

THE ESTABLISHMENT OF GEOGRAPHICAL INDICATION PROTECTION COMMUNITY (GIPC) AS A LEGAL PROTECTION ON MSME'S PRODUCTS

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Abstract

A geographical indication is a part of intellectual property rights (IPR), which plays an important role in international trade as a magnet for consumers for MSMEs' products. However, the geographical indication is still underestimated by MSME players; and therefore, this issue requires further attention and analysis as the efforts to study the essence and urgency of the Geographical Indication Protection Community (GIPC) in supporting the realization of legal protection in regencies and cities throughout Indonesia. To support the investigation process, a case-based approach is required with primary and secondary research material sources through literature studies that correlate with business actors, rule of law and government. This study is doctrinal or normative research with qualitative data analysis. Efforts to establish Geographical Indication Protection Community (GIPC) are significant in assisting local MSME players to register legal protection through geographical indications and bridge local MSME players, local government, and stakeholders in sharing resources or information that can increase product competitiveness in regencies and cities in Indonesia on both national and international market scales.

Keyword: *Geographical; Indication; Intellectual; Legal; MSMEs; Protection; Property; Rights.*

A. INTRODUCTION

Indonesia is a country with diverse business sectors that are developing in various regions with different types of production. The business sectors developing in Indonesia include tourism, industry, livestock, agriculture, and fisheries.¹ The industry and tourism sectors have a major

1 Lies Maria Hamzah, Devi Agustien, Pengaruh Perkembangan Usaha Mikro, Kecil, dan Menengah Terhadap Pendapatan Nasional Pada Sektor UMKM di Indonesia, *Jurnal Ekonomi Pembangunan*, Vol 8 No 2, July 2019, page. 129

impact on the country's development. Both sectors have a high correlation in contributing to the per capita income to the local and central governments.² The tourism sector serves as the center of interest in an area that becomes the main attraction for outsiders to visit the area and the industrial sector plays a role as a driving force for the economy by yielding various products that are ready to enliven national and international markets.³

Indonesia's industrial sectors range from micro, small, medium, to large industrial scales, with different production capabilities.⁴ The micro, small and medium enterprises (MSMEs) play a large role and are resilient to the economic crisis for 19 years. The business sector is highly capable of supporting the economic improvement of the local people.⁵ It does not only create products with added values but also absorbs labor and alleviate regional poverty, signifying that the presence of small and medium industry players undoubtedly contributes to the increase in the country's economy.⁶

The existence of small and medium-sized enterprises can be a new color in national and international business competition, by carrying out a variety of local characteristics of each region in Indonesia. The diversity of Indonesia with 34 provinces and 514 regencies/cities should be able to offer choices of new products based on the potential of each region.⁷ However, MSMEs admit that they face many obstacles, limitations, and problems so that the products they have introduced are not able to penetrate national and international markets.⁸ On average, business players hold the principle that their main focus is to make products that sell well in the market without considering the long-term risk of imitation or product copyright.⁹

Business players encounter problems that differ from one another, which generally lie in the capital, marketing, and legality, which become scourges for most MSMEs in Indonesia.¹⁰ Those aspects hinder business players to market their products to the global market, causing them to only

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- 2 Winda Risna Yessiningrum, 2015. Perlindungan Hukum Indikasi Geografis Sebagai Bagian Dari Hak Kekayaan Intelektual, *Jurnal IUS dan Keadilan*, Vol 3 Nomor 7, April 2015, page. 9-10
 - 3 Andi Mappi Sammeng, *Cakrawala Pariwisata*, Balai Pustaka, Jakarta, 2001, page. 17.
 - 4 The 2016 Ministry of Industry Regulation of the Republic of Indonesia No 64/M-IND/PER/7/2016 on A Magnitude of the Amount of Manpower and Investment value for Industrial Industrial Classification
 - 5 Tunggul Prasodjo, Pengembangan Pariwisata Budaya Dalam Perspektif Pelayanan Publik, *Jurnal Office*, Vol.3, No.1, 2017, page. 134-135
 - 6 Y. Sri Susilo, Budiono Sri Handoko, Dampak Krisis Ekonomi Terhadap Kinerja Sektor Industri: Pendekatan Model Keseimbangan Umum Terapan Indorani, *Jurnal Ekonomi dan Bisnis Indonesia*, Vol. 17 No. 3, 2002, page. 243
 - 7 Badan Pusat Statistik (BPS), *Statistik Indonesia 2020/ Statistical Yearbook Of Indonesia 2020*. BPS Indonesia, Jakarata, 2020, page. 5-6
 - 8 Sri Lestari Triningsih, Strategi Pemasaran Usaha Kecil dan Menengah, *Jurnal Ekonomi dan Kewirausahaan*, Vol. 12 No. 1, 2012, page. 41
 - 9 Setyani Irmawati, Delu Damelia, Dita Wahyu Puspita, Model Inklusi Keuangan Pada Umkm Berbasis Pedesaan, *Jejak Journal Of Economics And Policy*, Vol. 6 No. 2, 2013, page. 20-21
 - 10 Nanik Risnawati, Profil UMK, Permasalahan dan Upaya Pemberdayaannya di Kabupaten Sumedang, *Coopetition Journal*, Vol 9 No 1, 2018, page. 16-17

rely their products on the local market.¹¹ One of the factors triggering the delay and the unacceptability of MSMEs' products in the global market is the absence of legality for the products.¹² Business legality acts as a means that facilitates and guarantees the safety of MSMEs' products in the long term since legality is a form of recognition that the business really exists and a product is suitable to be produced and then sold in the market. The legality of the MSMEs' businesses takes various forms, depending on the needs of these business players in warranting their products to go beyond several stages such as the legality of business permit of micro, small and medium enterprises (IUMK), trademarks, patents, halal certificate, industrial design, geographical indications or other types of legality.¹³ Business legality depends on the business owners; however, the first step that must be taken is an IUMK through the Online Single Submission (OSS) system, which can be accessed personally or through the local government.

One of vital legitimacy for the sustainability and growth of a business with an IUMK is geographical indication legality, legal protection of intellectual property rights (IPR), which prioritizes the origin and the special character of the products.¹⁴ This type of legality protects MSMEs' products in the long term with a geographical indication that not only raises the product but also popularizes the region where the product comes from.¹⁵ Only 92 Indonesian MSMEs' products are protected by the legalization of geographical indication and this number is not comparable to the number of regencies/cities in Indonesia, which reaches 514.¹⁶ This is due to the complexity of the problems in the field, in which many MSMEs do not recognize the essence of the business legality, particularly geographical indication. The problems cover the limited information on business legality, lack of attention from local governments, inadequate understanding of business actors, and low level of human resources, which then become obstacles for MSME players to obtain geographical indication permits.

The limited government roles and the lack of public and MSME players' awareness are the obstacles in managing the legality of geographical indication. In fact, in 2018, the Directorate General of Intellectual Property (DJKI) urged MSMEs in each region to register their

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- 11 Lila Bismala, Model Manajemen Usaha Mikro Kecil dan Menengah (UMKM) Untuk Meningkatkan Efektivitas Usaha Kecil Menengah, *Jurnal Entrepreneur Dan Entrepreneurship*, Volume 5, Nomor 1, March 2016, page. 100-101
 - 12 Heri Kusmanto, Warjio, Pentingnya Legalitas Usaha Bagi Usaha Mikro Kecil dan Menengah, *JUPIIS: Jurnal Pendidikan Ilmu-Ilmu Sosial*, Vol 11 No 2, 2019, page. 324-325
 - 13 The 2009 Ministry of Trade Regulation of the Republic of Indonesia No 46/M-DAG/PER/9/2009 on The Publishing of Trade Permits
 - 14 Dara Quthni Effida, Et Al., Upaya Perlindungan Hukum Indikasi Geografis Terhadap Salak Sidimpuan sebagai Kekayaan Alam Tapanuli Selatan, *Jurnal Law Reform*, Vol 1 No 2, 2015, page. 190-191
 - 15 Ariani Ariani, Mohamad Nur Utomo, Kajian Strategi Pengembangan Usaha Mikro Kecil Dan Menengah (UMKM) Di Kota Tarakan, *Jurnal Organisasi Dan Manajemen*, Volume 13, Nomor 2, September 2017, page. 232
 - 16 Direktorat Jenderal Kekayaan Intelektual, (2020) E-Indikasi Geografis. Website Government. [Online] Available From: [Http://ig.dgip.go.id/](http://ig.dgip.go.id/) (Retrieved: December 20, 2020).

products through the local government.¹⁷ The support and cooperation of local governments, stakeholders, and local communities are necessary to establish a forum or institution that accommodates and manages the legality of regional businesses, one of which is a geographical indication. The formation of an institution or a forum is the best solution in bridging the government, regional stakeholders, and MSME players, both in managing business legality and overcoming problems faced in the field appropriately and quickly. The establishment of a Geographical Indication Protection Community (GIPC) is the first step to accommodate all the problems faced by MSMEs by providing alternative solutions that can be directly utilized to support and facilitate the creation of regional products through geographical indications.

The novelty of the research topic and the urgency of the abovementioned matters in determining the stability of the country's future economy and facilitating MSME players recognize the importance of a legal umbrella for their products and obtain legal protection through the registration of regional flagship products with geographical indications, by establishing a Geographical Indication Protection Community (GIPC), motivates the authors to raise the issue in this review article. The authors discuss the extent to which the establishment of GPIC contributes to MSMEs in supporting and saving regional products through geographical indication legal protection and serving as the first step to scale up MSMEs.

Article 1 paragraph (6) of Act No. 20 Of 2016 concerning trademarks and geographical indications sets that geographical indication (GI) is a sign specifying the area of origin of a good and/or product, which is attributed to the geographical environmental factors, including nature, human or a combination of these two factors that provide particular reputation, quality and characteristics to the goods and/or products that are produced. This explains that GI is a feature attached to a product made by human resources, handicrafts, and industrial products indicating the geographical origin of the product, and formed because of a combination of human and nature, which have a reputation, special character, and good quality.¹⁸

Article 22 paragraph (1) in the Agreement on Trade-Related Aspects of Intellectual Property Rights declares that geographical indication, for this agreement, is an indication which identifies a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin. The description underlines that GI must contain four important components, which cover name, product, geographical origin, and reputation, as well as special character and quality.¹⁹

17 Direktorat Jenderal Kekayaan Intelektual, (2020) Dirjen Ki Canangkan Tahun 2018 Program Indikasi Geografis Di Indonesia. Website Government. [Online] Available From: <https://dgip.go.id/Dirjen-Ki-Canangkan-Program-Tahun-Indikasi-Geografis-Di-Indonesia> (Retrieved: December 20, 2020).

18 Act No. 20 of 2016 on The Trademarks and Geographical Indications (The State Gazette No. 252 of 2016; The State Gazette Additional No. 5953).

19 The 1995 on Agreement on Trade-Related Aspects of Intellectual Property Rights.

Frederick Abbott mentions that geographical indication has several functions which include promoting and protecting the product, as well as providing information about the product. The product promotion function deals with the role of GI in providing benefits to the place where the product comes from. The protection function relates to its role in protecting producers regarding the legality of the product. The last function means that GI serves as an important source of information for consumers related to the quality, reputation, and characteristics of the product which can prove the authenticity of the product and distinguish it from the competitors' products.²⁰

MSMEs are productive business units that stand alone and are run by individuals or business entities in the economic sector activities. In principle, the differences among micro, small, medium, and large enterprises generally lie in the initial asset value, annual income, and the number of permanent workers. However, that definition of MSMEs is difficult to apply as a measuring instrument due to the different regulations in each country.²¹

According to article 1 of Act No. 20 Of 2008 concerning MSMEs, a micro business is an individual's productive business and/or business entity that meets the criteria of a micro business as stipulated in the law, a small business is an independent productive economic business, managed by an individual or business entity that is not the subsidiary/branch, and medium enterprise is a productive business, which is not a branch of the main business or central company, and is neither directly nor indirectly part of a small business or a large business.

The Central Bureau of Statistics (BPS) classifies MSMEs based on the quantity of labor, which include a small enterprise with 5-19 labor, a medium enterprise with 20-99 labor, and a large enterprise with more than 99 labor.²² According to Abdul Aziz and A. Herani Rusland, the indicators used in defining and classifying MSMEs into micro, small and medium enterprises are the size of the business volume, the amount of capital, the value of assets, net worth, and the number of workers.²³

Legal protection is an act to protect the community from arbitrary actions by authorities who do not comply with the rule of law and as an effort to create order and peace for humans to enjoy their dignity as a whole human being.²⁴ Legal protection is also an effort to provide protection for human dignity, as well as recognition of the human rights of legal

20 Frederick Abbott, et al, *The International Intellectual Property System : Commentary And Materials. Part Two*. The Hague: Kluwer Law International, 1999, page. 185-186.

21 Tulus Tambunan, *Usaha Mikro Kecil dan Menengah di Indonesia: Isu-Isu Penting*, LP3ES, Jakarta, 2012, page. 11

22 Badan Pusat Statistik, *Analisis Hasil SE 2016 Lanjutan Potensi Peningkatan Kinerja Usaha Mikro Kecil*, BPS, Jakarta, 2016, page. 15

23 Abdul Aziz, A. Herani Rusland, *Peranan Bank Indonesia di dalam Mendukung Pengembangan Usaha Mikro, Kecil, dan Menengah*, Pusat Pendidikan dan Studi Kebanksentralan, Jakarta, 2009, page. 3-5

24 Setiono, *Rule Of Law (Supremasi Hukum)*, Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, Surakarta, 2004, page. 3

subjects. Concerning MSMEs, the law protects the rights of MSMEs from anything that results in the unfulfillment of these rights.²⁵

Another definition is proposed by Satjipto Rahardjo, that legal protection is an effort to watch over human rights that are harmed by others that they can enjoy all the rights provided by law. This description points that the provision of legal protection is highly important for the community because it can provide and guarantee security for the community in carrying out various activities in their daily life when socializing with other people. Legal protection is urgently required by people at all levels, including MSME players in Indonesia because the protection is considered capable of providing inner peace and satisfaction to the society.²⁶

B. RESEARCH METHODS

The research is doctrinal or normative research with qualitative data analysis. Normative-law research is a process that finds a rule of law, principles of law, and legal doctrines to answer the legal issues faced.²⁷ The study is conducted with a normative juridical approach based on legal norms²⁸ and an emphasizes on other sources, such as; A secondary ingredient consisting of rules and legal theory.²⁹ To support the investigation process, a case-based approach is required with primary and secondary research material sources through literature studies that correlate with business actors, rule of law and government. Searching for the materials of the law by either electrical or printing press.³⁰ The study is analyzed using prescriptive methods with justification regarding objects studied under the rule of law.³¹

C. RESULT AND DISCUSSION

The presence of MSMEs amid the country's problems is a positive trend that can divert the existing problems with various innovations that are produced MSMEs to support and contribute more to the stability of the country's economy. The existence of MSMEs cannot be doubted considering its essence in business competition; and therefore, MSMEs need to be given support and stimulus to develop and take part in advancing the country through their best innovations. MSMEs can contribute more to regional and central per capita income, reduce unemployment and help alleviate poverty

25 Phillipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, PT. Bina Ilmu, Surabaya, 1987, page. 25.

26 Satjipto Raharjo, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2000, page. 74.

27 Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada, Jakarta, 2010, page. 35.

28 Bambang Waluyo, *Metode Penelitian Hukum*, PT. Ghalia Indonesia, Semarang, 1997, page. 13.

29 Soerjono Soekanto, Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, PT. Raja Grafindo Persada, Jakarta, 1995, page. 13

30 Achmad Yulianto, Mukti Fajar, *Dualisme Penelitian Hukum Normatif Empiris*, Pustaka Pelajar, Yogyakarta, 2015, page. 170.

31 Muhammad Endriyo Susila, *Buku Pedoman Hukum*, Yogyakarta: Fakultas Hukum Universitas Muhammadiyah Yogyakarta, 2012, page. 40-41.

at regional level, as well as become strong pillars of the nation's economy in facing the economic crisis.³²

The number of MSMEs in Indonesia has increased significantly every year and is growing rapidly, as evidenced by the increase of 2.02% of creative products with various types. MSMEs in each region produce their respective flagship products based on the characteristics of each regency/city to enliven the local market³³. The products are diverse, ranging from processed food, handicrafts to services. Food products that are presented by MSMEs in the market also have distinctive and diverse brands and flavors.

Although many MSME products, both goods and services, have participated in are sold in the local market, not all products are safe in terms of legal aspect and have authenticity that distinguishes them from the products marketed by competitors. So far, the products created and marketed by MSMEs are only limited to enlivening the local market without any guarantee of product safety because they do not have clear legal protection. This condition is one of the big problems for MSME actors in Indonesia because their focus has only been on yielding products and successfully selling the products, without thinking further about copyright to avoid imitation or claim by competitors. Lack of understanding of the essence of legal protection and poor knowledge of human resources is the root of the problem that becomes a barrier for business players in managing and registering business legality.

Such cases have occurred in Indonesia for a long time and hinder Indonesian MSMEs products to enter the national and international markets. Business legality is an heirloom that can provide a way for MSMEs to gain a place in the market, but MSME players have not been able to realize and understand the importance of business and product legality. Therefore, the government is necessary to participate and take actions to overcome this problem to scale-up Indonesian MSMEs.

In terms of business legality, various types of legality are essentially available and can be adjusted to the need of each MSME player. MSMEs in food products can propose IUMK, food safety license (P-IRT), and halal certificate, as a form of recognition of product safety and an effort to increase the product's image on the market so that it is easy to enter and be accepted by the market. MSMEs in other sectors can also propose to other types of legality through director general of intellectual property (DJKI). They can request for various forms of intellectual property rights (IPR) such as brands, patents, industrial designs, copyrights, integrated circuit layout designs, trade secrets and geographical indications, each of which has a different function and can be adjusted to the needs of each MSME.

32 Ibid.,page. 3

33 KEMENKOP UKM. (2018).Perkembangan Data Usaha Mikro, Kecil, Menengah (UMKM) dan Usaha Besar (Ub) Indikator (2) Perkembangan Tahun 2017-2018 Tahun 2017 *) No Satuan Tahun 2018 **) TAHUN 2017 – 2018. Website government. [Online] Available from: [http://www.depkop.go.id/uploads/laporan/1580223129_PERKEMBANGAN%20DATA%20USAHA%20MIKRO%20KECIL,%20MENENGAH%20\(UMKM\)%20DAN%20USAHA%20BESAR%20\(UB\)%20TAHUN%202017%20-%202018.pdf](http://www.depkop.go.id/uploads/laporan/1580223129_PERKEMBANGAN%20DATA%20USAHA%20MIKRO%20KECIL,%20MENENGAH%20(UMKM)%20DAN%20USAHA%20BESAR%20(UB)%20TAHUN%202017%20-%202018.pdf) (Retrieved: December, 2020).

Geographical indication has been recognized in Indonesia since 2001 and was discussed again in 2018 many MSMEs did not realize and understand the benefits of GI for their business. The government expects that MSMEs in all regions in Indonesia register their products and apply for GI legalization through the Directorate General of Intellectual Property (DJKI) so that their products are protected by the law. Based on the data obtained from the Directorate General of Intellectual Property (DJKI), only 92 of 514 Indonesian MSMEs have registered their products, in which the number is not in line with the total number of regencies/cities in Indonesia.

It cannot be denied that MSMEs in Indonesia have been facing various problems including marketing, capital, technology and business administration, as well as aspect of legality. If this condition is left alone and not given any support, this will harm the development of businesses and parties, such as local communities, government, and business actors. The most dominant problem is legality, which has a significant role in the development of MSMEs and guarantees the legality of MSMEs in the long run.³⁴ Many parties have provided a legal umbrella for business legality for MSMEs in Indonesia and have prepared a guideline for MSMEs players in implementing the regulation and access information regarding the management procedures of various types of legality.

Article 1 Paragraph (6) of Act No. 20 Of 2016 concerning trademarks and geographical indications sets that geographical indication is a sign specifying the area of origin of a good and/or product, which is attributed to the geographical environmental factors, including nature, human or a combination of these two factors that provides particular reputation, quality and characteristics to the good and/or products that is produced.³⁵ This explains that GI is a feature attached to a product made by human resources, handicrafts, and industrial products indicating the geographical origin of the product, and formed because of a combination of human and nature, which have a reputation, special character, and good quality.

Products that can be protected by geographic indications include natural resources, industrial products, and handicrafts, for examples, rice, coffee, processed rice, fruit, processed food, handicrafts, batik, and many others. In Indonesia, there are various products yielded by MSMEs, making them have a great opportunity to register their product legality through a geographic indication legality scheme.

Therefore, it is unfortunate if this opportunity is not taken by MSMEs in Indonesia. Products that are protected by GI are not only guaranteed but also safe in many aspects.³⁶ This must receive more attention from the local government, stakeholders and local communities to encourage MSMEs and

34 I Ketut Ardana, Sustainability Of Temanggung Coffee Farming System In The Perspective Of Geographical Indications, *Jurnal Littri* Vol. 25 No. 2, December 2019, page. 70

35 Act No. 20 of 2016 on The Trademarks and Geographical Indications (The State Gazette No. 252 of 2016; The State Gazette Additional No. 5953).

36 Nizarapriansyah, Perlindungan Indikasi Geografis Dalam Rangka Mendorong Perekonomian Daerah (Protection Of Geographical Indications Within The Scope Of Improvement Of Regional Economy), *Jurnal Penelitian Hukum De Jure*, Vol. 18 No. 4, December 2018, page. 45-46

increase their enthusiasm to propose the legality of geographical indication. Products that are registered with GI legality will receive these various benefits;³⁷

1. Significant increase in the number of producers

Products that have been officially protected by GI legality will indirectly experience an increase in product demand. The higher demand directly upsurges the number of products that have to be fulfilled by MSMEs. With the increasing demand for products, the number of producers or MSMEs will also increase because business players need to add or recruit new business players who can cooperate with them to meet this market demand.

2. An increase in product price

In addition to the increasing number of product demand and number of MSMEs players, product prices are multiplying. This rise automatically occurs because products with gi legality have been legally recognized before the law, have guaranteed quality, and have unique and different characteristics from other products. Price changes indicate that the product has been accepted by the community.

3. Stronger network of regional organization

When MSMEs' products are registered through geographical indication legality, many parties can experience benefits in return for registering these indications. This is not only for MSMEs players but also from the surrounding community, local government and stakeholders so that the network of regional organizations can expand outside the area of origin of the product itself.

4. Progressive improvement in business management

One of the positive benefits of legality for MSME players is that they begin to realize and understand the essence of good business management, which has an important role in the continuity of business process development. This condition is only realized when MSMEs players have gone through the process of managing business legality and have enjoyed the benefits.

5. Increased awareness in the product quality control system

Products with GI legality show that the quality of the product has met standard values and is following applicable rules and guidelines. So, when the product enters the market and is well received by the public, its quality and taste must be maintained without changing the authenticity of the product. Efforts that can be made by MSMEs is controlling production process to maintain product quality.

6. Stronger reputation or consumer recognition

Geographical indications that arise in a particular product from MSMEs in an area, show that the product already represents the existence of the area through a product with an image and quality that is different from the others. This condition indirectly becomes a form of

37 Sudjana, Implikasi Perlindungan Indikasi Geografis Berdasarkan Undang-Undang Nomor 20 Tahun 2016 Terhadap Pengembangan Ekonomi Lokal, *Veritas Et Justitia Fakultas Hukum Universitas Khatolik Parahyangan Bandung*, Vol 4 No 1, 2017, page. 47-48.

promotion. The product has been legally accepted by the wider community and is an effort to enhance the reputation of an area through this product.

7. Change in the mindset of business players

The process of registering geographical indications is demanding and takes time. The long and complicated stages made MSME players confused and chose to withdraw from the process, given the limited capabilities and information they have. Thus, when they succeed in surpassing the process, new mindset and awareness emerge from MSMEs players that business legality has an important role in business competition on a national and international scale. Therefore, various efforts are made to ensure the safety of products produced by MSMEs players is highly prioritized to last long and the safety of the products produced can be maintained properly throughout the ages.

The explanation above shows that GI legality provides great benefits for MSMEs, so it is unfortunate if it is not pursued as a legal umbrella for MSMEs. Considering that MSMEs still face a variety of complex problems in running their businesses, related to marketing, capital, modern technology, business legality, and business administration which are still mixed and not well organized, MSMEs need to get support from various parties, including government, stakeholders, and the community for the realization of MSMEs with the legality of geographical indication. Therefore, it is necessary to make strategic efforts to encourage MSMEs and provide convenience for business players in managing the GI legality registration of regional potential products that have certain characteristics. These efforts can be carried out in stages, starting with comprehensive socialization regarding the rules of geographic indication GI to MSMEs players to understand the essence and importance of business legality in the long run.

Another effort that can be made is to provide other alternatives that can encourage MSME players to create and register geographic indications in the form a regional institutional forum.³⁸ This institution can serve as a bridge between MSME players and local governments in various matters or concerning information related to business legality, especially geographical indications. This institution has a very important role in the success of creating regional geographic indications because if MSME players are not accompanied and fostered gradually until the final stage of registration process, they will experience difficulties and obstacles that hinder the process of realizing regional geographic indications. The institution that can be established at regional level is as a first step in supporting MSME players in creating business legality is the GIPC.

This institution has an important role in the success of local MSME players in realizing legal protection for MSME products with distinctive

38 Erick Junata Sipayung, Peran Kantor Wilayah Kementerian Hukum Dan Hak Asasi Manusia Terhadap Pendaftaran Indikasi Geografis, *Journal Of Law And Policy Transformation*, Vol 5, No. 1, Juni 2020, page. 65

potential and characteristics.³⁹ The establishment of GIPC indirectly helps support the government in various aspects and MSME players to access information and activities more easily that are important in supporting regional economic activities. The followings are the functions of regional GIPC establishment:⁴⁰

1. Uniting MSME players in the value chain

One of the underlying factor of competitiveness in both national and international trade is an effective value chain.⁴¹ An effective value chain can generate added value for business players that can support and strengthen competitiveness in market competition.⁴² This condition is vital in determining the success of product selling in the market, and thus, a forum that can protect regional MSME players is necessary. This institution can bring regional business players together by sharing vision and mission to help and communicate each other in realizing legal protection of MSMEs' products. Besides serving as a discussion forum for MSME players, local government, and stakeholders, this institution helps in improving coordination among MSME players in various aspects, one of which is providing description related to the quality, characteristics, and reputation, to apply for geographical indication legality. GIPC is also an information and training center for members in the value chain, which is significant in ensuring access to information on geographical indication rules, as well as understanding the essence, complying with, and applying the rules properly and directly in running businesses.

2. Managing the quality and special characteristics of MSME products

The legality of geographical indication assures consumers that the products offered have quality assurance and special characteristics that build the reputation of the products and the manufacturers. This institution ensures quality by verifying product descriptions, controlling product quality, and confirming that the entire series of production processes is guaranteed. This management activity aims to make sure that MSMEs' products comply with the geographical indication criteria and that MSMEs maintain the quality and characteristics of the products. The management includes; a) controlling the process or the production rules that must be adhered to by value chain members by developing control guidelines, formulating sanctions related to non-compliance issues, and supporting the quality control team by approving inspection reports, b) controlling the quality of the final products by testing the composition, physical characteristics, taste and other defining features in the description document, and c) ensuring the proper order of

39 Ahmad Khamim Jazuli, 2016, Tinjauan Mashlahah Terhadap Perlindungan Seni Ukir Melalui Indikasi Geografis, *Jurisdictie: Jurnal Hukum Dan Syariah*, Vol. 7 No.1 Tahun 2016, page. 537-538

40 Peter Damari, H. Riyaldi, *Modul Pelatihan Indikasi Geografis*, Indonesian-Swiss Intellectual Property Project (ISIP) Press, Jakarta, 2018, page. 63-84

41 Nurimansyah, *Analisis Rantai Nilai (Value Chain) Industri Pakaian Jadi di Indonesia*, MM UGM, Yogyakarta, 2011, page. 45

42 Kaplinsky, R, Morris, M, *A Handbook For Value Chain Research*, IDRC. McCormick, D. & Schmitz, London, 2002, page. 39

production, distribution to manufacturers, packaging and geographical indication product labeling.

3. Ensuring regular supervision from government and society

This activity aims to ensure the reputation, quality, and characteristics of products labelled with geographical indications, prevent unauthorized use by unofficial members, and monitor the activities of the members to keep the standard operating procedures in GIPC.

This institution is under the responsibility and supervision of the local and central governments, so that the development of geographical indications in the regions needs regular monitoring, to ensure whether the value chain can run effectively and without obstacles. Supervision is carried out to implement the regulation set in article 71 of Act No. 20 of 2016 concerning trademarks and geographical indications. The results of field monitoring obtained by the geographical indication expert team are submitted directly to the Directorate General of Intellectual Property (DJKI) for follow-up.

4. Promoting and maintaining the reputation of MSMEs' products

Products that have been registered are considered legal and guaranteed to be marketed nationally and internationally. This opens up great opportunities for these products to expand a wider market segment in various regions. GIPC has a hand in promoting products to various new markets, through a number of efforts, which among others are maintaining the quality of products according to the geographical indication criteria that have been outlined in the document, communicating the guarantee of geographical indications to consumers, recommending product selling price ranges, encouraging and assisting the creation of MSME websites for product marketing, inviting traders/resellers to build cooperation for product marketing in local, national, and international markets, and helping make attractive product packaging.

The description above shows that regional GIPC has significant roles for the sustainability of MSME businesses and supports the realization of legal protection for MSMEs' products through legality of geographic indications.⁴³ This legality can legally guarantee MSMEs' products, as well as avoid business disputes and imitation by competitors that have a bad impact on the sustainability of MSMEs. In addition, this legality is a breakthrough that raises the reputation of the areas in which MSMEs operate. Because of the great benefits that can be obtained by MSME players, the community, stakeholders, and local governments, this GIPC needs to be established to ensure the equalization of geographical indication legality for MSMEs' products throughout Indonesia.

According to Robert M. Sherwood, in the theory of intellectual property rights (IPR), the inventor or creator of a brand new entity that has

43 Laurensius Arliman S, Perlindungan Hukum Umkm Dari Eksploitasi Ekonomi Dalam Rangka Peningkatan Kesejahteraan Masyarakat (UMKM Legal Protecton From Economic Exploitation To Improve Social Welfare), *Jurnal Rechtsvinding*, Vol. 6 No. 3, December 2017, page. 76

added and economic value must be given appreciation in the form of rewards and incentives, particularly for MSMEs.⁴⁴ This appreciation is given by the local government as a form of encouragement and support for MSMEs to be more active and enthusiastic in running a business by fulfilling the priority in their business activities. The government can provide free geographical indication legality facilitation and assistance, as well as incentives in the form of capital assistance, equipment to support the production process, and mentoring and assistance programs for MSMEs for several months. Furthermore, it is necessary to take further actions such as giving appreciation to MSMEs in the form of stimuli to arouse the enthusiasm to obtain the legality of geographical indications.

The practical benefits obtained by MSMEs in increasing competitiveness in national and international markets, guaranteeing protection of potential local products, contributing to improving the regional and central economy, reducing unemployment, and encouraging poverty alleviation efforts in Indonesia with the legality of this geographical indication is in line with the theory of legal protection according to Satjipto Rahardjo. He explained that the law that applies in society functions to integrate and coordinate the interests of one party with another, and the process is carried out by limiting and protecting these interests.⁴⁵ The law protects interests by giving the power to particular parties to fulfill their interests in order to advance human dignity and live a fair life according to their dignity.⁴⁶ Furthermore, specifically, it is also conveyed that geographical indication can be used as a marketing strategy for MSMEs' products in national and international markets, improve the welfare of the producers, increase the reputation of products in international trade, and protect geographical indications as a means to anticipate fraudulent competition.⁴⁷

Following the description above, it is concluded that to assist MSMEs in obtaining a legal umbrella in the form of legality of geographical indications, it is necessary to establish a regional GIPC, by coordinating with the local government and stakeholders. This institution facilitates MSMEs to take care of the legality of geographical indications and the implementation of other programs that support MSMEs businesses in the regions, as well as connects the government, stakeholders, and MSME players so that information and assistance for MSMEs can be provided easily, effectively, and efficiently. GIPC also acts as a forum for exchanging ideas, implementing activities, and providing technical guidance, counseling, and socialization.

44 Robert M. Sherwood, *Intellectual Property And Economic Development*, Boulder Westview Press, Colorado, 1990, page. 27-28

45 Ibid., page. 6

46 Lili Rasjidi, B. Arief Sidharta, *Filsafat Hukum Madzab dan Refleksi*, PT. Remaja Rosda Karya, Bandung 1994, page. 64

47 Surip Mawardi, *Establishment of Geographical Indication Protection System In Indonesia*, PT. Abdi Putra, Jakarta, 2004, page. 3

D. CONCLUSION

The establishment of a regional GIPC can be used as an alternative solution in helping to realize legal protection for MSMEs. This institution is not only a forum for MSMEs that will register the legality of geographical indication but can also become the main institution for local governments, stakeholders, the community, and MSMEs. This association can serve as a bridge for the government in providing information to MSMEs related to the needs of MSMEs to develop their business, such as training, technical guidance, socialization, counseling, and coaching. The presence of this institution is vital because it holds the key to success in obtaining legal protection and salvaging the potential products of regional MSMEs from the intense and prolonged unhealthy business competition. Local governments need to immediately establish a Geographical Indication Protection Community (GIPC) in each regency/city to support the manifestation of early legal protection for geographical indications for products resulted by MSMEs by collaborating with stakeholders, communities, and MSME actors. MSMEs players must be more active in seeking information related to business legality registration by joining groups or associations of business players at the regional level to help them access information easily and apply it directly to their businesses so that the products can be legally protected. The community must be more concerned and take part in providing information that is useful for the sustainability of MSME players so that they do not miss information and easily accept the transfer of knowledge that is beneficial for the development of MSMEs.

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