

PROTECTION OF GEOGRAPHICAL INDICATION OF CASHEW NUT PRODUCTS IN WONOGIRI

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ABSTRACT

This study describes the challenges of cashew nut geographical indication registration in Wonogiri Regency, Central Java. Wonogiri Regency has great potential as a cashew nut producer that contributes significantly to the regional economy. However, the process of registering geographical indications faces various obstacles, including adequate legal protection and collective awareness of the importance of maintaining the authenticity of local products. This research uses a descriptive analysis approach with a normative juridical method to describe these challenges and propose efforts that can be made by the government and the community to improve the protection of cashew geographical indications. Through the collaboration of various stakeholders, it is expected that Wonogiri Regency can protect and promote cashew nuts as a valuable local heritage and provide sustainable economic benefits for the community.

KEYWORDS Geographical Indication, Cashew Nut, Wonogiri Regency



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INTRODUCTION

Indonesia is a country with abundant biodiversity and a rich cultural mix. The country has a vast wealth of natural resources and is renowned for producing high-quality products that have gained recognition in the global market. Some examples are Bali's Kintamani Arabica Coffee, Java Coffee, Mandailing Arabica Coffee, Muntok White Pepper, and various others. These products have gained wide recognition among consumers in various countries and continue to be actively traded today. In a highly competitive market, demand for a product will remain strong if its quality is consistently maintained. There is a growing belief that improving the quality of a product is not enough for its survival in the market. It can also serve to eradicate counterfeit products in circulation, thus ensuring the continued presence of high-quality products. Products of exceptional quality and wide recognition are bound to be imitated by some individuals, necessitating the provision of adequate legal protection for such products. A geographical indication is usually a product name followed by the region or place of origin of the product. Geographical Indication refers to a mark applied to a product that originates from a

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particular geographical location and has distinct attributes or reputation associated with that place of origin. Geographical indicators often contain the name of the specific location where the goods originated. Agricultural goods often have characteristics that stem from where they are grown and are shaped by different regional elements, such as climate and soil conditions. (Nufus, 2022). From the above definition, the main characteristics or elements of Geographical Indications can be described as follows: 1. As a mark taken from the name of a region that characterizes a product or goods being traded. 2. As a sign that indicates the quality or reputation of the product or goods concerned. 3. The quality of the goods is influenced by nature, weather and soil in the area concerned.

India is the fifth largest cashew producing country in the world, after India, Nigeria, Brazil and Tanzania. Indonesia produces 95 thousand tons of cashew nuts annually, and only 20% (about 19 thousand tons) are used for domestic consumption. The remaining 80% (around 76 thousand tons) is exported to various countries as reported by the Director General of Plantations in 2016. Wonogiri Regency is one of the cashew producing centers that has been developing for a long time. The development of cashew production in Wonogiri is supported by geographical conditions suitable for cashew plantations.

One of the sub-districts in Wonogiri Regency that is the center of cashew nut production is Jatisrono Sub-district. In 2019, the total production of cashew nuts in Jatisrono Subdistrict was 1,125 tons. This amount was greater than the previous year's production of 765 tons. However, the development of cashew production in Jatisrono Sub-district continues to increase. The development of cashew production in Jatisrono Sub-district has also decreased. This is inseparable from the increasingly intense competition in the cashew nut business, technical problems in the cashew nut-producing household industry and changes in the global business environment.

Based on the provisions of TRIPs, Intellectual Property Rights (IPR) can be divided into eight parts, each of which consists of (Adawiyah & Rumawi, 2021)a) Copyright and Related Rights, b) Trademarks, c) Geographical Indications, d) Industrial Designs, e) Patents, f) Layout Designs (Topography) of Integrated Circuits, g) Protection of Confidential Information. Regulation of Anti-Competitive Practices under Contractual Licenses. Geographical Indication is one of the Intellectual Property Rights as mentioned earlier. Geographical Indication is a symbol used on products that have distinct geographical authenticity and have a quality or reputation based on their location of origin. Geographical Indications essentially refer to the specific location of origin of the goods. Agricultural products usually have characteristics determined by their region of origin and are shaped by different local elements, such as climate and soil conditions. The role of a mark as a geographical indication is determined by the laws of a particular country and consumer perception. (Muttaqin, 2022). A geographical indicator is a symbol that signifies a particular region of origin of goods and is associated with high quality, reputation, or other distinctive features appropriate to the geographical origin of the goods. Geographical indications must be registered with the Indonesian Intellectual Property Rights (IPR) office to obtain legal protection. (Disemadi & Kang, 2021). Geographical Indications offer safeguards to symbols that designate the land of a

country, or a particular region or area within that region, as the source of a commodity, when the reputation, quality, and attributes of a good are primarily influenced by the geographical elements involved. Geographical Indications are safeguarded as symbols that indicate the specific geographical location where a product originates. This is due to several geographical and environmental variables, such as natural conditions and human influences, or a combination of both, which give different features and attributes to the resulting item. (Nasrianti, 2022) .

Given the promising prospects of cashew nut products, both central and local governments should immediately take steps to officially register geographical indications that have economic value for commercial purposes. This should be accompanied by providing legal protection and effectively utilizing these indications for the benefit of their legal owners. Once a geographical indication has been registered, it can be protected from others using it as a trade product. This can be done by legal action for damages and cessation of utilization. In addition, violations committed by other parties can be reported to the Indonesian National Police.

This research analyzes the need for Cashew Nuts to receive legal protection as a potential Geographical Indication and the efforts of the Regional Government in providing protection for Cashew Nuts as natural resources in Wonogiri Regency and avoiding or preventing fraudulent competition of Cashew Nuts with other producers who process Cashew Nuts with high quality. The formulation of the problem in this research is: How is the legal protection of Wonogiri cashew nut products through Geographical Indication Rights? The purpose of this study is to analyze the protection of geographical indication rights of Wonogiri cashew nuts.

Theoretical Framework

The theoretical framework used in this research is to use the theory of Legal Protection. The theory of legal protection put forward by Satjipto Rahardjo focuses on the concept that the law must function to protect society. Satjipto Rahardjo emphasizes the importance of laws that are responsive and adaptive to the needs and dynamics of society. Some key points of the theory of legal protection according to Satjipto Rahardjo are as follows (Rahardjo, Satjipto, 2010):

1. Law as a Tool of Protection: Law is not only seen as a rigid set of rules, but as a tool that can protect the rights of individuals and groups in society. Law must be able to provide a sense of security and justice for the community.
2. Responsiveness of Law: Law must be responsive to social change and the needs of society. Satjipto Rahardjo emphasizes that the law should not be stagnant but must continue to develop in accordance with the times and the demands of society.
3. Substantive Justice: The focus of the law should be on substantive justice rather than procedural justice. This means that the law should be oriented towards fair outcomes and not just the correct execution of procedures. This means that the law should provide real and perceived justice to the people.
4. Social Function of Law: Law must function socially, meaning that it must help solve social problems and contribute to the welfare of society. Satjipto

Rahardjo believes that law must be seen in its social context and play an active role in improving social conditions.

5. Protection of Human Rights: Laws should protect human rights and ensure that every individual receives fair and equal treatment before the law. This includes the protection of civil, political, economic, social and cultural rights.

Thus, Satjipto Rahardjo's theory of legal protection emphasizes a living and adaptive law, which truly serves and protects society, not just a set of rules that must be followed rigidly.

RESEARCH METHOD

The research methodology used in this research is normative juridical research. This research methodology includes conducting a thorough investigation using secondary data sources such as primary legal sources, secondary book materials, and tertiary legal materials obtained from the library. This research uses primary and secondary legal sources. Secondary legal materials refer to legal resources that offer interpretation and analysis of primary legal texts, including draft laws, research findings, scholarly works, and similar sources.

This research uses the legislative technique (also known as the statutory approach) to analyze these difficulties. The legislative method involves a comprehensive analysis of all laws and regulations relating to a particular legal issue at hand. (Prayuti, 2024). Data collection techniques refer to the specific procedures used to collect data. These techniques include activities such as document review, literature review, and library research. These methods are used to obtain secondary data which includes primary legal sources, secondary legal materials, and tertiary legal materials. After all the data is collected, a qualitative normative analysis is carried out.

RESULT AND DISCUSSION

Wonogiri Regency is one of the main producers of cashew nuts in Central Java, which are the main ingredient in various dishes. Cashew nuts are often bought as snacks at various social events or as souvenirs because of their savory and delicious taste. The demand for cashew nuts mainly comes from the food industry, where cashew nuts are used as an ingredient in making various products, such as sugar or bread.

Cashew (*Anacardium occidentale* L.) is one of the leading commodities in the plantation sector in Indonesia. In 2000, the area of cashew plantations in Indonesia reached 535,745 hectares, consisting of smallholder and private plantations. Cashew plants are widely planted in areas with dry climates and infertile land. In addition to providing benefits as a greening plant, the main product of cashew trees is cashew nuts which have a high selling price. (Ngawit et al., 2023).. Master (2022) stated that the serious development of cashew trees can provide significant economic benefits for the community and the country. For the community, developing cashew plants can increase income and create jobs, while for the state it can increase the country's foreign exchange earnings from cashew exports.

Mastar (2022) also noted that in Central Java there are 11,828.68 hectares of cashew plants spread across 31 districts, of which 60% are in Wonogiri Regency (7,059 Ha) which is the largest number in Central Java. The cashew crop in Wonogiri Regency is managed by 92,265 farming families. This district is also the largest contributor to the production of shell cashew nuts, which amounted to 3,011,000 kg (61.90%) of the total production of Central Java (4,864,130 kg). According to BPS data (2010), in 2009 the cashew nut plantation area in Wonogiri Regency reached 20,505 hectares (77.94%) of the total cashew nut plantation area in Central Java (26,308.7 Ha), with cashew nut production of 7,177 tons (81.52%) of the total production of Central Java (8,804.02 tons).

In Wonogiri Regency, cashew nuts are more widely traded in traditional markets than in off-market food stores. There are very few food stores outside the market that sell cashew nuts, and supermarkets in Wonogiri Regency only sell cashew nuts at certain times such as before Eid al-Fitr. According to Sutriani (2022) traditional markets have their own characteristics. First, physically, the location of the market is close to settlements or housing. Second, the interaction between sellers and buyers is more intense due to repeated transactions. This creates a warm personal relationship between sellers and buyers. In addition, traditional markets also allow bargaining between sellers and buyers, often creating a mutually beneficial relationship.

In addition to products, traditional markets are also places where marketers (sellers) and consumers (buyers) carry out shopping activities. Suhaidi (2022) noted that marketers use the marketing mix to influence buyer behavior in the buying process. This marketing mix includes product, price, promotion and point of sale. Marketers can utilize this marketing mix to understand consumer behavior in purchasing cashew nuts in traditional markets. The diversity of the community in Wonogiri Regency can influence the type of consumer behavior in purchasing cashew nuts.

Cashew nuts are one of Wonogiri Regency's leading commodities that contribute significantly to the community's economy and enrich the culinary culture in Central Java. However, the process of registering cashew geographical indications is not without its challenges. One of the main challenges is to ensure that the process is fair and transparent, involving various stakeholders from farmers to local governments. In addition, legal protection of cashew geographical indications also needs to be strengthened to prevent piracy and geographical identity falsification practices that could harm local farmers. In facing these challenges, collaboration between various parties, including farmers, government agencies, and civil society organizations, is crucial. With joint efforts, Wonogiri Regency can protect and promote cashew nuts as a valuable local heritage, provide sustainable economic benefits to the community and preserve Indonesia's culinary diversity.

Research on Geographical Indication Rights (GI) of Cashew Nuts in Wonogiri Regency is still fairly limited. Currently, there are few studies that describe the economic contribution of cashew nuts in this area. Wonogiri Regency is the main producer of cashew nuts in Central Java, with a cashew nut plantation area reaching 20,505 hectares in 2009, which accounts for 77.94% of the total

cashew nut plantation area in Central Java. The largest shell cashew production from Central Java also comes from Wonogiri, reaching 3,011,000 kg or 61.90% of total Central Java production.

Table 1. Cashew Nut Production in Wonogiri Regency (Related Data)

No.	Data	Value
1.	Cashew Nut Plantation Area (2009)	20,505 hectares
2.	Shell Cashew Nut Production Contribution (2009)	3,011,000 kg (61.90%)
3.	Number of Farmer Families	92,265 families
4.	Percentage of Central Java Plantation Area (2009)	77,94%
5.	Percentage of Central Java Production (2009)	81,52%

Table 1 above provides an overview of Wonogiri Regency's contribution to cashew nut production in Central Java as well as its percentage distribution and contribution to the local economy. Economically, cashew nuts contribute significantly to the local economy, involving around 92,265 farming families in Wonogiri Regency. However, there is a need for further research to delve deeper into the geographical characteristics that distinguish Wonogiri cashew nuts from similar products in other regions. This data is important to strengthen the argument for Geographical Indication Rights registration, which can provide legal protection as well as sustainable economic added value for farmers and local communities.

The challenge faced in registering geographical indications of cashew nuts in Wonogiri Regency is to ensure adequate legal protection of the local product. Although Wonogiri Regency has geographical and climatic characteristics that support the growth of quality cashew nuts, the process of registering geographical indications can involve various parties including farmers, local governments, and related agencies. In addition, collective awareness is needed about the importance of maintaining the authenticity and sustainability of local products in the midst of global market competition. Strategic steps also need to be taken to overcome challenges such as product piracy and geographical identity forgery, so that cashew nuts from Wonogiri Regency can continue to be recognized and appreciated for their superior quality in domestic and international markets.

In the context of legal protection of cashew nuts as geographical indications, it should be noted that this involves a series of measures aimed at recognizing and protecting the rights to this product as an important local heritage. At the local level, the Wonogiri District Government needs to initiate the process of registering cashew nuts as geographical indications through the Geographical Indication Management Agency (BPIG) or a similar institution.

The first step in this legal protection is to ensure that there are clear regulations governing the identification, recognition and management of geographical indications, including cashew nuts. This regulation should provide a precise definition of what constitutes cashew nuts from Wonogiri Regency, as well as the criteria that must be met for the product to be recognized as a geographical indication.

In addition, the process of registering cashew geographical indications should be transparent and involve the active participation of stakeholders, including farmers, local businesses, and local communities. This will ensure that the process is fair and strengthen community involvement in the protection of their local products.

Once cashew nuts are recognized as a geographical indication, the next step is to strengthen law enforcement mechanisms to protect the rights to the product. This includes monitoring the practice of piracy and falsification of geographical identities, as well as the application of strict sanctions against perpetrators who violate relevant regulations.

The Wonogiri district government also needs to conduct diplomatic efforts with the central government and relevant agencies to strengthen the legal protection of cashew geographical indications at the national level. This includes advocating for the development of national regulations that are more comprehensive and effective in protecting local products from unauthorized practices.

By taking these steps, it is expected that the legal protection of cashew nuts as geographical indications can be strengthened, providing assurance to farmers and local businesses that their rights are recognized and protected, and ensuring the long-term sustainability of the product.

Dedi Santoso as Chairman of the Cashew Nut Farmers Group in Wonogiri Regency related to the obstacles or challenges faced in the protection of geographical indication rights for cashew nuts in Wonogiri Regency explained (Dedi Santoso, interview, 2024):

"The main obstacle we face is the lack of understanding and awareness among farmers about the importance of geographical indication rights. Many farmers still do not understand what geographical indication is and how it can protect their products. In addition, the administrative process for registering geographical indications is quite complicated and requires a lot of time and money. There are also issues with product counterfeiting in the market which is costing us dearly."

Based on Dedi Santoso's statement above, the main obstacle that occurs in the protection of geographical indications of cashew nuts is the low awareness of the importance of protecting geographical indication rights among cashew nut farmers. On the other hand, the administrative process in registering geographical indication rights is not easy for farmers to understand, in addition to the cost constraints that must be incurred by farmers to take care of the protection of geographical indication rights.

Awareness of the importance of protecting the geographical indication rights of cashew nuts has also begun to increase among some other farmers. Dedi Santoso explained (Dedi Santoso, interview, 2024):

"Farmers' awareness still varies. There are some farmers who have started to understand and support the protection of geographical indication rights, especially those who have often interacted with the agriculture office or other supporting institutions. However, there are still many who are not well informed."

We as a farmer group continue to socialize and educate so that more farmers understand and want to be involved in this process."

The emergence of awareness in some cashew farmers, according to Dedi Santoso, is interesting to observe. The Wonogiri District Agriculture Office and other agencies play a role in raising awareness among farmers about the importance of protecting the geographical indication rights of Wonogiri cashew nuts. The obstacle faced is the communication process that has not been fully conveyed among Wonogiri cashew farmers about the importance of protecting geographical indication rights.

To deal with the above obstacles, several concrete steps have been taken to increase awareness and legal protection of cashew nuts as geographical indications. Dedi Santoso explained (Dedi Santoso, interview, 2024):

"We have held several meetings and trainings with the help of the relevant agencies to explain the importance of geographical indications. We are also working with the local government to facilitate the registration process. In addition, there are plans to establish a Geographical Indication Management Agency (BPIG) that will assist in monitoring and enforcing these rights. We also hope for further support from the central government in the form of stronger regulations and wider socialization."

Based on Dedi Santoso's statement above, several parties that focus on the protection of Geographical Indication Rights have taken active actions to raise awareness of geographical indication rights protection among Wonogiri cashew farmers. The plan to establish a Geographical Indication Rights Management Agency shows the seriousness of the Wonogiri District Government to protect the rights of farmers through the law. By taking these steps, it is expected that the legal protection of cashew nuts as geographical indications can be strengthened, providing assurance to farmers and local businesses that their rights are recognized and protected, and ensuring the long-term sustainability of the product.

Government and community efforts in encouraging the protection of cashew geographical indications in the Wonogiri region are very important to ensure the sustainability and success of these efforts (Syahputra, Edi. 2018). Here are some efforts that can be made:

- a. Local government:
 - a) Encourage active participation of farmers and local businesses in the cashew geographical indication registration process by providing technical guidance and administrative assistance.
 - b) Provide financial and technical support to facilitate the geographical indication registration process, including testing, certification and promotion costs.
 - c) Develop policies and regulations that support the protection of geographical indications of cashew nuts, and ensure effective law enforcement against violations.
- b. Central government:

- a) Provide technical and financial support to the local government in efforts to register and protect cashew geographical indications in Wonogiri (World Intellectual Property Organization (WIPO). 2017).
- b) Coordinate geographical indication protection efforts at the national level, including harmonization of regulations between central and local governments.
- c. Local community:
 - a) Increase awareness of the importance of cashew geographical indication protection among farmers, producers, and consumers through socialization and outreach campaigns (Kompas. 2023).
 - b) Encourage active involvement in the management and monitoring of the use of geographically indicated cashew nuts, including monitoring of piracy and counterfeiting practices.
 - c) Develop partnerships between farmers, local businesses, and educational or research institutions to improve the quality and innovation of cashew nut products (Suara Merdeka. 2023).
- d. Civil Society Organizations:
 - a) Provide advocacy and support to farmers and local businesses in their efforts to register and protect cashew geographical indications.
 - b) Monitor the implementation of policies and regulations related to the protection of geographical indications of cashew nuts, and provide constructive input to the government regarding necessary improvements or changes.

With the collaboration between the local government, central government, local communities, and civil society organizations, it is expected that the efforts to protect the geographical indication of cashew nuts in Wonogiri region can be successful and provide significant benefits for farmers, local businesses, and society as a whole.

Geographical indicators refer to securing a particular place of origin for a particular product. The TRIPs Agreement provides for the protection of geographical indications under Articles 22 to 24. However, the concept of geographical indicators and their legal protection have been established long ago. The legal principle of passing off, which originates from the protection against wrongful acts in unfair competition, has been established to protect manufacturers from engaging in deceptive practices regarding the origin of their products. (Julius Rizaldi, 2024). English and American laws, for example, provide for the safeguarding of geographical indications in collective marks and certification marks. In the legal framework of Civil Law, designations of origin are used to prevent false statements regarding geographical origin (Purnama, 2022). (Purnama, 2022). Geographical indications have been incorporated into many international treaties as universal regulations to protect against deceptive commercial practices.

The existence of trademark registrations for Indonesian goods abroad can be attributed to a lack of information and awareness regarding the importance of registration. However, the existing legal measures to protect geographical indications in Indonesia do not effectively encourage the development of protection

for potential geographical indications in the country. Geographical indicators in Indonesia are currently regulated under the Trademark Law which contains only a limited number of articles. The articles on geographical indications in the Trademark Law also conflict with the articles on Trademark, making the existing legal regulation on geographical indications unclear. The Government Regulation on Geographical Indications also only repeats the existing rules in the Trademark Law. The lack of clarity in the regulation of geographical indications has resulted in the potential of geographical indication products not being maximally protected. This can be proven that since 2001, since the enactment of the Trademark Law, only 14 (fourteen) brands have been registered as geographical indications in Indonesia. Based on the provisions of Article 56 to Article 60 of Law Number 15 Year 2001, the party that should be more proactive is the community itself. The reason is that geographical indications as protection as a sign indicating the region of origin of an item due to geographical environmental factors, it involves community components that have a direct interest. In accordance with the provisions of Article 56 paragraph (2) of Law No. 15 of 2001, which is also the same as Article 79A paragraph (2) of Law No. 14 of 1997, there are several parties that can register this geographical indication. One of them is an institution that represents the community in the area that produces the goods.

This provision also slows down the registration of geographical indications in Indonesia. The toughest challenge is strengthening community organizations as producers of goods protected by geographical indications. The certification process of geographical indication products does not depend on individuals, but communities. For example, the Kintamani Coffee Certificate was granted to the Society for the Protection of Geographical Indications (MPIG). WIPO is very concerned about the protection of intellectual property rights in developing countries such as Indonesia, including geographical indications. In order for such protection to become a common reference, WIPO has initiated the Madrid Agreement and the Lisbon Agreement (1958).

These two agreements provide protection to geographical indication-rich countries such as Indonesia. This research focuses on securing geographical indicators, especially cashew nut commodities in Wonogiri Regency, Central Java. Cashew nuts, scientifically known as *Anacardium occidentale* L, is a superior plantation crop commodity that has important significance for the government's future economic and agricultural development. Cashew nuts have an important role in the Indonesian economy, as they serve as a valuable source of foreign income, income for farmers, raw materials for the food industry, and job creation. (Rusmiyati et al., 2022).. Indonesia can capitalize on the increasing global demand for cashew nuts, particularly in North America, the European Union, China, the Middle East, India and Australia, by increasing cashew nut production.

The protection of geographical indications in Indonesia requires support not only from producers but also the government, as a lack of political support can be an obstacle. This study aims to examine the constraints faced by stakeholders in the registration of Geographical Indications of Cashew Nuts in Wonogiri Region and efforts to overcome them.

CONCLUSION

Geographical Indication (GI) is one of the important aspects of Intellectual Property Rights (IPR) that has a significant impact on the protection of local products such as cashew nuts in Wonogiri Regency. The GI registration process requires collaboration between various parties, including farmers, local governments, and related institutions, to ensure adequate legal protection of local products. The GI registration process is also faced with challenges such as the need to ensure a fair and transparent process and raise collective awareness about the importance of maintaining the authenticity and sustainability of local products. Although Wonogiri Regency has geographical and climatic characteristics that support the growth of quality cashew nuts, legal protection efforts still need to be strengthened to prevent piracy and geographical identity falsification practices that harm local farmers. Thus, legal protection of cashew nut GIs in Wonogiri Regency is important to promote local products as valuable cultural heritage, provide sustainable economic benefits for local communities, and preserve Indonesia's culinary diversity.

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