

LEGAL PROTECTION OF GEOGRAPHICAL INDICATION OF KASONGAN POTTERY CRAFT IN BANTUL, SPECIAL REGION OF YOGYAKARTA AS A LOCAL POTENTIAL REGION

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Abstrak

Kerajinan gerabah Kasongan yang berasal Kasongan Bantul Daerah Istimewa Yogyakarta memiliki potensi untuk mendapatkan perlindungan hukum sebagai Indikasi Geografis. Penelitian ini menganalisis perlunya Kerajinan Gerabah Kasongan mendapatkan perlindungan hukum sebagai Indikasi Geografis Bantul. Metode pendekatan penelitian yuridis empiris. Desa Kasongan Kabupaten Bantul Propinsi Daerah Istimewa Yogyakarta menjadi lokasi penelitian dalam penelitian ini. Metode pengumpulan data melalui studi penelitian kepustakaan serta studi lapangan. Metode analisis dimulai dari pengumpulan data, reduksi data, penyajian data dan penarikan kesimpulan. Urgensi kerajinan gerabah Kasongan perlu mendapatkan perlindungan hukum sebagai Indikasi Geografis karena secara ekonomis, kerajinan gerabah Kasongan memiliki pengaruh yang besar karena sebagian besar masyarakat Kasongan Bantul perekonomiannya ditopang oleh hasil kerajinan gerabah Kasongan, karena sebagian besar mata pencaharian masyarakat Kasongan adalah pengrajin gerabah. Secara Yuridis, kerajinan gerabah Kasongan memiliki karakteristik berbeda dengan produk kerajinan gerabah dari daerah lain, memiliki reputasi yang baik, dan masih terjaga eksistensinya sampai saat ini sehingga memerlukan perlindungan hukum sebagai Indikasi Geografis dan dapat dimiliki komunal bagi masyarakat Kasongan Bantul.

Kata Kunci : Perlindungan hukum, indikasi geografis, kerajinan gwerabah kasongan

Abstract

Kasongan pottery handicrafts from Bantul, Yogyakarta has the potential to obtain legal protection as a Geographical Indication. This study analyzed the urgency of Kasongan Pottery Crafts to get legal protection as a Geographical Indication of Bantul. The approach using in this research is empirical juridical. Kasongan Village, Bantul Regency, Yogyakarta Special Province became the location of research in this study. Data collection methods are done through library research studies and field studies. The analysis method starts with data collection, data reduction, data presentation, and conclusion drawing. Kasongan pottery craft needs legal protection as a Geographical Indication because economically, Kasongan pottery craft has great influence because most of the Kasongan Bantul people are supported by Kasongan pottery, and most of the Kasongan people are pottery craftsmen. Juridically, Kasongan pottery craft has different characteristics from earthenware products from other regions. It also has a good reputation, and its existence is still maintained to date. Therefore, it requires legal protection as a Geographical Indication and can be communally owned by the Kasongan Bantul community.

Keywords: *Legal protection, geographical indication, kasongan pottery craft*

Background

Indonesia has a variety of craft centers spread from various regions and become the local potential of the area. One of the famous craft centers is the Pottery Handicraft Center in Kasongan Bantul Village, Yogyakarta Special Region. Although in Indonesia there are

several other pottery centers such as Pleret craft centers in West Java Province, Dinoyo in Malang, Cawas in Klaten, but the pottery centers in Bantul are more prominent (Asri, 2022). The activities carried out by the Kasongan community in making pottery art in Kasongan began during the Diponegoro War

(1825-1830). The people of Kasongan Village have long carried out pottery making activities to fulfill daily household needs. These pottery products include; kuwali, pengaron, kendhil, brazier, cowek, etc. (Gustami, 1988) The next development is making pottery for daily household needs and souvenirs for tourists. At first, the pottery was still made with a simple design. Then, the pottery develops with the characteristics of the pottery product that carries the characteristics of the local, regional culture (Gustami, 1985). When viewed from its historical development, Kasongan Village has long been a center of pottery crafts. In its journey, this area developed into a center of export-quality pottery art. Kasongan Bantul pottery is influenced by geographical conditions, both natural factors and human resources, which has distinctive characteristics and advantages compared to pottery in other areas, this is an object in Geographical Indication. Geographical Indications are a type of Intellectual Property Rights which play a role in providing legal protection for products in the form of knowledge, artistic and traditional works. Geographical Indications are generally known as an IPR regime that protects many agricultural products. However, aspects that influence the character of an item that can be protected under the Geographical Indication regime can come from non-land elements, such as environmental influences for example. The natural environment can also be viewed as a natural unity which can also include human factors (indigenous communities, which cannot be separated from the environment) (Ayu, 2006). GI is one of the important intellectual property regime rights used in the field of trade to highlight the origin of a product that is exclusive to the region, territory or locality in which it is produced. It is a marker of quality through use of origin and protects the interests of producers and consumers (Vinayan, 2017). Previous research suggests that GI may have a positive impact on three key factors of sustainable rural development, including economic development, environmental sustainability, and local cultural heritage (Hoang, et.all, 2020)

Geographical Indications are mentioned in Law Number 20 of 2016 concerning Trademarks and Geographical Indications. In

addition to being regulated in the Trademark Law, arrangements regarding Geographical Indications are regulated in Government Regulation No.51 of 2007 regarding Geographical Indications (Asri, 2023). However, Kasongan pottery crafts have not been registered as Geographical Indications. Because in the Geographic Indications protection system in Indonesia, especially Geographical Indications, the protection system adopted is a constitutive system. That is, registration is the primary requirement for protection. However, the amount of potential circulating in the community is enormous, whereas the number of products that will be registered as Geographical Indications is still very minimal.

Pottery art products at Kasongan turned out not only to attract tourists and buyers from various regions in the archipelago. Since 1986, the product has entered the world market, such as Europe, Japan, Australia, Canada, and others.

In this regard, Kasongan pottery craft is a superior commodity from Kasongan Bantul, Yogyakarta Special Region. Kasongan pottery crafts have the potential to get legal protection through registration. Because Kasongan pottery has different characteristics with other types of pottery. Therefore, it is necessary to have a further review of the importance of the legal protection efforts of geographical indications of Kasongan pottery as the local potential of Yogyakarta Special Region. A new review is also needed regarding the efforts of the local government in protecting Kasongan pottery as a superior commodity that has the potential to get geographical indications.

Therefore, the urgency of legal protection for Kasongan pottery craft becomes very important. The business world is increasingly global and open, and legal protection can provide guarantees to producers and consumers.

Methods

This research is qualitative research with an Empirical Juridical approach. Kasongan Village, Bantul Regency, Yogyakarta Special Province became the location in this study. Data collection methods are carried out through library research studies and field

studies with informants from the Ministry of Law and Human Rights, Regional Office of the Special Region of Yogyakarta, artisans of Pottery in Kasongan and artists who know the history of pottery in Kasongan. The analysis method starts with data collection, data reduction, data presentation, and conclusion drawing.

Result and Discussion

General Overview and Arrangement of Geographical Indications

Geographical indications are regulated in the Law of the Republic of Indonesia Number 20 of 2016 concerning Trademarks and Geographical Indications. According to Law Number 20 of 2016 regarding Trademarks and Geographical Indications (Article 1 Number 6), Geographical Indications are a sign that indicates the area of origin of an item and/or product due to geographical, environmental factors including natural factors, human factors or combinations of these two factors giving a certain reputation, quality and characteristics to the goods and/or products produced.

Geographical indications are protected after being registered, through applications that can be submitted by several parties such as (a) an institution that represents the community in a particular geographical area and manages an item and/or product, (b) the provincial or district/city regional government. Geographical indications are protected as long as the reputation, quality, and characteristics that are the basis of protection are maintained.

The scope of the setting of Geographical Indications as part of the IPR regime and as a result of communal community capabilities are as follows:

- a. Concerning definition or understanding: Geographical Indication is the name of the area that is used as an indicator indicating the region/area of origin of the product;
- b. Concerning nature: Geographical indications indicate the quality, reputation, and characteristics of a product;
- c. Concerning ownership: Geographical indications are communally owned;
- d. Concerning the protection period: Geographical indications do not have a

protection time limit as long as the reputation, quality and characteristics that are the basis for providing protection are maintained. Geographical Indication Protection expires if the area cannot produce geographic indication products.

Intellectual property (IP) is considered a highly relevant factor in the contemporary context, when the development of a country, region or specific location can be associated with creative and entrepreneurial ability of individuals and organizations (Medeirosa, et.al,2016). Geographical indications are essentially an instrument to promote products commercially, but it can generate wealth, add value, protect the producing region and generate development expand the export of products, strengthen the domestic market, and promote the products and their historical and cultural heritage, among other issues (Castro, 2016).

Geographical indications need legal protection, not only because of economic value but also with cultural values, regional and state pride. Other reasons are as follows: First, a geographical indication is an identification of goods originating from a particular area or the name of an item produced from a specific area and cannot be explicitly used for similar products produced from other regions. Second, geographical indications are quality indicators. Geographical indications inform consumers that the goods are delivered from a particular location with the influence of the surrounding nature so that the goods have unique characteristics and reputation. Third, the geographical indication is a business strategy. Geographical indications provide commercial value added to products because of their originality and product limitation. Fourth, based on the TRIPs agreement, geographical indications are determined as part of intellectual property rights. In geographical indication, ownership rights can be maintained from all unlawful acts and fraudulent competition.

Kasongan Pottery Crafts As Local Regional Potential

Yogyakarta Special Region Province has five Regencies and one Municipality. One of the regencies is Bantul Regency. When viewed

from its landscape, the territory of Bantul Regency consists of the plains in the middle, hilly areas in the east and west, and the coastal area in the south. The condition of the landscape is relatively longitudinal from north to south. Bantul Regency is divided into 17 sub-districts and consists of 75 villages. Sub-district of Srandakan has the least number of villages (2 villages), while Imogiri and Banguntapan sub-districts have the highest number of villages (8 villages). One of the villages in Bantul that has local area potential is Kasongan Village.

Kasongan village is known as a producer of pottery craft that was passed down from generation to generation. Most of the people in the community produce clay-based objects that are both artistic and economical. This artistic and economic value is the motivation of the Kasongan community to cultivate the craft as their livelihood.



Figure 1.
Kasongan Pottery Sculpture with
Sticking Technique

Making pottery art in Kasongan developed from making pottery for daily household needs to be a souvenir to meet the needs of tourists. At first, the pottery was made with a simple design then developed with cultural characteristics from the local area (Raharjo, 2008). Sticking techniques provide a unique attraction because this technique can highlight the product character of the decoration process. Sticking technique became a trademark of Kasongan ceramic craft products. This fact is what causes Kasongan's ceramic art products to be known and in demand by consumers from various parts of the world.

In the era of economic globalization, it turns out that the center of Kasongan pottery industry can survive. It is precisely in the age of globalization, tourism supporting products such as souvenirs of Kasongan pottery crafts

are in high demand by tourists. Despite global trends, such as flooding similar products from China that enter the Indonesian market, imported goods have not been able to compete with Kasongan craft products. This is because Kasongan pottery craft products have a distinctive art style, which cannot be made elsewhere. IPR protection in the industrial era 4.0 is currently an interesting issue to discuss, especially its implementation in each country, especially if it is linked to economic principles and its sustainability in a country (Asri, et.all, 2023)

The long reputation and the great name of the legendary Kasongan Pottery were not in line with the life of the pottery craftsmen in Kasongan. Almost all craftsmen are still below the poverty line. They produce international scale crafts, but cheap labor in their own country. They watched with resignation from overseas buyers taking a double profit from their craft.

Not only that, but Kasongan pottery artisans also cannot sell their products with the historical name of their home region to get the right price. Their products are given names and origins from areas/countries from the other areas and marketed as products from the other areas. All of these things made the situation passed by the craftsmen even more difficult. In today's global market era, the protective role of Geographical Indications is very important. Communities as local producers need legal protection against the name of origin of the product so that it is not used by other parties to conduct the fraudulent competition. Geographical indications also play an essential role in providing attractiveness and quality assurance to national and international consumers.

Looking at the facts above, Kasongan Pottery Craftsmen Community intends to get a geographical indication (IG) certificate for the Kasongan Pottery Handicraft product. The intention is to make the product have:

- a. Legal protection on behalf of its products;
- b. Recognition of the quality and distinctiveness of this product;
- c. Preservation of the tradition of Kasongan pottery production procedures based on the customs in Kasongan.

The primary raw material for Kasongan craft is clay or clay in Javanese. The clay originated from Bangunjiwo Village, near the Kasongan pottery industry center. The clay from Bangunjiwo was then mixed with clay from other areas and sand to be made into pottery. A trial sample of Kasongan clay in the laboratory was conducted to see the composition of the clay content from Bangunjiwo Kasongan Bantul



Figure 2.

'Clay' Soil From Kasongan As Raw Material For Kasongan Pottery

Table 3.
Oxide Content in Clay from Bangunjiwo Village

No	Oksida	Lempung Bangunjiwo (%)
	SiO ₂	44,17
	Al ₂ O ₃	20,09
	Fe ₂ O ₃	15,76
	Ti ₂ O ₂	1,51
	C ₂ O	5,69
	Mg ₂ O	2,94
	K ₂ O	0,59
	Na ₂ O	1,18
	P ₂ O ₅	0,211
0.	MnO	0,35
1.	Cr ₂ O ₃	0,025
2.	LOI	7.0
	Total	99,516

Based on the results of the laboratory test, Bangunjiwo clay has distinctive characteristics, especially after being burned (Winarno, 2016). The clay is mixed with water to become a mixture that is ready to be formed into ceramic/ pottery. The dough is blackish

brown, smooth, sturdy and easy to form. The result of burning the clay that has been formed into the pottery has a brick red color and has no cracks and fractures. The hallmark of Kasongan pottery is its brick-red product.

If we judge from the human factor, Kasongan pottery craft has the characteristic of temple techniques. Sticking technique is a technique of decorating a ceramic body by twisting clay and then sticking one by one to the ceramic body so that it looks unique. Paste decoration patterns are done painstakingly, complicated, and take a long time. Patching techniques are rarely done in pottery art centers in other places. Thus the art of Kasongan pottery has a competitive advantage compared to other pottery crafts. Sticking techniques provide a unique attraction because they provide specific product characteristics from the decoration process. Sticking techniques also became a trademark of Kasongan pottery craft products. This fact has caused Kasongan's ceramic art products to be known and in demand by consumers from various parts of the world. The combination of natural and human factors gives unique characteristics and qualities to Kasongan pottery craft products and makes them have particular economic value.



Figure 4.

Craftsmen Are Applying Pasting Techniques

The Importance of Legal Protection for Kasongan Pottery Crafts

The legal protection of geographical indications is a sensitive and controversial issue, and legal methods used to protect geographical denominations in connection with certain goods diverge considerably in different parts of the world (Ruzek, 2010).

The concept of legal protection against Geographical Indications is a form of legal protection against the name of the area of origin of the goods. The core legal protection of

Geographical Indications is that unauthorized parties are not permitted to use the Geographical Indications, moreover, if the user tends to deceive consumers about the area of origin of the product. Besides, Geographical Indications can be used as a way to achieve added value in the commercialization of Geographical Indications products.

Legal protection in GI is closely related to the name of the region of origin of the goods. After GI legal protection begins, there is a prohibition on parties who are not interested in producing and marketing the product; Especially if users deceive consumers regarding the origin of the product. Judging from its benefits and economic value, GI can be used as a way to achieve added value in product commercialization. Article 50 of Law Number 20 of 2016 states that both the central government and regional governments of Indonesia are obliged to protect GI-registered products and are obliged to facilitate their development and marketing (Irawan, 2017)

Protection of Geographical Indications in Indonesia adheres to a constitutive system. That means registration is the primary requirement for protection. Registration is followed by Geographical Indications, namely the first to file system, the registration system based on the first registration applicant. Its protection appears when faced with the characteristics of a product that is influenced by natural factors (geographical conditions). However, the human element also takes an important role.

The TRIPS Agreement defines a Geographical Indication as an expression that identifies a product as originating in a particular region, ' where a given quality, reputation, or other characteristic of the good is essentially attributable to its place of origin '. Thus, they are geographic indications. Still, some believe that human skills also play a role (Raustiala, 2007). Geographical Indication can also highlight specific qualities of a product which are due to human factors that can be found in the place of origin of the products, such as specific manufacturing skills and traditions (O'Connor, 2006).

Therefore Kasongan pottery handicrafts fulfill the elements contained in the registration requirements of Geographical Indications,

namely the characteristics of the product character possessed due to local and human natural factors (traditional knowledge).

In some other arguments, particularly those of a more political nature, it is argued that GIs are considered an important political tool for several purposes:

- a. Ensure fair competition for local farmers and producers of agricultural products and food ingredients that have added value characteristics and attributes;
- b. reducing consumer information asymmetry regarding the product;
- c. to realize rural development goals in rural areas (Arfini, et.all, 2019)

Kasongan pottery crafts will receive geographical indication protection if registered with the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia. The procedure for registering geographic indication products is regulated by Government Regulation Number 51 of 2007 concerning Geographical Indications. Besides, the provisions regarding registration procedures for Geographical Indications can be grouped into:

- a. First Stage: Submitting an Application. The requirements are by attaching: The application is submitted in writing in the Indonesian language by the Applicant or through his Proxy by filling out a form in 3 (three) copies to the Directorate General, special power of attorney, if the Application is filed through a Proxy, Proof of payment of fees and Requirements Book.
- b. Second Stage: Administrative Examination
- c. Third Stage: Substance Inspection
- d. Fourth Stage: Announcement
- e. Fifth Stage: Opposition Registration.
- f. Sixth Stage: Registration
- g. Seventh Stage: Supervision of Geographical Indications
- h. Eighth Stage: Appeal Process

The existence of superior regional products is essential for local economic progress and can improve the welfare of the people in that place. The more unique or more distinctive of a product, the more attractive it will be so that consumers will be sought after. The selling value and added value for the

product also increase. After all, everything that has been registered can give a positive impact and provides excellent benefits. Registering certain products in geographical indications will guarantee the community's right to ownership, subject and/or sign of the origin of the product. Reputation, characteristics, and quality inherent in the Geographical Indication product are also protected.

By registering craft products and increasing the value-based brand quality, many actors are also expected to be working with the artist and create innovation through collaboration (Arief, 2016). As instruments of legal protection, the GIs are characterized by legal protection for consumers and producers. For producers, because they protect the use of their formal identification and intangible assets since the primary objective is the protection of products and their geographical name (Perez, 2013). This era of globalization and free trade demands Indonesia to protect its various local potentials, but still, respect other countries so that international relations are maintained. One appropriate way is to protect Geographical Indications. Facilitating market differentiation by GIs for common commodities will ensure opportunities for developing countries to use Intellectual Property rules that raise living standards by generating wealth for communities and preserving cultural heritage and landscapes (Tashiro, et.all, 2018)

Conclusions

The Need for Crafts Kasongan Pottery to get legal protection as a Geographical Indication of Bantul are as follows; Regarding economics, Kasongan pottery handicrafts are very influential for the welfare of the people of Kasongan Bantul. The reason is that the livelihoods of most of the Kasongan Bantul people are generally pottery craftsmen. Therefore, the income of Kasongan Bantul people is very dependent on the results of Kasongan pottery products. From a juridical perspective, legal protection as a Geographical Indication is needed because the Kasongan pottery meets the requirements as a geographical indication product. This product has unique characteristics that are influenced by natural factors and human resource factors.

Indonesia as a country that has a lot of potential for geographical indications must move quickly to provide protection. The lack of protection has been used by other parties who are not entitled to be recognized as their own and commercialized to obtain economic benefits. This thing can be seen in the case of Gayo coffee, Toraja coffee. Registration and commercialization of Indonesia's geographical indications by unauthorized parties must be stopped. Indonesia must more seriously protect the potential of geographical indications through improvements to legal regulations and practical actions that confirm the existence of geographical indications in regions throughout Indonesia.

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