


## Legal Protection for Salak Riring as a Geographical Indication

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### Abstract

**Introduction:** Registration of geographical indication protection of Salak Riring in West Seram Regency will popularize the area as a producer of quality salak fruit, increase sales, and contribute to local economic growth. This protection also provides legal certainty for producers, protecting the product from counterfeiting and misuse. Salak Riring, also known as Salak Merah, has been recognized as a superior commodity of West Seram Regency, Salak Merah received an award in the form of a Certificate from the Minister of Agriculture of the Republic of Indonesia Number 454/KPTS/PD.210/9/2003, and was designated as a national superior variety due to its distinctive botanical characteristics and high economic value.

**Purposes of the Research:** The purpose is to examine and explain the legal protection of Salak Riring as a geographical indication.

**Methods of the Research:** The research method used is normative juridical, which examines legal materials such as laws and regulations, legal theories, and opinions of scholars in order to solve the problems studied.

**Results of the Research:** The results of this study show that the legal protection of Salak Riring as a geographical indication has a significant economic impact on the people of Riring Village in West Seram. The registration of Salak Riring provides legal protection and certainty to the community in production and marketing, and protects against counterfeiting or misuse. Salak Riring as one of the geographical indication products with special characteristics, makes legal protection a must to maintain the sustainability of quality production and sales.

**Keywords:** Legal Protection; Geographical Indication; Economic Impact.

Submitted: 2024-11-30

Revised: 2025-01-29

Accepted: 2025-01-30

Published: 2025-01-31

How To Cite: Muhammad Raihan, Teng Berlianty, and Miracle Soplanit. "Legal Protection for Salak Riring as a Geographical Indication." *TATOHI: Jurnal Ilmu Hukum* 4 no. 11 (2025): 879-885. <https://doi.org/10.47268/tatohi.v4i11.2842>

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## INTRODUCTION

Indonesia is an archipelago with abundant natural resources. The abundance of natural resources in Indonesia has fostered biodiversity and plants that are spread throughout Indonesia and of course have geographical characteristics that indicate a particular area. The various biodiversities and plants must be utilized properly by the Indonesian people because they are useful for raising the Indonesian economic sector to be more developed and increasingly known to the world, this is because of the many natural resources of Indonesia that are already well-known and have been exported abroad such as chocolate, coffee, palm oil, and so on, the impact of which is very beneficial, namely increasing the country's economic income.

The diversity of natural resources is important to protect national assets in the territory of Indonesia with legal protection, especially in terms of Intellectual Property Rights. Intellectual Property Rights refer to intangible ownership rights and are currently undergoing development in research and discussion related to its economic aspects in advanced global trade, as well as its moral aspects that value and respect human ideas for the advancement of culture and civilization.<sup>1</sup> Issues related to intellectual property rights

<sup>1</sup> Zulkifli Makkawaru dkk, *Hak Kekayaan Intelektual Seri Hak Cipta, Paten Dan Merek*, Farha Pustaka, Sukabumi, 2021, p. 1

continue to develop along with the times. Intellectual property rights have evolved from simple issues such as claims to own and use works for certain purposes, to questions about who has the right to be the owner of a work if it uses materials from other parties, such as in this case geographical indications. These issues continue to develop in line with the development of intellectual property rights themselves.<sup>2</sup> One interesting form of Intellectual Property Rights (IPR) that is used to identify the origin of a product is geographical indication,<sup>3</sup> since geographical environmental factors include natural factors, human factors, or a combination of both, geographical indications are protected as signs indicating the area of origin of a good. Geographical environmental factors provide certain characteristics and qualities to the goods produced.

Geographical indication refers to a sign that has existed for a long time and indirectly shows the uniqueness of an item originating from a certain area. This sign is used to identify the origin of an item, such as agricultural products, food, handicrafts, or other goods, including raw materials and processed products from the agricultural and mining sectors.<sup>4</sup> Geographical indication is one component of intellectual property rights. In Indonesia, the rules related to geographical indication are still included in the regulation of Trademarks, which are regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications, regarding the implementing regulations regulated in Government Regulation Number 51 of 2007 concerning Geographical Indications.

Protection of geographical indications in Indonesia is a constitutive system that requires registration to obtain state protection. As a distinction from other intellectual property rights, such as patents, trademarks, copyrights, industrial designs, and trade secrets, the article distinguishes geographical indications from collective ownership by communities that produce geographical indication goods. Communities included in the geographical indication area can choose an organization to represent them in registering geographical indications.

One of the agricultural products that has the potential to become an object of geographical indication protection is Salak Riring. Salak Riring, whose Latin name is *Salacca Zalacca*, consists of ripe fruit with a very sweet taste. The flesh of the fruit sticks to the seeds, the texture of the flesh is soft, juicy, and has fine fibers. Its size is larger than the size of other salak fruit.<sup>5</sup> The West Seram Regency Government benefits from geographical indications, which allow Salak Riring to be recognized as an original product of Riring Village and given legal protection. If Salak Riring is protected by Geographical Indications, Salak Riring farmers are expected to pay more attention to quality and business actors are expected to get greater profits from the sale of Salak Riring so that the economic impact of West Seram Regency will also increase. Salak Riring is one of the leading commodities originating from West Seram Regency, Maluku Province. Salak Riring has the potential to obtain legal protection through Geographical Indication registration because it has different characteristics from other types of salak. As a result, further analysis is needed on the importance of protecting Salak Riring as a natural resource of West Seram. In addition, further analysis is also needed on the efforts of the local government to protect Salak Riring, which is a leading product that can become a Geographical Indication.

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<sup>2</sup> Erlina B dkk, *Perlindungan Hukum Indikasi Geografis*, Pusaka Media, Bandar Lampung, 2020, p. 1

<sup>3</sup> Winda Risna Yessiningrum, *Perlindungan Hukum Indikasi Geografis Sebagai Bagian Dari Hak Kekayaan Intelektual*, *Jurnal IUS*, Vol III, 2015

<sup>4</sup> Almusawir dkk, *Hukum Indikasi Geografis dan Indikasi Asal*, Pusaka Almaida, Makassar, 2022, p. 6

<sup>5</sup> <https://radiodms.com/salak-merah-primadona-unggulan-desa-riring-taniwel/>

## METHODS OF THE RESEARCH

This research method is normative law, which is studied from literature reviews, journals and existing books. The type of normative legal research is based on the problem being studied. This means research on the principles, standards and legal principles contained in the laws relating to the problem being studied. This research uses a legislative approach and a conceptual approach. The sources of legal materials used are primary legal materials, secondary legal materials, and tertiary legal materials. The procedure for collecting legal materials uses a literature study (library research) to collect primary, secondary and tertiary legal materials. These materials are then classified, sorted, and used as analysis materials related to the problems that have been formulated, so that answers are obtained regarding the problems discussed in the research. The management and analysis of legal materials used are normative qualitative legal analysis. This means that analyzing a legal material is done after being systematically dissected, carried out for normative qualitative analysis within the framework of the study so that it can be used to obtain conclusions in order to achieve answers to research problems.

## RESULTS AND DISCUSSION

Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Article 1 Paragraph 6 states: "Geographical Indication is a sign indicating the area of origin of goods and/or products which due to geographical environmental factors including natural factors, human factors or a combination of both factors give a certain reputation, quality, and characteristics to the goods and/or products produced". A product in this situation shows a geographical indication or identity because it comes from a certain place, area, or region that reflects its quality, reputation, and characteristics. This involves natural and human elements that are unique characteristics of the product. Geographical signs can be in the form of labels or markers attached to the goods produced, or they can also be in the form of the name of a location associated with the product, either a name that is consistently used or a name listed on a geographical map.<sup>6</sup>

Indonesia has adopted provisions on geographical indications as a WTO member.<sup>7</sup> Geographical indications in Indonesia were initially regulated in Article 56 paragraph (1) of Law Number 15 of 2001 concerning Trademarks. The implementing instructions were then regulated in Government Regulation Number 51 of 2007 concerning Geographical Indications. Over time, regulations regarding geographical indications have continued to develop. Currently, the rules regarding Geographical Indications are regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. In addition, the Directorate General of Intellectual Property also has special regulations related to Geographical Indications.<sup>8</sup> Geographical indications have developed in Indonesia, to date there are at least 138 geographical indication products that have been registered with the Directorate General of Intellectual Property, including 15 products from abroad and the rest are local products. Geographical indication products registered in Indonesia are dominated by various types of coffee.<sup>9</sup> The Directorate General of Intellectual Property is tasked with recording geographical indication products registered by representatives from each region,

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<sup>6</sup> Ahmadi Miru, 2007, *Hukum Kontrak Perencanaan Kontrak*, Raja Grafindo Persada, Jakarta, 2007, p. 73

<sup>7</sup> Abdul Atzar, *Mengenal Lebih Dekat Hukum Hak Kekayaan Intelektual*, Deepublish, Yogyakarta, 2018, p. 74

<sup>8</sup> Herlin Noviyanti, Yetniwati, *Analisis Yuridis Pendaftaran Indikasi Geografis Berdasarkan Prinsip Kepastian Hukum*, *Zaaken: Journal of Civil and Business Law*, 2021, p. 9

<sup>9</sup> <https://babel.kemenkumham.go.id/berita-utama/djki-kemenkumham-canangkan-2024-sebagai-tahun-indikasi-geografis/>

with the aim of protecting these products in Indonesia. One of the potential geographical indication commodities in Indonesia, precisely in Maluku Province, is Salak Riring. Salak Riring is a potential superior geographical indication from West Seram Regency, Maluku Province, in the form of agricultural products that have certain characteristics or uniqueness. These special characteristics are found in the color of Salak Riring which has a different color from other salak, namely having red fruit flesh when ripe. Based on this, Salak Riring is an agricultural product that has the potential to be registered as a geographical indication product/goods so that later it will receive legal protection.

As a very valuable commodity, Salak Riring, also known as red salak, has been recognized through the Certificate of the Indonesian Minister of Agriculture Number 454/KPTS/PD.210/9/2003 issued on September 15, 2003. This red salak has also been designated as one of the national superior varieties because it has distinctive botanical characteristics and high economic value.<sup>10</sup> Based on the results of interviews with farmers, Salak Riring fruit only grows in Riring Village. The average harvest of Salak Riring fruit from November to February reaches 491 kg. In the medium harvest season, the average harvest reaches 367 kg, while in the small season the average harvest reaches 238 kg. On average, the harvest of Salak Riring fruit in one year reaches 1096 kg. This shows that the harvest of red salak fruit in Riring Village is very abundant. However, unfortunately, based on observations and interviews with Salak Riring farmers, the Riring Village Government, and the SBB Regency Government, until now there has been no integrated management effort for Salak Riring fruit. This requires cooperation between Salak Riring farmers and the SBB Regency Government to form an agency or working group responsible for the integrated management of Salak Riring fruit,<sup>11</sup> with good coordination and mutual agreement, a holistic management strategy can be designed starting from production, marketing, to protection of geographical indications of Salak Riring fruit. In addition, training and technical assistance can also be provided to farmers to improve the quality and competitiveness of Salak Riring products.

When discussing legal protection for geographical indications of Salak Riring, there are two approaches that can be taken according to the theory of legal protection, consisting of two types of legal protection, namely preventive legal protection and repressive legal protection. Preventive legal protection is the steps taken by the government to prevent violations from occurring. In accordance with the provisions contained in Article 5 and Article 6 of Government Regulation Number 51 of 2007 concerning Geographical Indications, Salak Riring products that have geographical indications must be registered first to obtain legal protection in the event of a violation. On the other hand, repressive legal protection is an action taken after a dispute or violation occurs, which can be in the form of sanctions, fines, imprisonment, or additional penalties. Lawsuits against violations can be filed in accordance with Article 69 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Lawsuits can be filed by producers or farmers, institutions representing the community, and institutions that have the authority in accordance with the provisions explained in Article 26 of Government Regulation Number 51 of 2007 concerning Geographical Indications.

According to Lili Rasjidi and IB Wya Putra, the law can function well not only to provide adaptive and flexible protection, but also predictive and anticipatory. This shows that legal

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<sup>10</sup> <https://v0.sbbkab.go.id/salak-merah-asal-seram-bagian-barat-merupakan-varietas-unggul-nasional/>

<sup>11</sup> Olyvia Ririmasse, Dessy Balik, Model Pengembangan dan Strategi Branding Buah Salak Merah, *Jurnal Public Policy*, Vol. 4, No. 2, 2023, p. 484

protection is not only carried out to avoid conditions that can harm a person's interests, but protection is also carried out by being able to prevent situations or conditions that can harm a person's interests.<sup>12</sup> Legal protection of geographical indications is one of the main demands of the government through the Directorate General of Intellectual Property. Geographical indication rights indicate the level of civilization and culture of a community because they provide exclusive rights and financial benefits to their holders. One part of the responsibility of autonomous regions is the right to protect geographical indications,<sup>13</sup> to obtain legal protection, geographical indication registration must be carried out. Registration has a very important role because it will indirectly increase regional economic rights. These economic rights can be achieved if each region, through its regional government, is more aware of actively protecting the potential of their regional geographical indications through registration.

Based on Article 53 paragraph (3) letter b, it can be interpreted that the regional government has significant responsibility in protecting geographical indication goods/products through the registration process. The appointment of this government representative institution aims to protect, foster, and improve the welfare of the community by managing and maximizing its economic benefits. In addition, this step also aims to prevent unfair competition practices that use regional names without considering the origin of the geographical indication.<sup>14</sup>

According to Law Number 23 of 2014, regional governments must accelerate the improvement of community welfare through empowerment, better services, higher regional competitiveness, and active community participation. In addition, the Regulation of the Minister of Home Affairs Number 9 of 2014 provides an explanation of the guidelines for developing superior regional products, which requires the development of regional economic potential optimally to produce superior products.<sup>15</sup> Legal protection for potential geographical indications is an important thing to do at this time. As one of the potential geographical indications in West Seram Regency, Maluku Province, Salak Riring should receive legal protection. Protection of geographical indications for Salak Riring can also provide various benefits for both producers and consumers. In general, the real impacts that can be received from registering geographical indications are: 1) With the existence of geographical indications, the authenticity of Salak Riring products can be more guaranteed, so that it can protect related interests; 2) Providing a clearer explanation regarding the identification of Salak Riring and establishing standards of use and processes involving stakeholders of geographical indications in West Seram Regency; 3) Fostering local farmers, especially in Riring Village, West Seram Regency, in supporting coordination and strengthening the organization of geographical indication rights holders, with the aim of creating, providing, and strengthening the image and reputation of Salak Riring; 4) Maximizing economic benefits for farmers and the community of West Seram Regency because geographical indications will increase the selling value of products and community welfare; 5) Preventing unfair competition practices and providing protection to consumers from misuse of the reputation of geographical indications; 6) Protecting the existence and

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<sup>12</sup> Miracle Soplanit dkk, *Perlindungan Hukum Bagi Masyarakat Dalam Pelaksanaan Pembatasan Sosial Berskala Besar Di Kota Ambon*, *Jurnal Unes Law Review*, Volume 3, Issue 3, 2021

<sup>13</sup> Teng Berlianty, Yosia Hetharie, *Urgensi Pendaftaran Dan Perlindungan Hukum Terhadap Embal Sebagai Indikasi Geografis Maluku Tenggara*, *Jurnal IUS Kajian Hukum dan Keadilan*, Volume 8 Issue. 2, 2020.

<sup>14</sup> Rifqi Muttaqin, *Analisis Yuridis Peran Pemerintah Kabupaten Gayo Dalam Perlindungan Indikasi Geografis Terhadap Produk Lokal*, *Jurnal Hukum*, Vol 2 No 1, January 2022, p. 199

<sup>15</sup> Ranitya Ganindha, Sukarmi, *Peran Pemerintah Daerah Dalam Mendukung Potensi Indikasi Geografis Produk Pertanian*, *Jurnal Cakrawala Hukum*, p. 218.

sustainability of the Salak Riring plant which is a typical plant of West Seram Regency; 7) Increasing the exposure of the reputation of Riring Village, West Seram Regency as a geographical indication area, as well as preserving the natural beauty, traditional knowledge, and biological resources, which have an impact on the development of agrotourism in West Seram Regency.

The existence of geographical indications can also provide benefits for various aspects, including: 1) Economic Aspect: Increased sales value, wider marketing, product protection from counterfeiting, increased income, increased employment opportunities, strengthening the local economy, regional development, and improving community welfare when the product has a unique identity. 2) Ecological Aspect: Maintaining the sustainability of nature, the preservation of natural resources, and improving the reputation of the region. 3) Socio-Cultural Aspect: Strengthening the bonds between the Salak Riring farming community, advancing the development of the region as a product producer, preserving traditions, traditional knowledge, and local wisdom of the community. 4) Legal Aspect: Providing farmers with legal guarantees and protection, protecting them from counterfeiting and illegal use, and maintaining product integrity.<sup>16</sup>

Legal protection of geographical indications has a communal or collective nature of ownership. This means that the ownership becomes the shared property of the community in the registered geographical indication area in the form of a Geographical Indication Protection Community organization consisting of representatives of farmers, processors, traders, and can be added to elements from the government. MPIG functions to gather and organize business actors. After a product that has the potential for geographical indication is registered and receives legal protection through geographical indication, the community has exclusive rights to distribute and trade the product. This means that people from other areas are prohibited from using the geographical indication on their products. It is important to register Salak Riring as a geographical indication before another party is not entitled to register and claim ownership of the Geographical Indication. If another party registers, the Riring Village community, especially farmers, will not be able to recognize Salak Riring as a Geographical Indication of West Seram. According to Article 4 of Government Regulation Number 51 of 2007 concerning Geographical Indications, geographical indications will be protected as long as the distinctive characteristics and quality that are the basis for granting protection for the geographical indication still exist.

## CONCLUSION

Legal protection of Salak Riring as a geographical indication has a very significant impact in terms of economy for the people of Riring Village in West Seram. This is because the majority of the population of Riring Village are Salak Riring farmers and at the same time as a source of income for them. The impact of registering Salak Riring as a geographical indication is to obtain legal protection and the people of Riring Village can obtain certainty in producing and marketing Salak Riring, as well as protecting their products from counterfeiting or misuse practices. In addition, Salak Riring meets the requirements as a geographical indication product with special characteristics, so that legal protection as a geographical indication is a must to maintain the sustainability of production and sales of quality Salak Riring from Riring Village.

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<sup>16</sup> Yurida Zakky Umami, Kholis Roisah, *Perlindungan Hukum Terhadap Kelapa Kopyor Sebagai Potensi Komoditas Indikasi Geografis Kabupaten Pati*, *Jurnal Law Reform* Volume 11, Nomor 1, 2015, p 118- 121

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