




The Participation of Indigenous Peoples in the Development of Geographical Indications: Between Orientation and Formulation

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Abstract

Introduction: Characteristics of Indigenous Peoples in managing this natural potential has relevance to optimizing the potential of geographical indications. Even so, legal problems occur when in positive law in Indonesia there is no regulation regarding the participation and role of the Customary Law Community in optimizing geographical indications.

Purpose of The Research: This research aims to regulatory orientation and formulation regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications.

Methods of Research: This research is a normative legal research with a concept and statutory approach. The analysis is carried out by carrying out an inventory of legal materials, then proceed with the reduction process (sorting) according to the needs in the selection, and ends with conclusions.

Results of the Research: The participation of the Indigenous Peoples in optimizing the potential of geographic indications can actually be carried out by involving the role of both the central and regional governments to facilitate it. Appropriate formulations related to arrangements regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications can be carried out by forming cooperatives or associations of producers related to geographical indications. This needs to be done because in the provisions of positive law, Indigenous Peoples are not one of the parties that can become applicants for registration of geographical indications. Revisions to regulations regarding geographical indications need to be made in order to optimize the role and participation of the Indigenous Peoples.

1. INTRODUCTION

A geographical indication is one of the intellectual property rights that have communal characteristics. Intellectual property rights with a communal character have substantive differences from intellectual property rights in general.¹ This is because intellectual property rights with communal characteristics are owned by a community group and do not become the control of each individual. The communal character of geographic indications means that the rights to geographical indications are held, owned and used jointly by community

¹ I Gede Agus Kurniawan, Lourenco de Deus Mau Lulo, and Fradhana Putra Disantara, "IUS Constituendum of Expert Advisor in Commodity Futures Trading: A Legal Certainty," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 31–45, <https://doi.org/https://doi.org/10.29303/ius.v11i1.1170>.

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groups.² Therefore, in intellectual property rights in the form of geographical indications, the role of community participation needs to be the main one because it is in accordance with the communal characteristics of geographical indication rights.

That can be seen in various products that should be the result of optimization of geographical indications, such as Gayo Coffee, Toraja Coffee, to Bondowoso Tape.³ Of course, these three examples are small examples of products that are a development of geographical indications. The potential of products related to geographical indications is also essential in the international trade market, primarily related to export goods. That can be seen from international trade policies that provide higher prices for products that have been registered geographical indications.⁴ That means the more Indonesian products that have been registered geographical indications, the more opportunities in international trade open up opportunities for Indonesia to get higher prices of goods from the results of geographical indications.

Opportunities for optimizing geographical indications economically require the role and support of the community, especially the community where the geographical indication is developed.⁵ However, regulations regarding geographical indications in Indonesia are still limited to regulating procedures for registering geographical indications. At the same time, public participation has yet to receive specific regulations. That can be seen in the regulation of Law No. 20 of 2016 concerning Brands and Geographical Indications (IG Law), which has not explicitly regulated the role and involvement of the community in optimizing the potential of geographical indications. One of the critical community participation in optimizing the potential of geographical indications is the importance of the role of Customary Law Peoples. Customary Law People are specific communities of people living based on laws, institutions, and customary systems that are still valid traditionally and locally. The general characteristics of Customary Law Peoples in Indonesia are related to their nature and character in managing natural potential.⁶ The characteristics of Indigenous Peoples in managing this natural potential have relevance to optimizing the potential of geographical indications. Furthermore, optimal participation of Indigenous Peoples in utilizing potential geographical indications can also provide economic benefits for Indigenous Peoples.

Therefore, the urgency of this study is the need for regulation regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications. Research on community participation, especially Indigenous Peoples, in optimizing potential geographical indications has never been conducted. This refers to the three

² Arikha Saputra Adi Suliantoro, Fitika Andraini, "Potensi Dan Kendala Pendaftaran Indikasi Geografis Kota Semarang," *Komunikasi Hukum* 9, no. 1 (2023): 1569–88, <https://doi.org/10.35295/OSLS.IISL/0000-0000-0000-1275>.

³ Agus Trihartono and Suyatno Ladiqi, "Extending Indonesian Gastrodiplomacy:

Blending Geographical Indication (Gi) and "Kopi Indonesia"," *Iium Law Journal* 30 (2022): 35–48.

⁴ Franklin de Souza Meirelles, Janaina de Moura Engracia Giralde, and Rodolfo Paião de Campos, "Transaction Costs Economics and Geographical Indications: A Systematic Analysis of the Literature," *Revista de Economia e Sociologia Rural* 61, no. 4 (2023): 1–22, <https://doi.org/10.1590/1806-9479.2022.264494>.

⁵ Sekhar Chandra Pawana and Erico L Hutahuruk, "Optimaliasasi Pemajuan Kebudayaan Daerah Melalui Indikasi Geografis," *Justicia Sains: Jurnal Ilmu Hukum* 6, no. 2 (2022): 228–47, <https://doi.org/10.24967/jcs.v6i2.1584>.

⁶ Aartje Tehupeior and Lamhot Naibaho, "Enhancing Community Legal Awareness of Land Right Disputes through the Use of Legal Aid Institutions," *International Journal of Psychosocial Rehabilitation* 24, no. 8 (2020): 1223–31, <https://doi.org/10.37200/IJPR/V24I8/PR280136>.

previous studies. *First*, research conducted by Fidiyani et al. (2021) which discusses the need to empower local wisdom in optimizing intellectual property rights.⁷ Research results from research conducted by Fidiyani et al. that optimal and maximum community service is needed to foster awareness in the community regarding the need to empower local wisdom in optimizing intellectual property rights. *Second*, research conducted by Hutahuruk et al. (2022) analyzes the role of local governments in optimizing potential geographical indications.⁸ The results of research conducted by Hutahuruk et al. confirmed that the role of local governments is important in efforts to optimize the potential of geographical indications as mandated by Article 71 of the IG Law. *Third*, research conducted by Nova (2023) analyzes the importance of intellectual property rights protection concerning traditional cultural expression.⁹ The results of the study confirmed that in the era of global legal development, protection of intellectual property rights related to traditional cultural expressions is essential to do, especially in preventing misappropriation efforts related to traditional cultural expressions.

From the three previous studies above, it is clear that the study of the need for regulation on the participation of Indigenous Peoples in optimizing the potential of geographical indications has yet to be discussed comprehensively by the previous three researchers, and therefore this research is original. One of the novelties offered in this study is an effort to formulate arrangements for the importance of the involvement and participation of Indigenous Peoples in optimizing potential geographical indications. This study aims to answer two legal issues, namely regulatory orientation regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications and the appropriate formulation related to regulations regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications.

2. METHOD

Research with a focus on the analysis of the participation of Indigenous Peoples in optimizing potential geographical indications is a normative legal research. The main characteristic of normative legal research is its research that is based on "based on authoritative documents" such as court decisions to laws and regulations.¹⁰ The primary legal materials in this study are: the 1945 NRI Constitution and the IG Law. Secondary legal materials are: journal articles, websites, books, and research results that discuss potential geographical indications and Indigenous Peoples. Non-legal material is a dictionary of languages. The analysis is carried out by conducting an inventory of legal materials, then continued with the process of reduction (sorting) according to the needs in the election, and ends with conclusions whose final results are in the form of legal prescriptions.¹¹ The approach used is a statutory approach and a conceptual approach.

⁷ Yuli Prasetyo Adhi, Dewi Sulistianingsih, and Rini Fidiyani, "Pengelolaan Kekayaan Intelektual Berbasis Kearifan Lokal Sebagai Penguatan Budaya Literasi, Kreativitas, Dan Inovasi," *Jurnal Pengabdian Hukum Indonesia* 04, no. 1 (2021): 18–30.

⁸ Pawana and Hutahuruk, "Optimaliasasi Pemajuan Kebudayaan Daerah Melalui Indikasi Geografis."

⁹ Sri Asih Roza Nova, "Perlindungan Hukum Terhadap Pengetahuan Tradisional Di Indonesia Dari Tindakan Misappropriation," *Swara Justisia* 6, no. 4 (2023): 433–43, <https://doi.org/10.32502/khdk.v4i1.4488>.

¹⁰ Cynthia Hadita Eka N.A.M. Sihombing, *Penelitian Hukum*, 1st ed. (Malang: Setara Press, 2022). Lihat juga dalam Tunggul Ansari Setia Negara, "Normative Legal Research In Indonesia: Its Origins And Approaches," *ACLJ* 4, no. 1 (2023): 5.

¹¹ I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif*, Cetakan ke (Jakarta: Prenadamedia Group, 2017).

3. RESULTS AND DISCUSSION

3.1 The Regulatory Orientation Concerning the Participation of Indigenous Peoples in Optimizing the Potential of Geographical Indications: What and How?

Customary Law Peoples are a group of people who have a genuine character which means that they still maintain the style, traditions, and identity of the Customary Law Peoples concerned.¹² According to Von-Vollenhoven, the main characteristic of Customary Law Peoples in Indonesia is the implementation and enforcement of customary law where customary law is a provision that applies locally and has fundamental differences with the law applied by the state.¹³ Furthermore, Maria S.W. Sumardjono stated that Customary Law Peoples in Indonesia have three main characteristics, namely: communalistic, religio-magical nature, and compliance with applicable customary law institutions and norms.¹⁴ From a communalistic aspect, Customary Law Peoples in Indonesia do not recognize individual (private) ownership mutual. Everything is considered to be owned and utilized as long as it has a social orientation (communalistic).¹⁵ Regarding the religious-magical aspect, Customary Law Peoples in Indonesia affirm the role of "Dzat yang Maha Agung" in every customary resource management.¹⁶ That means, the management of customary resources should not be careless and haphazard because it will cause natural disasters which are manifestations of the wrath of the "Supreme Substance". Regarding compliance with applicable customary law institutions and norms, that is a clear and easily visible feature of Customary Law people in Indonesia.

Customary Law Peoples in Indonesia tend to abide by local customary law, which is generally manifested orally and unwritten.¹⁷ Customary law usually develops through oral speech and is internalized by traditional elders to the community. Therefore, customary law is usually not based on any particular written rules. In addition, to uphold the customary norms of Customary Law Peoples in Indonesia, it is also necessary for customary institutions to implement and enforce the provisions of customary law. Therefore, the three characteristics of communalistic, religio-magical nature and adherence to applicable customary law institutions and norms are inherent in Customary Law Peoples in Indonesia. Customary Law People in Indonesia must be empowered in juridical, sociological, and economic aspects. Juridically, the empowerment of Indigenous Peoples is a constitutional

¹² Karina Putri, Sartika Intaning Pradhani, and Hendry Julian Noor, "The Existence of Adat Law Community in Public-Private Partnership," *Yustisia Jurnal Hukum* 9, no. 3 (2020): 306, <https://doi.org/10.20961/yustisia.v9i3.25492>.

¹³ Donna Asteria et al., "Adat Law and Culture: The Local Authority Elements of Baduy Tribe on Environment Preservation," *IOP Conference Series: Earth and Environmental Science* 716, no. 1 (2021), <https://doi.org/10.1088/1755-1315/716/1/012049>.

¹⁴ Melanie Zurba and Anastasia Papadopoulos, "Indigenous Participation and the Incorporation of Indigenous Knowledge and Perspectives in Global Environmental Governance Forums: A Systematic Review," *Environmental Management* 2030, no. 1 (2021): 5, <https://doi.org/10.1007/s00267-021-01566-8>.

¹⁵ Catharina van der Boor et al., "Application of the Capability Approach to Indigenous People's Health and Well-Being: Protocol for a Mixed-Methods Scoping Review," *BMJ Open* 12, no. 12 (2022): e066738, <https://doi.org/10.1136/bmjopen-2022-066738>.

¹⁶ Feifei Han, "Sustainable Teaching Strategies to Teach Indigenous Students: Their Relations to Students' Engaged Learning and Teachers' Self-Concept," *Sustainability (Switzerland)* 14, no. 17 (2022), <https://doi.org/10.3390/su141710973>.

¹⁷ Fradhana Putra Disantara, "Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (January 1, 2021): 1-36, <https://doi.org/10.35673/ajmpi.v6i1.1129>.

mandate, especially Article 18B of the 1945 NRI Constitution, which mandates that the state should recognize and respect the unity of Indigenous Peoples living in Indonesia.¹⁸ The provision recognizes here means that the state must provide guarantees of legal arrangements for Indigenous Peoples to be facilitated as part of Indonesian society that needs to be empowered. With respect, the state needs to carry out specific special policies in empowering Indigenous Peoples. Particular and specific policies are expected to be a means and effort to empower and preserve the existence of traditional values and norms of an Indigenous People.¹⁹ Therefore, empowerment of Customary Law Peoples is needed as an effort to carry out the mandate of the constitution, especially in Article 18B of the 1945 NRI Constitution.

Sociologically, the empowerment of Indigenous Peoples is needed because the position of Indigenous Peoples is increasingly marginalized due to industrialization.²⁰ Industrialization made Indigenous Peoples increasingly marginalized and even began to lose their homes and customary land.²¹ That happened because industrialization was based on written legal provisions made by the state. That is certainly different from Customary Law Peoples who base communal ownership of their customary land based only on oral provisions regarding laws believed to apply to local communities.²² That is what sociologically makes Indigenous Peoples increasingly marginalized and even driven out of their land so that empowerment needs to be carried out by the state. Economically, Customary Law Peoples need empowerment because Customary Law Peoples is still not optimal in managing customary resources to be used as the primary means of optimizing economic aspects. That can be seen from the customary land of Customary Law Peoples, which is still optimized for internal use for Customary Law Peoples.²³ Economic empowerment for Customary Law Peoples needs to be done as an effort to maintain the existence of Customary Law Peoples.

Of the three aspects, namely juridical, sociological, and economic, the aspect still necessary and less used as the primary orientation is the economic aspect. There are at least two main orientations why the need for economic empowerment of Indigenous Peoples. *First*, the demands of the era and the era of the industrial revolution require every Customary Law Peoples to open up, involve themselves, and transact to advance the economy of Customary Law Peoples. That requires every Customary Law Community to interact with people or parties outside the Customary Law Community to optimize the economy of the Customary Law People. *Second*, economic orientation for Customary Law Peoples is needed as a means for Customary Law Peoples to optimize customary resources

¹⁸ Suci Flambonita, "The Concept of Legal Pluralism in Indonesia in the New Social Movement," *Jurnal Analisa Sosiologi* 10, no. 3 (2021): 361-73, <https://doi.org/10.20961/jas.v10i0.45939>.

¹⁹ Dicky Eko Prasetyo et al., "The Legal Pluralism Strategy of Sendi Traditional Court in the Era of Modernization Law," *Rechtsidee* 8 (March 9, 2021): 1-14, <https://doi.org/10.21070/jjhr.2021.8.702>.

²⁰ Jiban Khadka, Krishna Prasad Adhikari, and Niroj Dahal, "The Learning Performance of Indigenous Students in Nepali Private Schools: A Mixed-Methods Study," *International Journal of Instruction* 15, no. 4 (2022): 987-1010, <https://doi.org/10.29333/iji.2022.15453a>.

²¹ Wahyu Nugroho, "Relationship between Environmental Management Policy and the Local Wisdom of Indigenous Peoples in the Handling of Covid-19 in Indonesia," *Onati Socio-Legal Series* 11, no. 3 (2021): 860-82, <https://doi.org/10.35295/OSLS.IISL/0000-0000-0000-1193>.

²² A H Rachman, "Ketidakpastian Status Lahan Dan Potensi Deforestasi Dalam Wacana Pembangunan Bandar Antariksa Biak," *Jentera: Jurnal Hukum* 4, no. 1 (2021): 394.

²³ R. Rudy et al., "Forest Cover Change and Legal Pluralism in Forest Management: A Review and Evidence from West Sumatra, Indonesia," *Indonesian Journal of Science and Technology* 6, no. 2 (2021): 299-314, <https://doi.org/10.17509/ijost.v6i2.34190>.

and their customary rights. This is also related to the philosophical value of Customary Law Peoples who maintain harmony and preservation of natural resources so that economic utilization carried out by Customary Law Peoples is expected to be sustainable and not exploitative at the expense of natural sustainability.²⁴ The two orientations related to the economical use of Indigenous Peoples above are relevant to the optimization of intellectual property rights of geographical indications that Indigenous Peoples can carry out. There are at least three relevant roles, engagements, and participation that Indigenous Peoples can carry out in utilizing intellectual property rights of geographical indications. *First*, geographical indications are communalistic, which means that ownership is not based on private individuals. Ownership of geographical indication rights is communal, which means that it belongs to the group. In this context, the character of communalistic ownership in geographical indications has relevance to the character of ownership and utilization of customary resources by Customary Law Peoples based on the character of communalistic ownership.

Therefore, because it has a communalistic ownership orientation, the optimization of geographical indication rights by Customary Law Peoples can be expected to empower Indigenous Peoples economically. *Second*, geographical indications are intellectual property rights whose main character is the optimization of local resources.²⁵ That means that geographical indications have a conservative orientation, emphasizing the character of sustainability in optimizing an intellectual property right. The conservative character in optimizing geographical indications is relevant to the view of Indigenous Peoples that optimization of customary resources is required to have a sustainable orientation to avoid exploitative attitudes that tend to be destructive.²⁶ It is this conservative character in intellectual property rights of geographical indications that makes there is relevance to efforts to optimize geographical indications by involving the participation of Indigenous Peoples. *Third*, optimizing geographic indications by Indigenous Peoples also has implications for increasing the creativity and identity of Indigenous Peoples. This is because in optimizing geographical indications by Indigenous Peoples, creativity is needed to make geographical indications in demand and competitive in the realm of trade, both on a local, national, regional, and international scale.²⁷ What is also essential in optimizing geographical indications by the Indigenous Peoples is maintaining the identity of the Indigenous Peoples because in utilizing geographical indications, branding and orientation will be used.²⁸ That in addition to having economic implications can also have an impact on efforts to maintain identity and introduce a Customary Law Community to the general public.

²⁴ Rachael Asher, "Unresolved Injustice : An Examination of Indigenous Legal Issues in Australia," *Udayana Journal of Law and Culture* 4, no. 2 (2020): 146–70.

²⁵ A. Tiaraputri, L. Diana, and E. Deliana, "Could Kuansing's Pangasius Kunyit Be Protected by Geographical Indication?," *IOP Conference Series: Earth and Environmental Science* 1118, no. 1 (2022), <https://doi.org/10.1088/1755-1315/1118/1/012081>.

²⁶ Sunny Ummul Firdaus Rian Saputra, Pujiyono, "Un Synchronized Registration Regulation Of Geographic Indications In Indonesia On Products Traditional Alcoholic Drink," *Journal of Legal, Ethical and Regulatory Issues* 25, no. 4 (2022): 1–13.

²⁷ Muchtar Anshary Hamid Labetubun, Rory Jeff Akyuwen, and Theresia Nolda Agnes Narwadan, "Workshop Kekayaan Intelektual Sebagai Upaya Peningkatan Pemahaman Dalam Rangka Pengenalan Dan Perlindungan Indikasi Geografis Minyak Kayu Putih Namlea Pulau Buru," *Aiwadthu: Jurnal Pengabdian Hukum* 1, no. 2 (2021): 94, <https://doi.org/10.47268/aiwadthu.v1i2.671>.

²⁸ Sunarmi Balqis Siagian, Saidin, Suhaidi, "Pelindungan Hukum Atas Potensi Indikasi Geografis Di Kabupaten Tapanuli Utara," *Iuris Studia* 2, no. 8 (2021): 655.

Based on the three relevance of optimizing geographical indications by Customary Law Peoples, optimization of geographical indications is necessary and can be done by Customary Law Peoples without reducing traditional values and norms that develop in Customary Law Peoples. Therefore, regulatory orientation regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications can be done because in addition to optimizing economic aspects, it can also strengthen and introduce the identity of Customary Law Peoples that can be inherent in a geographical indication product. Therefore, both central and regional governments are obliged to facilitate so that Customary Law Peoples can be empowered and invited to participate in optimizing the potential of geographical indications in addition to developing economic aspects, can also introduce and maintain the identity of a Customary Law Community in geographical indication products.

3.2 Formulation of Regulations for the Participation of Indigenous Peoples in Optimizing the Potential of Geographical Indications

Article 53 paragraph (3) of the IG Law formulates that applicants for registration of geographical indications are divided into provincial or municipal local governments and institutions representing communities in a particular geographical area with the condition of working on an item or object related to geographical indications. The provincial or municipal government becomes one of the parties as an applicant for registration of geographical indications because the local government can be considered a representative of the community in the region. As a representative of the community in the region, the local government has a role in initiating and optimizing geographical indications to improve the economic level of the people in the region.²⁹ The next applicant is an institution that represents the community in a particular geographical area with the condition of working on an item or object related to geographical indications. Article 53, paragraph (3) of the IG Law even specifically emphasizes that institutions representing communities in a certain geographical area must be able to prove goods used as part of geographical indication rights, including hand permits, industrial products, and natural resources.

Regarding efforts to provide a role for Customary Law Peoples, especially in playing a role in optimizing geographical indications, one of the efforts is to become applicants for rights to geographical indications. However, the construction of Article 53 paragraph (3) of the IG Law creates obstacles for Customary Law Peoples to become applicants for geographical indications. The three obstacles are, first, authentically according to the explanation of Article 53 paragraph (3) of the IG Law, which is meant by institutions representing communities in a geographical area are cooperatives, producer associations, and geographical indication protection societies (MPIG).³⁰ If we refer to authentic explanations that limit the provisions regarding institutions representing communities in a geographical area above, it has closed the space for Customary Law Peoples to be parties to request geographical indications.

Second, the IG Law does not provide space for restricting participation for Indigenous Peoples to optimize geographical indications. This legal vacuum makes the IG Law not provide formulation and space for Customary Law Peoples to participate in optimizing

²⁹ Dewi Analis Indriyani Deslaely Putranti, "Perlindungan Indikasi Geografis Oleh Masyarakat Perlindungan Indikasi Geografis Pasca Sertifikasi Di Yogyakarta," *Ilmiah Kebijakan Hukum* 15, no. 3 (2021): 397.

³⁰ Syarifah Mahila, "Problematika Perlindungan Hukum Terhadap Produk Indikasi Geografis," *Jurnal Ilmiah Universitas Batanghari Jambi* 19, no. 3 (2019): 639, <https://doi.org/10.33087/jjubj.v19i3.769>.

geographical indications. Third, the substance of geographical indications in the IG Law is still based on an understanding of trademark rights.³¹ This can be seen from the formulation of the IG Law, which uses the phrase "Brands and Geographical Indications". This means the IG Law places geographical indications as a specific aspect of trademark rights. If trademark rights are generally individual, then geographical indications with their particular characteristics place that geographical indication as a "mark with communal characteristics".³² The substance implications of the formulation of the IG Law, which places geographical indications as a specific aspect of trademark rights make the comprehensive aspects of geographical indications have not been optimally adopted. Comprehensive geographical indications are also part of traditional cultural expressions that involve local communities' participation, in this context, including Customary Law Peoples. The construction of the IG Law that places geographical indications as a specific aspect of trademark rights still constructs IG narrowly and partially. This is why the provisions regarding the participation of Indigenous Peoples in optimizing geographical indications have yet to be regulated in the IG Law. The construction of geographical indications should have relevance to optimizing traditional cultural expressions while involving the role of local communities, especially Customary Law Peoples. The problem is related to the absence of regulations regarding the participation of Indigenous Peoples in optimizing geographical indications; according to the author, at least it can be implemented with two orientations: realist and idealist. Realist orientation focuses on how efforts involve the role of Indigenous Peoples' participation in optimizing geographical indications while still referring to the substance of the IG Law. Idealist orientation is the formulation and formulation of comprehensive legal policies, one of which is by revising the provisions of the IG Law.

Realist orientation in its efforts to optimize the participation of Indigenous Peoples in optimizing geographical indications can be done by referring to the explanatory provisions of Article 53 paragraph (3) of the IG Law. Explanation of Article 53 paragraph (3) of the IG Law that what is meant by institutions representing communities in a geographical area are cooperatives and producer associations. This can be done if the Indigenous Peoples community forms cooperatives or producer associations related to geographical indications. With this formulation, the participation of Indigenous Peoples in optimizing geographical indications can be done through their position as cooperatives or producer associations. This can be done without revising the IG Law's provisions. The idealistic orientation in its efforts to optimize the participation of Indigenous Peoples in optimizing geographical indications is carried out comprehensively and holistically, one of which is by revising the provisions in the IG Law. The IG Law provisions need to be comprehensively revised so that regulations regarding the involvement and participation of Indigenous Peoples in optimizing geographical indications can be carried out optimally. Based on the above analysis, the appropriate formulation related to the regulation regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications can be done by forming cooperatives and producer associations related to geographical indications. This must be done because, in favorable legal provisions, Customary Law Peoples are not one of

³¹ Darwance Darwance, Yokotani Yokotani, and Wenni Anggita, "Politik Hukum Kewenangan Pemerintah Daerah Dalam Pengaturan Hak Kekayaan Intelektual," *Journal of Political Issues* 2, no. 2 (2021): 124-34, <https://doi.org/10.33019/jpi.v2i2.40>.

³² Niru Anita Sinaga, "Pentingnya Perlindungan Hukum Kekayaan Intelektual Bagi Pembangunan Ekonomi Indonesia," *Jurnal Hukum Sasana* 6, no. 2 (2020): 144-65, <https://doi.org/10.31599/sasana.v6i2.385>.

the parties who can be applicants for registration of geographical indications. In addition, to be more optimal, it is necessary to revise the provisions of the IG Law holistically and comprehensively so that regulations regarding the involvement and participation of Indigenous Peoples in optimizing geographical indications can be carried out optimally.

4. CONCLUSION

Regulatory orientation regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications can be carried out because, in addition to optimizing the economic aspect, it can also strengthen and introduce the identity of the Indigenous Law Community, which can be embedded in a geographic indication product. Therefore, both central and regional governments are obliged to facilitate so that Indigenous Peoples can be empowered and invited to participate in optimizing the potential of geographical indications in addition to developing economic aspects that can also introduce and maintain the identity of an Indigenous Law Community in geographic indication products. Appropriate formulations related to arrangements regarding the participation of Indigenous Peoples in optimizing the potential of geographical indications can be carried out by forming cooperatives or associations of producers related to geographical indications. That must be done because, in the provisions of positive law, Indigenous Peoples are not one of the parties that can become applicants for registration of geographic indications. In addition, to make it more optimal, it is necessary to revise the provisions of the GI Law holistically and comprehensively so that arrangements regarding the involvement and participation of Indigenous Peoples in optimizing geographic indications can be carried out optimally.

REFERENCES

Journal Article

- Adhi, Yuli Prasetyo, Dewi Sulistianingsih, and Rini Fidiyani. "Pengelolaan Kekayaan Intelektual Berbasis Kearifan Lokal Sebagai Penguatan Budaya Literasi, Kreativitas, Dan Inovasi." *Jurnal Pengabdian Hukum Indonesia* 04, no. 1 (2021): 18–30.
- Adi Suliantoro, Fitika Andraini, Arikha Saputra. "Potensi Dan Kendala Pendaftaran Indikasi Geografis Kota Semarang." *Komunikasi Hukum* 9, no. 1 (2023): 1569–88. <https://doi.org/10.35295/OSLS.IISL/0000-0000-0000-1275>.
- Asher, Rachael. "Unresolved Injustice: An Examination of Indigenous Legal Issues in Australia." *Udayana Journal of Law and Culture* 4, no. 2 (2020): 146–70.
- Asteria, Donna, Agus Brotosusilo, M. R. Soedrajad, and F. N. Nugraha. "Adat Law and Culture: The Local Authority Elements of Baduy Tribe on Environment Preservation." *IOP Conference Series: Earth and Environmental Science* 716, no. 1 (2021). <https://doi.org/10.1088/1755-1315/716/1/012049>.
- Balqis Siagian, Saidin, Suhaidi, Sunarmi. "Pelindungan Hukum Atas Potensi Indikasi Geografis Di Kabupaten Tapanuli Utara." *Iuris Studia* 2, no. 8 (2021): 655.
- Boor, Catharina van der, Carlos Iván Molina-Bulla, Anna Chiumento, and Ross G. White. "Application of the Capability Approach to Indigenous People's Health and Well-Being: Protocol for a Mixed-Methods Scoping Review." *BMJ Open* 12, no. 12 (2022): e066738. <https://doi.org/10.1136/bmjopen-2022-066738>.

- Darwance, Darwance, Yokotani Yokotani, and Wenni Anggita. "Politik Hukum Kewenangan Pemerintah Daerah Dalam Pengaturan Hak Kekayaan Intelektual." *Journal of Political Issues* 2, no. 2 (2021): 124–34. <https://doi.org/10.33019/jpi.v2i2.40>.
- Deslaely Putranti, Dewi Analis Indriyani. "Perlindungan Indikasi Geografis Oleh Masyarakat Perlindungan Indikasi Geografis Pasca Sertifikasi Di Yogyakarta." *Ilmiah Kebijakan Hukum* 15, no. 3 (2021): 397.
- Disantara, Fradhana Putra. "Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum." *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (January 1, 2021): 1–36. <https://doi.org/10.35673/ajmpi.v6i1.1129>.
- Flambonita, Suci. "The Concept of Legal Pluralism in Indonesia in the New Social Movement." *Jurnal Analisa Sosiologi* 10, no. 3 (2021): 361–73. <https://doi.org/10.20961/jas.v10i0.45939>.
- Han, Feifei. "Sustainable Teaching Strategies to Teach Indigenous Students: Their Relations to Students' Engaged Learning and Teachers' Self-Concept." *Sustainability (Switzerland)* 14, no. 17 (2022). <https://doi.org/10.3390/su141710973>.
- Khadka, Jiban, Krishna Prasad Adhikari, and Niroj Dahal. "The Learning Performance of Indigenous Students in Nepali Private Schools: A Mixed-Methods Study." *International Journal of Instruction* 15, no. 4 (2022): 987–1010. <https://doi.org/10.29333/iji.2022.15453a>.
- Kurniawan, I Gede Agus, Lourenco de Deus Mau Lulo, and Fradhana Putra Disantara. "IUS Constituendum of Expert Advisor in Commodity Futures Trading: A Legal Certainty." *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 31–45. <https://doi.org/https://doi.org/10.29303/ius.v11i1.1170>.
- Labetubun, Muchtar Anshary Hamid, Rory Jeff Akyuwen, and Theresia Nolda Agnes Narwadan. "Workshop Kekayaan Intelektual Sebagai Upaya Peningkatan Pemahaman Dalam Rangka Pengenalan Dan Perlindungan Indikasi Geografis Minyak Kayu Putih Namlea Pulau Buru." *Aiwadthu: Jurnal Pengabdian Hukum* 1, no. 2 (2021): 94. <https://doi.org/10.47268/aiwadthu.v1i2.671>.
- Mahila, Syarifa. "Problematika Perlindungan Hukum Terhadap Produk Indikasi Geografis." *Jurnal Ilmiah Universitas Batanghari Jambi* 19, no. 3 (2019): 639. <https://doi.org/10.33087/jiubj.v19i3.769>.
- Negara, Tunggul Ansari Setia. "Normative Legal Research In Indonesia: Its Origins And Approaches." *ACLJ* 4, no. 1 (2023): 5.
- Nova, Sri Asih Roza. "Perlindungan Hukum Terhadap Pengetahuan Tradisional Di Indonesia Dari Tindakan Misappropriation." *Swara Justisia* 6, no. 4 (2023): 433–43. <https://doi.org/10.32502/khdk.v4i1.4488>.
- Nugroho, Wahyu. "Relationship between Environmental Management Policy and the Local Wisdom of Indigenous Peoples in the Handling of Covid-19 in Indonesia." *Onati Socio-Legal Series* 11, no. 3 (2021): 860–82. <https://doi.org/10.35295/OSLS.IISL/0000-0000-0000-1193>.
- Pawana, Sekhar Chandra, and Erico L Hutahuruk. "Optimaliasasi Pemajuan Kebudayaan Daerah Melalui Indikasi Geografis." *Justicia Sains: Jurnal Ilmu Hukum* 6, no. 2 (2022): 228–47. <https://doi.org/10.24967/jcs.v6i2.1584>.

- Prasetio, Dicky Eko, Fradhana Putra Disantara, Nadia Husna Azzahra, and Dita Perwitasari. "The Legal Pluralism Strategy of Sendi Traditional Court in the Era of Modernization Law." *Rechtsidee* 8 (March 9, 2021): 1-14. <https://doi.org/10.21070/jjhr.2021.8.702>.
- Putri, Karina, Sartika Intaning Pradhani, and Hendry Julian Noor. "The Existence of Adat Law Community in Public-Private Partnership." *Yustisia Jurnal Hukum* 9, no. 3 (2020): 306. <https://doi.org/10.20961/yustisia.v9i3.25492>.
- Rachman, A H. "Ketidakpastian Status Lahan Dan Potensi Deforestasi Dalam Wacana Pembangunan Bandar Antariksa Biak." *Jentera: Jurnal Hukum* 4, no. 1 (2021): 394.
- Rian Saputra, Pujiyono, Sunny Ummul Firdaus. "Un Synchronized Registration Regulation Of Geographic Indications In Indonesia On Products Traditional Alcoholic Drink." *Journal of Legal, Ethical and Regulatory Issues* 25, no. 4 (2022): 1-13.
- Rudy, R., Y. Yonariza, Helvi Yanfika, Ali Rahmat, Winih Sekaringtyas Ramadhani, and Dan Abdul Mutolib. "Forest Cover Change and Legal Pluralism in Forest Management: A Review and Evidence from West Sumatra, Indonesia." *Indonesian Journal of Science and Technology* 6, no. 2 (2021): 299-314. <https://doi.org/10.17509/ijost.v6i2.34190>.
- Sinaga, Niru Anita. "Pentingnya Perlindungan Hukum Kekayaan Intelektual Bagi Pembangunan Ekonomi Indonesia." *Jurnal Hukum Sasana* 6, no. 2 (2020): 144-65. <https://doi.org/10.31599/sasana.v6i2.385>.
- Souza Meirelles, Franklin de, Janaina de Moura Engracia Giraldi, and Rodolfo Paião de Campos. "Transaction Costs Economics and Geographical Indications: A Systematic Analysis of the Literature." *Revista de Economia e Sociologia Rural* 61, no. 4 (2023): 1-22. <https://doi.org/10.1590/1806-9479.2022.264494>.
- Tehupeiory, Aartje, and Lamhot Naibaho. "Enhancing Community Legal Awareness of Land Right Disputes through the Use of Legal Aid Institutions." *International Journal of Psychosocial Rehabilitation* 24, no. 8 (2020): 1223-31. <https://doi.org/10.37200/IJPR/V24I8/PR280136>.
- Tiaraputri, A., L. Diana, and E. Deliana. "Could Kuansing's Pangasius Kunyit Be Protected by Geographical Indication?" *IOP Conference Series: Earth and Environmental Science* 1118, no. 1 (2022). <https://doi.org/10.1088/1755-1315/1118/1/012081>.
- Trihartono, Agus, and Suyatno Ladiqi. "Extending Indonesian Gastrodiplomacy: Blending Geographical Indication (Gi) and "Kopi Indonesia"." *Iium Law Journal* 30 (2022): 35-48.
- Zurba, Melanie, and Anastasia Papadopoulos. "Indigenous Participation and the Incorporation of Indigenous Knowledge and Perspectives in Global Environmental Governance Forums: A Systematic Review." *Environmental Management* 2030, no. 1 (2021): 5. <https://doi.org/10.1007/s00267-021-01566-8>.

Book

- Diantha, I Made Pasek. *Metodologi Penelitian Hukum Normatif*. Cetakan ke. Jakarta: Prenadamedia Group, 2017.
- Eka N.A.M. Sihombing, Cynthia Hadita. *Penelitian Hukum*. 1st ed. Malang: Setara Press, 2022.