

CENTRAL ACEH GOVERNMENT'S ROLE POST THE ENACTION OF GAYO COFFEE'S GEOGRAPHICAL INDICATIONS

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Abstract - Indonesia as a member of the World Trade Organization (WTO) has a duty to implement the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). TRIPs Agreement is the international regulatory framework on protection of intellectual property. According to TRIPs Agreement, Geographical Indication is an intellectual property right conferred to protect the name of a specific place (region, locality or even country) where a product originates, as well as the special qualities, characteristics and reputation, due to natural factors and/or to traditional productions practices that are directly linked to such origin. One of Indonesian products that has received a Geographical Indication status is Kopi Gayo coffee. Kopi Gayo coffee has been registered in the General Directorate of IPR Indonesia and also had been registered in European Union (EU). The focus of this thesis is to explore how are the efforts of local governments to maintain the Geographical Indications on Kopi Gayo coffee and to comprehend the obstacles in the implementation of registered Geographical Indications on Gayo Coffee. This research uses empirical method. The data in this paper was obtained by studying related fields of study, interviewing on respondents and informants, and conducting library research to acquire secondary data which sources include; legislations, books, online documents and other scholarly works related to research problems. Article 4 of Government Regulation No. 51 Year 2007 stipulates that registered Geographical Indication shall be protected as far as the specific characteristics and quality which have been the basis of the protection grant still exist. Therefore, the roles of government, farmers and exporters need to be fulfilled in order to maintain Geographical Indication on Kopi Gayo Coffee. Government created Masyarakat Perlindungan Kopi Gayo (MPKG) as a public institution for registering geographical indication and then becomes the milestone of society and government to preserve the existence of Kopi Gayo coffee. Moreover, government should aware of the legal protection Kopi Gayo for its sustainance. Until now, Kopi Gayo has managed to penetrate the international market but still need improvement on the quality of its local human resources. Monitoring and surveillance are being conducted by the Government to maintain the characteristics of Kopi Gayo. In spite of many government-arranged programs, there are various aspects that the government has not yet to consider. Currently, the effort that has been made by government is insufficient to protect Gayo coffee. The government admitted to have a shortage of financial and human resource that are capable to provide guidance regarding geographical indication. Therefore, it is recommended that the government optimize legal protection of geographical indication and learn from other regions which have the geographical indication product to preserve the existence of Kopi Gayo coffee.

Keywords: Coffee's Geographical Indications, Aceh, Government.

INTRODUCTION

Indonesia as a member of The WTO¹ has a duty to implement the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter, TRIPs Agreement).² TRIPs Agreement is the international regulatory framework on protection of intellectual property.³ According to TRIPs Agreement Geographical Indications (GIs) is an intellectual

¹ Indonesia registered as a member of WTO on January 1, 1995. Member List of WTO at <http://www.wto.org>.

² Article II.2 of the Agreement Establishing the World Trade Organization.

³ Albrecht Conrad, The Protection of Geographical Indications in the TRIPs Agreement, The Trademark Reporter, Vol. 86, No. 11, January-February 1996.

property right⁴ conferred to protect the name of a specific place (region, locality or even country) that designates a product which originates in that area, having special quality, characteristics and reputation that are directly linked to such origin, due to natural factors as well as to traditional productions practices. Many well-known products around the world, such as Champagne, Manchego cheese, Café of Colombia, are protected as Geographical Indications (GIs).⁵ Since 1883, Paris Convention on the Protection of Industrial Property (hereinafter, Paris Convention) has regulated indications of source or appellations of origin to protect the use of geographical name for international commodity.⁶

The role of the GI protection on Gayo coffee is very important. The local producer communities in need of legal protection names of origin products that are not used by other parties to conduct unfair competition. The stronger competition in the global markets era in recent decades grows the importance of GI to protect a characteristic of the product. The Specialty Coffee Arabica Gayo (Gayo coffee GI) plays an important role in attracting the attention of local, national and international consumers. The GI protection on Gayo Arabica coffee grounds on reason that Gayo Arabica coffee origin from a specific region with a growing range on altitudes between 900-1700 m above sea level (mostly Gayo Arabica coffee grows on altitude of 1000-1400 m above sea level).⁷

Meanwhile, before Gayo coffee was registered as the Geographical Indication in Indonesia and came to be registered in the European Union, “Gayo Mountain Coffee” has been registered as the commercial brand by Holland coffee in the Netherlands which underlines the need, for Indonesia to quickly protect its products.⁸ It is a pity that Gayo coffee can not be sold in Netherland with Gayo brand label as Holland Coffee Company has been registering Gayo as its brand name in European and Netherland Intellectual Property Office. In this case, it is only Holland Coffee Company that can use Gayo label in the European market. Sold without indicated its name origin.

Under those circumstances, Indonesia Government had initiative to protect Gayo Coffee by using Geographical Indication system and registered it to OHIM. It aimed at

⁴ Part II of TRIPs Agreement.

⁵Olivas Ester, *Kopi Arabika Gayo: The First Indonesian Geographical Indication Applying For Protection in The EU*, February 25 2016, <http://www.euind-tcf.com> Retrieved on August 13th, 2016.

⁶ Article 1.2 of Paris Convention

⁷ *Loc.Cit.*

⁸*Indikasi Geografis Pelindung Kekayaan Indonesian (Geographical Indications As Intellectual Property Protection)*, <http://imamhariyanto.com/indikasi-geografis-pelindung-kekayaan-indonesia> Retrieved on 10 June 2016.

protecting the assets of GIs in Indonesia from the foreign parties that want to steal the Indonesian assets.

On 26 January 2016, the Directorate-General for Agriculture and Rural Development of the European Commission notified the receipt of the application of Gayo Coffee to be registered as a GIs in the EU.⁹ Meanwhile, the Geographical Indication of Gayo Coffee was filed with OHIM (Office for Harmonization in the Internal Market) on July 03, 2015.¹⁰

As mentioned above, the research aims to know how the government's policy in post the geographical indications on Gayo coffee that has been obtained from OHIM. The results of this study are expected to provide data and information to the government, farmers and practitioners engaged in the development of Arabica coffee on the benefits of GI Gayo Arabica Gayo highlands. The results also can be used for other researchers as a additional and related reference information.

The focus of this thesis is formulated as follows:

1. What are the efforts of local governments in maintaining the Geographical Indications on Gayo Coffee?
2. What are the obstacles in the implementation of registered Geographical Indications on Gayo Coffee?

RESEARCH METHOD

The method used in conducting the research was empirical legal research. Empirical legal research is a of legal research that serves to see law in real sense and examines how law works in the environmental community. Because in this study investigated people in a relationship are living in the community then the empirical legal research methods can be said to be a sociological legal research. It can be said that the study of law drawn from the facts that exist within a society, the legal entity or Government agency.

1. Operational Definition of Research Variables

In order to avoid matters that do not relate to the scope of the thesis, there are several things that need to be highlighted:

- a. Central Aceh Government as the holder authority in Central Aceh.

⁹*Op.Cit.* Note 5.

¹⁰*Terdaftar di Eropa, Kopi Gayo Resmi Milik Petani* (Registered in Europe, Officially Gayo Coffee privately-farmer-owned), September 17 2015, <http://kopigayo.net>. Retrieved on June 10, 2016.

- b. Geographical indications are denominations that identify a good as originating in a region or locality, where the reputation or quality of the good is essentially attributable to its geographical origin.¹¹

Gayo coffee (Arabica variety) is the premium coffee from Gayo Highlands, Indonesia. Gayo Coffee has been planted in Gayo Highland since 1908. There are three locations of Gayo Coffee cultivation, i.e. : Bener Meriah District, Gayo Lues District and Central of Aceh District, there are located at 1200 meters above sea level. Bener Meriah District and Central of Aceh District are the largest coffee producers in Indonesia. There are 42.000 hectares coffee plantation in Bener Meriah District and 39.000 hectares in Central Aceh District. The naming of Gayo Coffee originated from the Gayo ethnic group who has been living in Bener Meriah District and Central of Aceh District since long time ago.¹²

THE RESULT

1. The Efforts of Local Governments to Maintain the Geographical Indications on Gayo Coffee

Gayo coffee is one product geographical indication of very high value.¹³ Awareness of the *Kopi Gayo* coffee cases undertaken by the company in the Netherlands slapped the government cooperate with related departments and Gayo coffee entrepreneurs made efforts to process the registration of geographical indications against gayo coffee. Including one established Community protection Gayo Coffee (MPKG).

Until now, Gayo Coffee has managed to penetrate the international market although still need improvement in the quality of human resources in the local community. Monitoring and surveillance is still done by the Government to maintain the characteristics of the Gayo Coffee.

Although there are still many things that need to be addressed in terms of the improvement of the quality of the Gayo coffee and supply economics education to the local community, the Government sought so that the Gayo High Land community can

¹¹ Mitsuo Matsushita (*et.al*), *The World Trade Organization, Law, Practice and policy*, Second editions, Oxford University Press, New York, 2006, page 6.

¹² *Op.Cit.* Note 10.

¹³ Gayo Highlands origin coffee becomes most expensive coffee Arabica type in the world in 2011, the world's largest producer, beat Brazil. It was revealed in the exhibition World Coffee Organization held Specialty Coffee Association of America (SCAA) in Portland, Oregon Convention Center, United States. News on september 8, 2013. <http://www.kopi-gayo.com/kopi-gayo-termahal-di-dunia> retrieved on January 5, 2016.

manage the own traffic economy that occurred in his village. So far the Government can only provide a supply and monitoring regarding the development of Gayo Coffee.¹⁴ In addition because the lack of funds in the relevant agencies, local government concern still felt less because it has not been considered crucial to maintaining the quality and characteristics of the gayo coffee to get the protection of geographical indications.

2. The Obstacles in The Implementation of Registered Geographical Indications on Gayo Coffee

The lives of the Gayo community's economy is heavily dependent upon Gayo coffee sales results. Gayo highland comprising 47,000 family heads has a land area of 1 to 2 Ha each family heads for planting coffee.¹⁵ However, gayo coffee production was still lacking in national and international markets.¹⁶

Vulnerability of farmers conditions diminishing that threaten the sustainability of the coffee in the future if the sale of coffee is not able to grow and contribute a lot in the lives of farmers.¹⁷ An average human resources holds over coffee groves gayo is merely a high school-level, so we can understand that the community is not so learned how to manage people's economy in its territory. And also on the national market, there are many products that use the Arabica coffee gayo and sell it with another name, thus damaging the reputation of the gayo coffee. What's more on the international market, there was one company in the Netherlands using the name of Gayo. This is the task of the Government to build the human resources which are more reliable in order not cheated by other countries. Indonesia who had participated in a world free trade should start taking the attitude of wary of all assets and the wealth that nature is the source of most major economies of Indonesia. And also one of obstacles on the implementation Geographical Indication on *Kopi Gayo* Coffee is the absence of supporting funds that remain and enough to perform socialization to remote areas in order to provide knowledge about IG. During this time, funding comes from APED, UNDP, BAPPEDA Aceh, but the extent of

¹⁴ Interview result with Mr. Saky Septiono as *Kepala seksi administrasi sub direktorat Indikasi Geografis dan Merek, Direktorat Jenderal Hak Kekayaan Intelektual Kementerian Hukum dan HAM* (Head of administration of the sub-section of Geographical Indications and Mark of the Directorate General of Intellectual Property Rights, Ministry of Justice and Human Rights), on Saturday, October 29, 2016 at 11.00 a.m

¹⁵ Interview result with Mr. Mustafa Ali as *Kepala Lembaga Masyarakat Perlindungan Kopi Gayo* (Head of MPKG) on Monday, October 30, 2016, at 10.00 a.m.

¹⁶ *Op.Cit.* Note 14.

¹⁷ *Loc.Cit.*

the area that is spread over 3 districts are still not affordable by the local governments and MPKG itself.¹⁸

CONCLUSIONS AND RECOMENDATION

The conclusion that can be drawn in this thesis as follows:

- a) The Government of Central Aceh, Bener Meriah, Gayo Lues and the institution of MPKG has conducted several efforts to maintain the quality and characteristics of the gayo coffee as mandated by Government Regulation No. 51 Year 2007 regarding geographical indications, such as organizes seminars and made programs to directly controlling villages to provide counseling has often done. However, the effort that has been made by Government is insufficient to give protection on Gayo coffee because many smuggling that conduct in the society.
- b) As for the perceived obstacles of Government in implementing the Gayo coffee geographical indication is in terms of the dissemination or socialization of geographical indications, the Government itself admits is still a shortage of financial and human resources that are capable to provide guidance regarding geographical indications.

Recomendations:

- a) For local Government, it need to optimalize legal protection as a result of the inclusion of geographical indication products by government. With a wide variety of impersonation, cheating to smuggling against geographical indications on Gayo coffee would certainly be a homework assignment for the local government for how to improve law enforcement in reducing the range of the potential damage the quality and characteristics of the Gayo coffee itself.
- b) The government need to learn more with another region which has the geographical indication product for secure the existence of Gayo Coffee. Like Kintamani District has done, Kintamani Arabica coffee product has been around since the year 1800 and have experience the ups and downs of the economy rate.

¹⁸ *Op.Cit.* Note 15.

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