

Pineapple Lobong in Geographic Indication Law Perspective: Supporting Industry and Creative Economy

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Abstract

Objective: a legal analysis of Lobong pineapple from the perspective of Geographical Indication law; Supporting industry and Creative Economy. **Method:** This study is a qualitative study using a normative approach and an empirical legal approach, namely related to the rules and implementation of the Geographical Indication law for registering Lobong pineapple in supporting the industry and creative economy of the community. **Findings:** Lobong pineapple is one of the horticultural plants that has advantages in Bolaang Mongondow Regency because of its sweet fruit quality. Uniquely, this pineapple only tastes sweet when planted in Lobong village, if planted outside Lobong village, the taste is different, not as sweet as that planted in Lobong village. From the perspective of Geographical Indication (IG) law, Lobong pineapple can be given IG legal protection through registration with the Office of the Ministry of Law and Human Rights (HAM). Registration of Lobong pineapple IG is very important in supporting sustainable industry and creative economy in the utilization and productivity as well as commercialization of Lobong pineapple. The Ministry of Law and Human Rights Office has attempted to register the IG of Lobong pineapple through assistance, but the problems that arise are due to the lack of seriousness and lack of legal awareness of the Bolaang Mongondow district government to register the IG. The government's lack of seriousness regarding administration such as the absence of a Decree of the Regent of the Geographical Indication Protection Community (MPIG) and the absence of academic IG manuscript documents so that IG registration has not been able to be carried out until now. Another obstacle is the lack of concern from related agencies regarding IG registration. The absence of legal protection for Geographical Indication registration will have an impact on farmers, entrepreneurs and also local governments if there is utilization of Lobong pineapple by other parties, both foreign and domestic, for individual interests and will certainly harm the community that has been making and trading the results of the product. **Originality:** the originality of this study shows the lack of seriousness and lack of legal awareness of the local government about the importance of legal protection of Lobong pineapple through IG registration which will ultimately harm the MPIG community who make and produce derivative products of Lobong pineapple in the form of smoked, crackers, and pickles.

Keywords: Legal protection, Geographical Indication; Pineapple Lobong; Industry, Creative Economy.

IG as one part of Intellectual Property Rights (IPR) is an exclusive right granted by law in the form of a reward for the rights holder. This

reward can support the industry and creative economy of the community by creative people to produce IG products that can be traded. Creative

individuals are encouraged to continue to hone their intellectual abilities so that they can be used to help human life. IG in the era of global trade, in line with international conventions that have been ratified by Indonesia, is very important, especially in maintaining healthy, fair business competition, consumer protection, and protection of Micro, Small, and Medium Enterprises and domestic industries. IG is a national potential that can become a superior commodity, both in domestic and international trade. Therefore, the regulation of IG is stipulated together with the Trademark and Geographical Indication Law Number 20 of 2016.

IG is a sign that indicates 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 provide a certain reputation, quality, and characteristics to the goods and/or products produced. As an exclusive right granted by the state to the rights holder, IG must be registered so that there is legal protection for the rights holder. Registered IG, as long as the reputation, quality, and characteristics that are the basis for granting protection for the Geographical Indication still exist.

Lobong pineapple as one of the horticultural plants in the agricultural land of Lobong village in Boloong Mongondow Regency has the potential for IG registration. Given the quality of the fruit which is sweet and not sour and has guaranteed quality, this Kamobagu pineapple has export potential. This pineapple has been selected and recognized by investors from China, the results of their research (Chinese investors), the Kotamobagu Pineapple variety is the best in the world. Therefore, it is important to submit IG registration to the registration office of the Ministry of Law and Human Rights. Efforts to register IPR from the Ministry of Law and Human Rights face problems even though there has been assistance from the Office of the Ministry of Law and Human Rights. Even the Head of the North Sulawesi Kemenkumham

Regional Office Ronald Lumbuun through the Head of Legal Services Hendrik Siahaya and the Head of Intellectual Property Services Setiawaty Ponto at that time had visited the Bolaang Mongondow Regency Agriculture Service with the aim that the Bolaang Mongondow Regency government would immediately register the IG of Lobong pineapple so that there would be legal protection, but this did not result in the registration of the IG of Lobong pineapple. The lack of seriousness and lack of legal awareness from the government to register related to administrative matters has an impact on increasing the economy of industry and creative individuals to increase the economy of farmers, entrepreneurs, and MSMEs as producers of Lobong pineapple products that have export quality. The legal protection of the IG of Lobong Pineapple, will also provide protection and legal certainty for farmers, processors and traders, the Geographical Indication Protection Society (MPIG) of Lobong Pineapple.

Literature Review

Geographical Indication is a sign that indicates the area of origin of an item or product which due to geographical environmental factors including natural factors, human factors or a combination of both factors gives a certain reputation, quality, and characteristics to the goods or products produced. The sign can be in the form of a place name, area, region, word, picture, or letter, which is attached to a product originating from a certain geographical area to distinguish similar products in trade. Geographical Indication offers products with certain characteristics, quality and reputation, due to differences in the geographical environment of the product's area of origin with similar products from other areas, and have high economic value. The definition of a geographical name comes from the name of a place listed on a geographical map showing the place of origin of the goods in question. Objects that can be protected by geographical indications include all products produced by nature with certain tastes,

shapes, and characteristics that are different from similar or dissimilar products in other areas, due to geographical and human factors.

Designation of the origin of an item is important because the influence of geographical factors including natural factors, human factors, or a combination of both factors in a particular area where the item is produced can provide certain characteristics and qualities to the item. The characteristics and quality of the item that is maintained and can be maintained for a certain period will create a reputation (fame) for the item, which then allows the item to have high economic value. Therefore, the item should receive adequate legal protection.

Legal protection according to Philipus M. Hadjon focuses on "government action" (bestuurshandeling or administrative action). Furthermore, Philipus M. Hadjon distinguishes legal protection for the people into two types, namely: a. Preventive legal protection which aims to prevent disputes that give the people the opportunity to file objections (inspraak) or opinions before government decisions take a definitive form, which is very important for government actions based on freedom of action because the government is encouraged to be careful in making decisions based on discretion. b. Repressive legal protection aims to resolve disputes in a broad sense including handling legal protection for the people by general courts and administrative courts in Indonesia. Legal protection must be reflected in the implementation of the law, the legal process and the consequences of the implementation or enforcement of the law. This can be seen from the diversity of relationships that occur in society. Relations between communities give birth to laws that regulate and protect the interests of each community. With the diversity of legal relationships, members of society need rules that can guarantee balance so that in these relationships there is no chaos in society. Law as a norm is a guide for humans in behaving in their relationships in society. Law is also a guide to what should be done and what should not be

done. The law also guides on what should not be done, so that everything can run orderly and regularly. This is possible because the law has the nature and time to regulate human behaviour and has the characteristics of ordering and prohibiting, as well as the law can force the law to be obeyed by members of society.

Legal protection of Geographical Indications is regulated in Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which is divided into 4 chapters, namely Chapter VIII, Chapter IX, Chapter X, and Chapter XI starting from Article 56 to Article 71 and has sections as sub-headings of its regulations. The definition of Geographical Indication as in Article 1 Number 6 states that Geographical Indication is a sign that indicates 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 provide a certain reputation, quality, and characteristics to the goods and/or products produced.

Indonesia has an adequate Geographical Indication protection system. Through optimal Geographical Indication protection, not only is environmental sustainability expected to be maintained, but the empowerment of natural and human resources in the region is expected to be maximized. In addition, the migration of potential workers from one region to urban areas is expected to be prevented, by creating or opening up opportunities and jobs to produce certain goods that are protected by geographical indications and are expected to have a significant economic value in the region. Indonesia has also begun to see that various sub-sectors in the creative industry have the potential to be developed, as is the concern of the Kotamobagu city government which has collaborated with the Bank of Indonesia, North Sulawesi representative regarding the development of the Kotamobagu Pineapple commodity.

Pineapples from Lobong Village, Bolaang Mongondow Regency, North Sulawesi do not make your eyes squint when eating because of

the sour taste. The fresh, dense and juicy flesh is always sweet so it is very suitable for making jam. This derivative product can be a protector from the ups and downs of pineapple prices. However, the pressure of farmers' living needs often makes the pineapple fruit not have time to be turned into jam. With a fairly large pineapple plantation, of course, it has very promising potential. Bolaang Mongondow Regency, where most people work as farmers, is a sub-sector that is the main priority in developing and improving the economic welfare of farmers. Most of the agricultural land is empowered by the community to plant several commodities, especially the horticultural commodity Pineapple with a land area of 1,239 Ha and a production of 22,824 tons in 2011 and 2010 with a land area of 1,689 Ha and Production of 30,402 tons.

This can be seen from the area of pineapple plantations of farmers in Lobong Village, the smallest is 0.5 Ha and Kotamobagu, which is currently around 136 hectares. According to the Mayor of Kotamobagu with an average production of ten thousand seeds per hectare, if converted to rupiah, then in one year the farmer groups can earn 2 (two) billion rupiah, ". In front of the Head of the BI North Sulawesi Representative, the deputy mayor said that pineapple has a very promising potential to be developed. With a fairly large pineapple plantation, of course, it has very promising potential. This can be seen from the area of pineapple plantations of farmers in Kotamobagu, which is currently around 136 hectares. With an average production of ten thousand seeds per hectare, if converted to rupiah, then in one year the farmer groups can earn 2 (two) billion rupiah. The Kotamobagu City Government through the Department of Agriculture and Fisheries continues to develop organic Nenas Mas plants with export quality. As a superior pineapple variety, Nanas Kotamobagu has been selected and recognized by investors from China. From the results of their research (Chinese investors), the Nanas Mas Kotamobagu variety is one of the

best pineapples in the world. That's why they plan to develop 30,000 hectares of pineapple plants in Kotamobagu City .

Research Method

This research is normative legal research using conceptual, historical, theoretical and legislative approaches with secondary data with primary and secondary legal materials. Primary legal materials are generated from several relevant laws and regulations. The collected legal materials are analyzed descriptively related to the problems and prescriptively .

Results and Discussion

4.1 The Nature of Geographical Indication Protection of Lobong Pineapple as a Regional Potential to Support Industry and Creative Economy

The nature of IG regulation is inseparable from international conventions in the field of trade. Judging from its history, IG began with the concept of indications of source or appellation of origins which has existed since the 14th century in France. The first product to receive IG protection was Roquefort cheese. At that time, the Royal Charter was awarded by King Charles VI to the people of Roquefort, as the only village allowed to produce Roquefort cheese. Although France is known as a wine producer, Roquefort cheese was the first object to receive geographical protection .

Furthermore, in Indonesia, the protection of IG as one of the areas of IPR cannot be separated from the birth of the Uruguay Round Negotiations agreement which was stated in the text of the Draft Final Act, finally becoming the Marrakesh agreement with the formulation of the design to establish the Multilateral Trade Organization (hereinafter referred to as MTO) which was then renamed the World Trade Organization (hereinafter referred to as WTO) as a replacement for GATT . This shows that there has been a major shift in the regulation of IPR protection issues. This change makes the WTO a fully international organization and not just an

interim institution. This improvement is considered necessary because the Uruguay Round has increased the scope of the substance handled and has produced many new agreements in areas that were previously never handled by GATT. The expansion of activities produced by the Uruguay Round can be placed under one umbrella with a more integrated organization.

The results of the Uruguay Round Negotiations, in addition to changing the organizational form of GATT to WTO, also agreed on the impact of IPR on international trade, therefore the negotiations finally ratified the TRIP's Agreement as an attachment or annexe to the WTO Establishment Agreement with a different membership nature from other international conventions, such as the Paris Convention and the Bern Convention which are independent of WTO membership. Indonesia has participated in signing the WTO agreement, thus as a member of the WTO Indonesia ratified the WTO agreement in Law Number 7 of 1994 entitled Ratification of the Agreement Establishing The World Trade Organization or Agreement on the Establishment of the World Trade Organization. As a member of the WTO, Indonesia is obliged to enforce the provisions of TRIPs (Trade Related Intellectual Property Rights) as an attachment or annexe to the WTO agreement. By ratifying WTO Law No. 7 of 1994, the Indonesian government made a law in the field of IPR that refers to TRIPs, one of which regulates Indications whose regulations are the same as Trademarks, namely Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Furthermore, IG regulations are specifically regulated in the Regulation of the Minister of Law and Human Rights No. 12 of 2019 concerning Geographical Indications.

IG is different from other forms of IP because the protected object is not the result of human intellectual work but in the form of a mark on goods and/or products influenced by geographical environmental factors pointing to the area of origin. Human factors and natural

factors influence giving reputation, quality and characteristics to goods through local wisdom.

The geographical factor of a particular area or region of a country is a determining element of an item that will receive IG protection. Products in the form of natural resources are the majority of commodities protected using IG. In general, although not entirely, IG products depend on the land. IG description documents, as in Article 1 paragraph (11) of Law of the Republic of Indonesia No. 20 of 2016, that, a geographical indication description document is a document containing information, including reputation, quality, and characteristics of goods and/or products related to the geographical factors of the goods and/or products for which a geographical indication is requested.

For example, the Australian red wine "connawarra" is famous for its distinctive taste that arises from the red soil called terrarosa. Connawarra grapes are grown not only in Australia, but in Europe there are also grapes with the same quality and characteristics that are influenced by similar soil and climate. IG protection for Australian Connawarra grapes, causes other regions such as in Europe, even though they have grapes that are identical to Connawarra grapes with the same taste, quality and characteristics, to not be allowed to use the name Connawarra grapes.

IG as part of KI has an important meaning for Indonesia because it is useful for improving the welfare of the community in the geographical area in particular and realizing the improvement of the nation's economy, it is also useful for regional conservation for IG products in the form of natural products, especially in supporting the development of industry and the regional economy. Lobong Village is one of the centres of pineapple production besides Wangga Village in Bolaang Mongondow Regency. Pineapple production in Lobong Village is very fluctuating because it is influenced by the season. Most of Bolaang Mongondow's pineapple production is supplied from Lobong Village, which has recently also been famous for its PLTM (Solar

Power Plant). The Lobong pineapple market, in addition to being sold in local markets, such as Kotamobagu, Manado, and Bitung, is also taken outside the region. Several inter-island traders in Manado send pineapples from Bolaang Mongondow to Gorontalo, Makassar, Papua, Surabaya, and Jakarta. However, when approaching religious holidays, Lobong pineapples have already been sucked up to cities/regencies in North Sulawesi, especially to be processed into pineapple jam.

Protection and legal certainty of Lobong pineapples for the interests of industry and the creative economy that are part of the farmer, processor and trader community as the Geographical Indication Protection Society (MPIG) for farmers, processors and traders, the Geographical Indication Protection Society (MPIG) of Lobong pineapples should have the legal awareness to register Lobong pineapples through the IG law which has not been carried out by the Bolaang Mongondow government until now.

4.2 Registration of Lobong pineapple IG in supporting sustainable industry and creative economy: challenges and obstacles

The regulation of the procedures for registering IG is regulated in Articles 56-69 of Law No. 20 of 2016 concerning Trademarks and Geographical Indications and Articles 5-14 of Government Regulation Number 51 of 2007 concerning IG. The application for IG registration is submitted in writing in Indonesian by the applicant or through his/her attorney by filling out the form in triplicate to the Directorate General. It is important to include the administrative requirements, namely the date, month, and year; full name, nationality, and address of the applicant; and full name and address of the attorney, if the application is submitted through an attorney. The application is accompanied by a special power of attorney if the application is submitted through an attorney and proof of payment of fees. The application must be accompanied by a book of requirements consisting of:

- 1) The name of the IG for which registration is requested;
- 2) The name of the goods protected by the IG;
- 3) A description of the characteristics and qualities that distinguish certain goods from other goods in the same category, and explain their relationship to the area where the goods are produced.
- 4) A description of the geographical environment and natural and human factors that are unity in influencing the quality or characteristics of the goods produced;
- 5) A description of the boundaries of the area and/or map of the area covered by the geographical indication based on recommendations from the authorized agency.
- 6) Description of the history and traditions related to the use of IG to mark goods produced in the area, including recognition from the community regarding the IG;
- 7) Description explaining the production process, processing process, and manufacturing process used so that it allows every producer in the area to produce, process, or make related goods;
- 8) Description of the method used to test the quality of the goods produced; and
- 9) Labels used on the goods and containing the IG.

The Directorate General conducts an administrative examination of the completeness of the Application requirements within a maximum of 14 (fourteen) days from the date of receipt of the Application and provides a Receipt Date if the application is complete. If there is an incomplete application, the Directorate General will notify the Applicant or his/her Attorney in writing so that the completeness of the requirements must be fulfilled within a maximum of 3 (three) months from the date of receipt of the notification letter. If the completeness of the requirements is not fulfilled, the Directorate General will notify the Applicant or his/her Attorney in writing that the

Application is considered withdrawn and announce it in the Official IG News.

Substantive examination within a maximum period of 1 (one) month from the date the requirements are met, the directorate general forwards the application to the IG expert team to conduct a substantive examination of the application within a maximum period of 2 (two) years from the date the application is received. If the IG expert team states that the requirements are met, the IG expert team submits a proposal to the directorate general to register the IG in the general IG list. Substantive examination is subject to a fee and must be paid before the end of the application announcement period. If the IG expert team agrees that an IG can be registered, the IG expert team proposes to the directorate general to announce information related to the IG including its requirements book in the official IG news within a maximum period of 30 (thirty) days from the date the proposal from the IG expert team is received.

Challenges and obstacles related to the registration of Lobong pineapple IG based on data through interviews with researchers with the Secretary of the Bolaang Mongondow Agriculture Service, Mrs. Guliana Ponubu and Mr. Effendi as the Head of the Crops and Food and Horticulture Division of the Bolaang Mongondow Regency Agriculture Service Office on August 1, 2024, several things are obstacles that researchers can conclude as follows:

1) Lobong pineapple, although it has a sweet taste, both the flesh and the middle stem of the pineapple can also be eaten, unlike other pineapples.

2) Lobong pineapple has a sweet and savoury taste because the soil contains high levels of lime and the way farmers maintain and care for pineapple growth with the right water content and not excessive.

3) There has been a community of the Geographical Indication Protection Community (MPIG) of Lobong Pineapple in Bolaang Mongondow Regency, but there has been no

socialization from the Ministry of Law and Human Rights regarding the IG registration regulations.

4) There is no Regent's Decree regarding the implementation of the registration of IG Nanas Lobong.

Data obtained through interviews with Mr Hendrik Siahaya, Head of the Legal Services and Human Rights Division, there are several things that researchers can conclude:

1) In early 2024, the Government determined the thematic year of IG through the Ministry of Law and Human Rights at the Directorate General of KI, the North Sulawesi Ministry of Law and Human Rights Regional Office has visited several regencies/cities that have the potential for IG to be registered. In 2024, the Regional Office plans to determine 5 (five) IGs in North Sulawesi, namely: Nike Tondano, Minahasa Arabica Coffee, Pangu Minahasa Tenggara Salak, Kotamobagu Coffee, and Nanas Lobong Bolaang Mongondow.

2) The obstacles for Nanas Lobong to be registered are administrative constraints and academic manuscript documents where until now the IG manuscript documents for Nanas Lobong have been to the office of the Ministry of Law and Human Rights. Since the beginning of the year, the division head and the Head of the field have met with the Bolmong district government where several heads of departments were present, including the Cooperatives Department, the Head of the Agriculture Department, the Head of the Legal Section and it has been determined which departments will issue administrative requirements as an initial step to start IG registration.

3) According to the Head of the Agriculture Department, Lobong pineapple already has research results, but the research results have never reached the officials of the Law and Human Rights Office. So it is not known whether the research results meet the administrative requirements in the descriptive text or not. Until now, descriptive data has never been submitted to the officials of the Ministry of

Law and Human Rights Office who were very proactive in visiting until now. Because the time is no longer possible, only 2 months until December 2024 ends, the IG thematic year is no longer possible.

4) There has been an MPIG for Lobong pineapple but it has not been determined through the Regent's Decree

5) There is no recommendation from the Regent to register the Bolaang Mongondow Lobong pineapple, even the related agencies consider that it is not their job.

Based on the results of field data through interviews with related officials, according to researchers, in realizing the thematic year of IG in North Sulawesi, the Ministry of Law and Human Rights has been serious and proactive in reaching out to the Bolmong Regency government to register the Lobong pineapple IG, but in reality, there is no seriousness from the Bolmong government in supporting the regional government program through the office of the Ministry of Law and Human Rights. The related agencies feel that it is not their responsibility regarding IG registration. The district government should understand and have legal awareness of the importance of legal protection for the registration of the Lobong pineapple IG. Therefore, IG registration will have a positive impact on the economic growth of the local government through pineapple production through farmers, and entrepreneurs who are members of the MPIG which will support sustainable industry and creative economy in the Bolaang Mongondow area.

The legal awareness of officials regarding IG registration will greatly support the programs of the North Sulawesi provincial government for regional economic growth. Lobong pineapple has the potential to be registered for IG because the quality of the pineapple fruit (sweet taste) is quite good, but in terms of quantity shape and size of the fruit is still lacking (small). Based on the results of the study of the chemical fertility

of the soil in the pineapple agrotourism land in Lobong Village, Pindol and Passi, Bolaang Mongondow Regency, it shows that the pH level of the soil at the location is suitable for the growth of pineapple plants, KTK has a content level with low criteria, Nitrogen has a low content value, Phosphorus and Potassium have very high-low conditions, Calcium has a very low content value, C-organic has a low to very low content value (<https://ejournal.unsrat.ac.id/index.php/samrat-agrotek>). Pineapples, although small in fruit, have a sweet taste. The results of this study indicate that Lobong pineapples that have the potential for IG registration should be serious to provide legal protection from the Bolaang Mongondow regional government to immediately register IG.

Conclusion

The North Sulawesi Provincial Government has set 2024 as the thematic year for IG registration where nana Lobong has the potential for IG registration considering that the fruit has a sweet taste and the middle stem can be eaten. This sweet taste depends on the contour of the soil which has a lime element and should not have too much water. The Ministry of Law and Human Rights has been serious about proactively picking up the ball for IG registration, but the district government is not serious about supporting both administratively regarding the various documents needed to complete the registration process. This is due to the lack of legal awareness of the local government to provide protection and legal certainty for IG users in the development of industry and the creative economy of the community through IG registration. There needs to be legal awareness for the district government in supporting the IPR program which has the potential to increase the community's economy.

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