving adequate rule of law so that it can provide legal certainty for original Indonesian products abroad.⁴¹ Even if it is not regulated in a separate law, geographical indication in detail is regulated in the Law Number 20 Year 2016 concerning on Trademark and Geographical Indication which was originally only briefly regulated in a law then technical details were further regulated in a government regulation, it indicates that there is a serious effort from the government in protecting geographical indication.

Juridically, geographical indication is protected after registered by the minister, that is the minister who carry out government affairs in the field of law, i.e. the Ministry of Law and Human Rights. There are some steps that should be done by the applicant to get protection, they are the applicant must apply to minister, then it will be checked substantively on the goods submitted as geographical indications. This checking process is conducted to determine whether the goods can be given protection as a geographical indication or rejected.

The applicant is a party who applying for geographical indication, it is a registration request submitted to the minister. The applicant is an institution who represents the community in a certain geographical area that produce goods and/or products in the form of natural resources, handicrafts, or industrial products. In addition, provincial or district/city governments can also be applicants for geographical indications. The example for an institution who

³⁵ Sudjana, *Op. Cit.*, page. 52.

³⁶ OK. Saidin, 2019, *Aspek Hukum Hak Kekayaan Intelektual*, Rajagrafindo Persada, Jakarta, page. 494

³⁷ Tatty Aryani Ramli dkk, *Urgensi Pendaftaran Indikasi Geografis Ubi Cilembu Untuk Meningkatkan IPM*, *Mimbar*, Volume XXVI, Nomor 1, January – Juli 2010, page. 85.

³⁸ Sudjana, *Op. Cit.*, page. 40.

³⁹ Hendra Djaja, *Perlindungan Indikasi Geografis Pada Produk Lokal Dalam Sistem Perdagangan Internasional*, *Jurnal Cakrawala Hukum*, Volume 18, Nomor 2, Desember 2013, page. 142.

⁴⁰ Indra Rahmatullah, *Perlindungan Indikasi Geografis Dalam Hak Kekayaan Intelektual Melalui Ratifikasi Perjanjian Lisabon*, *Jurnal Cita Hukum*, Volume II, Nomor 2, Desember 2014, page. 306.

⁴¹ *Ibid.*

represent certain community in geographic area is Pepper Management, Development and Marketing Agency (BP3L) in Bangka Belitung Province who apply for Muntok White Pepper as geographical indication.

In order to protect geographical indication, it is important to do a controlling. In the Law of Trademark and Geographical Indication, it is stated that controlling of geographical indication is conducted by central government and local government according to their authority. The controlling can be conducted by the community. The controlling conducted either by government or community is to ensure the existence of reputation, quality, and characteristics which is the basis for the issuance of geographical indications, as well as to prevent unauthorized use of geographical indications.

The protection of geographical indication legally is a part of responsibility of the autonomous region so local government should determine policies in order to provide guarantees for the protection of the rights of geographical indications in the area.⁴³ Thus protection will only be obtained if the geographical indication potential product is legally registered to the authorized institution. Besides as an effort to protect the region's potential, it is carried out as a form of concern for the wealth of the region itself.

Most of the regency/city government claim that they have done mapping on the potential product of geographical indication in their area, although it can be concluded that the efforts are not optimal and have not been taken seriously. This is due to the fact that the mapping has not directly touched the geographical indication potential products, and conducted by many agencies. In addition, mapping obstacles are also caused by problems with the main tasks and functions which specifically does not deal with intellectual property, more specifically geographical indications. It causes mapping of geographical indication potential not to be a priority work program, even more the lack of competent human resources in the field of intellectual property in the legal department of the district/city government. Managed by many agencies, lack of competent human resources, and pretext is not the main task and function of this, in turn, this results in the uncharted potential of existing geographic indication products in some areas in Bangka Belitung Islands.

Even though in a unitary state, the responsibility for carrying out government duties basically remains in the hands of the central government, but because the Indonesian government system adheres to the principle of a decentralized unitary state, thus there are certain tasks managed by local government, including intellectual property such as geographical indication. The maximum role of the local government is highly expected in intellectual property governance broadly in the region, but it has not supported by structure of most local government organizations. Therefore, so that there is no more confusion of authority among regional offices, it is necessary to establish an institution in the region that specifically handles intellectual property issues, one of them is to educate the public about intellectual property. It is important to educate the society about the importance of intellectual property registration and how the intellectual property registration process. The establishment of special institution dealing with intellectual property is needed in local government structure to inventory, including intellectual property mapping, such as geographical indications.⁴²

When it is studied, provisions regarding geographical indication existing in the Laws on Trademark and Geographical Indication give protection to regional products that have distinctive characteristics and are not owned by other regions. Therefore, it needs maximum attention from local government to regional superior products, especially potential products of geographical indications. Local government is also expected able to map every superior product with distinctive characteristics to be protected with geographical indication regim. Legal protection to geographical indication is one of the specialties which is part of the responsibility of the autonomous region. Local government needs to determine the authority and the form of regulations in order to provide guarantees of protection for potential products of geographical indications in the area, as the form of concern for regional wealth.⁴³

Socialization related to the importance of registration of geographical indications needs to be carried out thoroughly to the regions, not only at central so that there is no violation of geographical indications, as it happened to *Gayo Aceh* coffee that ever be claimed by a Dutch company *European Coffee Bv* through *Holland Coffee* in 1999 who registered the name of "Gayo" as the trademark of their coffee in Dutch (*Gayo Mountain Coffee*), and also Arabika Toraja Coffee that has been registered by Japan through *Key Coffee* with Toarco Toraja Trademark, complete with pictures of traditional *Tana Toraja* houses. As a result, indirectly Indonesian exporters cannot sell their *toraja* coffee to Japan if they do not go through *Key Coffee*.⁴⁴

⁴² Nizar Apriansyah, *Op. Cit.*, page. 536-537.

⁴³ *Ibid.*, page. 537.

⁴⁴ Trias Palupi Kurnianingrum, *Op. Cit.*, page. 27-28.

4 Conclusion

From the result of the research conducted in all regency/city in Bangka Belitung Province as described above, it can be concluded that mapping of geographical indication potential product has been conducted by a number of local governments in regency/city, but there are also those who have not done the mapping. Although most regencies/cities have started mapping the potential products of geographic indications, but it has not conducted optimally, and even it is not be a priority work program. Intellectual property, especially geographical indication has not been a work program of legal department at regency/city government. Most of Legal Department of Regency/city government is positioning itself as a facilitator and coordinator, for example in the formulation of laws and regulations, both local regulation, regulations of the regent/mayor, and the decision of the regent/mayor. Moreover, most of work programs of regency/city government focus on legal aid services, legal complaints, documentation of legal products, and dissemination of information in the legal field, and resolution of problems/disputes in the field of law, both litigation and non-litigation related to the main work of local government. In addition, the efforts that are still not optimal and not too serious are caused by the mapping has not directly conducted to the geographical indication potential product and carried out by many agencies. And it also caused by the problem of main tasks and functions which specifically does not deal with intellectual property, more specifically geographical indications. It causes mapping on geographical indication does not be a priority work program, in addition that the lack of competent human resources in the field of intellectual property in the legal department of the district/city government.

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