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Indication of Source - The Protection of Tenun Ikat Sumba to Encourage The Economy of The Local Community¹

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Abstract

Tenun ikat Sumba is one craft of the Nusa Tenggara community used in worship services. The use of natural dyes in tenun ikat Sumba is an economic commodity that should be empowered to increase the economy of the Sumba community. The economic improvement of tenun ikat Sumba begins with an indication of source protection which should be given by the local government of Nusa Tenggara. This is a descriptive analytical study on the need of the local government to enforce the protection of tenun ikat Sumba through the inclusion of tenun ikat Sumba in a local government decree as a declarative effort in line with the mandate of Article 63 of Law Number 20 Year 2016 on Marks and Geographical Indications. Protection of indications of source by the local government is expected to encourage the economic progress of the local community, especially Sumba women, as well as the preservation of the culture of the local Sumba community.

Keywords: indication of source; tenun ikat Sumba; local community.

Abstrak

Tenun ikat Sumba merupakan salah satu kriya dari masyarakat Nusa Tenggara yang digunakan dalam acara-acara peribadatan. Penggunaan pewarna alam dalam tenun ikat Sumba menjadi komoditi bernilai ekonomi yang harus diberdayakan untuk meningkatkan perekonomian masyarakat Sumba. Peningkatan perekonomian tenun ikat Sumba dimulai dengan perlindungan indikasi asal yang harus dilakukan oleh pemerintah daerah Nusa Tenggara. Penelitian ini bersifat deskriptif analitis, berkenaan dengan keharusan pemerintah daerah untuk mengusahakan perlindungan tenun ikat Sumba melalui pencantuman tenun ikat Sumba dalam suatu keputusan pemerintah daerah sebagai upaya perlindungan secara deklaratif dari pemerintah daerah sesuai dengan amanat Pasal 63 Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis. Perlindungan indikasi asal oleh pemerintah daerah diharapkan dapat mendorong kemajuan perekonomian masyarakat lokal khususnya perempuan Sumba sekaligus pelestarian kebudayaan masyarakat lokal Sumba.

Kata kunci: indikasi asal; tenun ikat Sumba; masyarakat lokal.

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Introduction

Economic needs and maintaining economic resources in the household have required women as housewives to earn their own income to support family economy. In recent years the involvement of women in the public sector has shown a growing number. Poverty alleviation programs need to involve women by empowerment using rural resources. Lack of access and control of women towards resources greatly increase poverty, and they suffer the most when they experience scarcity of resources. According to recommendations for the achievement of development, namely promoting the role of

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women in the process, development programs would succeed by improving the position of women in the community in line with millennium development goals, one indicator of which is the promotion of gender equality and empowerment of women while ensuring the sustainability of environmental functions.

One of strategic efforts in answering the problem of community poverty is the community empowerment movement, specifically in villages or rural areas. Community empowerment increases the ability of the community to play a major role in accessing or reaching immediate resources. Community participation can only be built through empowerment because empowerment is the road to participation. The economic development of rural communities relies on the potentials of local communities that exist and are developed both traditionally and in modern ways in the shape of commodities originating in nature and cultural processes. The development of local commodities as an endeavor to enhance local economic potentials is expected to help engage all movements in the native community to help themselves as a productive economy based on the local community. Local economic development is the collaboration of all components of society in a region or locale to reach sustainable economic growth that will improve economic welfare and quality of life.

Efforts to augment economic resources, especially in the Sumbanese region of West Nusa Tenggara, cannot be separated from the involvement of women. The poverty alleviation program in the Sumba area should therefore depart from one of the potentials of the region and the riches of the Sumba community, which is its women. The development of local commodities to optimize the potential of the local economy seeks to support the engagement of all activities of the native community for its self-sustenance, namely productive economy-based enterprises of the people and the use of communal rights.

Tenun ikat Sumba is a type of traditional cloth from West Nusa Tenggara used in sacred ceremonies and cultural Sumba community events. Tenun ikat is a craft of the Sumba community particularly made for Sumbanese women, and its weaving process is traditionally passed down among Sumba women from generation to generation. Tenun ikat Sumba is a local commodity which serves as a source of income for the Sumba community in the field of craft trading business.

The economy of West Sumba Regency in 2017 grew by 5.03 percent. More specifically, growth occurred in the business of providing accommodation and food and beverages (category I) by 12.48%, followed by the financial and insurance services sector (category K) with 7.29%, and the mining and quarrying sector (category B) at 6.56%. With 6.34%, the fourth place was held by processing industries (category C) which includes the weaving industry.

In 2017, there were 228 business units or companies in Central Sumba Regency, most of which consisted of agro-industrial companies at 31 percent. The second largest number was that of weaving enterprises with 42 units or 18%, while the lowest was that of gold/silver companies at two percent (Badan Pusat Statistik Kabupaten Sumba Barat,

2018). Tenun ikat as a form of craft is ranked fourth in improving the economy, which serves as reason for the hope that, with the protection of indications of its source, tenun ikat Sumba will boost economic growth and raise people's income.

Figure 1. Economic growth of West Sumba Subdistrict by business field year 2017.



Source: Central Bureau of Statistics of West Sumba Subdistrict (No. 01/01/Th.XXII, 18 January 2017)

Tenun ikat Sumba is closely tied with the natural and geographical conditions of the Sumba region, where Sumba women weave when they do not descend to rice fields due to even little rain. Moreover, the original tenun ikat Sumba with premium quality is woven by women using natural dyes taken from wood, leaves, fruits, and mud in the forests of Sumba (Ayu, 2009). The close relationship between tenun ikat Sumba and the region makes it identified with the Sumba community and as part of Sumba. With this link, indications of source can be used to protect tenun ikat Sumba as a craft.

Research Problems

Protection by indication of source can be given by the local government. Indication of source protection potentially accelerates the economic growth of small and medium businesses by directly or indirectly prohibiting other parties outside the region to use the name tenun ikat Sumba for their weaving, as it should only be used for tenun ikat made in Sumba. With these explanations in mind, this study looks into the issue of how protection efforts include indications of the source of tenun ikat Sumba in seeking to improve the local economy.

Research Methods

The approach used in this study is normative juridical research focusing on the provisions of applicable law, while the specifications of this research are descriptive-analytical, namely by giving facts about protection of indications of source and economic benefits that can be gained from this protection for the development of local community economy.

The analytical method applied is normative with a statutory approach using

legislations and regulations, thereby focusing on prevailing laws and regulations. This study also employs a conceptual approach to build a concept that will be used as reference in research by moving from the views and doctrines developed in the science of law. In addition, this research is conducted with a case study approach that analyzes and reviews cases related to the issues discussed.

The stages of this research include a literature review to obtain primary law sources in the form of binding legal materials including national legislations and international legal instruments, such as in the method of approach, and tertiary legal documents in the shape of encyclopedia and various articles in print and electronic media. Data are collected from documents as secondary sources to gather theoretical grounds, and the opinions or writings of experts or other parties from formal information or official scripts.

Discussion

Differences between Geographical Indication and Indication of Source

A geographical indication is one type of intellectual property right consisting of a trade name attached to a product, which shows the origin and the specificity produced from that place of origin that makes the product unique. Geographical indications are regulated in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which requires member countries, including Indonesia, to provide nationwide legal protection of geographical indications. Basically, TRIPS provide minimum standards of geographical indication protection and gives freedom to each member country to determine the most appropriate form of legal protection to be implemented at a national level. Similar to other Southeast Asian countries, Indonesia has tried to regulate the national protection of geographical indications. Seemingly significant progress was made by the regulation of geographical indications in Law of the Republic of Indonesia Number 15 Year 2001 concerning Marks (hereinafter referred to as the 2001 Mark Law) which was subsequently supplemented by Government Regulation Number 51 Year 2007 concerning Geographical Indications. This Government Regulation, while still reaping criticism and requiring much improvement, has demonstrated its practical function as the legal basis for the registration of the first geographical indications in Indonesia.

In the second half of 2016, for the first time in the history of national legislation in the field of intellectual property law, geographical indications were pinned as part of the title of the act, namely Law Number 20 Year 2016 concerning Marks and Geographical Indications (hereinafter referred to as the 2016 Mark and Geographical Indication Law) which supersedes the 2001 Mark Law.

Article 2 of Law Number 20 demarcates the scope of protection of marks and geographical indications (GI). A GI is defined as an indication that identifies the origin of a good and/or a product, of which the geographical environment, including natural factors, human factors or the combination thereof, is attributable to the reputation, quality, and certain characteristics of the good and/or the product. According to the 2016 Mark and Geographical Indication Law, a geographical indication is “any indication which

identifies goods and/or a product as originating from a particular region of which its geographical environment factors including nature, labor, or combination of both factors are attributable to a given reputation, quality, and characteristics of the produced goods and/or product.”

The term indication of source was introduced in the Paris Convention for the Protection of Industrial Property and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods. There is in fact no literal definition for an indication of source in both international treaties, but they designate two qualities that must exist in an indication of source, namely the truth of the indication of source in specifying the origin of the goods and the use of the indication of source in trade. In practice, an indication of source can be identified from the presence of marks or signs attached to the product, for example the phrase “made in” or “product of” followed by the name of the country, such as “made in Switzerland” or “product of Switzerland,” or a country name followed by the word “made” as in “Swiss Made”. In this context, Indonesian national law has ratified the Paris Agreement but not the Madrid Agreement, yet this does not preclude Indonesian law from developing an indication of source system adhering to the principles covered in both treaties (Hopperger, 2017).

In any odd moment at which geographical indication cannot be distinguished from indication of source, either is used to indicate the origin of a good (Ayu, Ramli, & Sukarsa, 2018). Nonetheless, differences between the two are denoted by Article 2 of the 2016 Mark and Geographical Indication Law: A geographical indication is defined as a sign that reflects the origin of an item and/or product, of which geographical factors including natural factors, human factors or a combination of these two factors pertain to the reputation, quality, and particular characteristics of the produced good and/or product, whereas the definition of an indication of source is not as detailed. According to law, legal protection for indications of source and geographical indications differs, in that the protection of geographical indications shall only be obtainable through registration, therefore making its system constitutive, while a declaratory system allows indications of source to be protected simply via actual use in the market without registration (Ayu, Ramli & Sukarsa, 2018).

Indications of source are also regulated in the 2016 Mark and Geographical Indication Law, which is now positively in force and has revoked the 2001 Mark Law. In the 2016 Law, an indication of source is a sub-system of protection in the duality of the Indonesian protection system of marks and geographical indications. Provisions concerning source indications are regulated in Articles 63, 64 and 65 of the 2016 Law.

At a glance, the three articles intended for indications of source in the 2016 Mark and Geographical Indication Law appear more elaborate than the two articles regarding source indication provisions in the prior Law. In addition, there is a descriptive explanation of indications of source in the Elucidation of the 2016 Law.

Substantial breakthrough has emerged in regard to indications of source. In the previous Mark Law, and even in the Paris Convention for the Protection of Industrial

Property and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, indications of source only apply to goods. However, Article 63 of the 2016 Mark and Geographical Indication Law states, “Indication of source is protected without any compulsory registration or declaratively as a sign indicating the true origin of goods and/or services and use in a course of trade.”

In Article 64 of the 2016 Law, an indication of source is affirmed as a product’s characteristic which is not directly related to natural factors. In this context, the Elucidation of Article 64 clarifies that an indication of source does not always link to natural factors but relates more to human skills and the region.

Hence, indications of source are not the same as geographical indications because indications of source only identify the origin of the produced goods without correlating to natural factors. For instance, the mark Nikon originates in Japan but Nikon cameras are manufactured in China through licensing, accounting for the phrase “made in China” printed on them. This “made in China” label is an indication of source, and its rights arise in line with the realization of the object and not through registration, in contrast to the constitutive protection of geographical indications that requires registration.

Second, indication of source protection is residual, meaning that all types of products bearing the name, designation or instructions about the source of each product correctly, insofar as any of their indications is not or cannot be registered as a geographical indication and is not directly related to natural factors, can be protected through its indications of origin. In practice, so-called residuals of restrictions are far more likely used than those that are definitively, exclusively and constitutively protected through the registration of geographical indications.

In this regard, Article 53 of the Law gives legal standing for two types of right holders eligible to apply for protection of a geographical indication: (1) an institution or agency representing either an indigenous community or a local community who produces the object and lives in the geographical area of the production; or (2) a provincial or local government located where the good and/or product originates. Producers based outside Indonesia may also apply for protection through their legal representative or lawyer in Indonesia, as long as they have received protection for geographical indications in their own country. Protection may be obtained based on relevant international legal instruments or international contracts.

As in the case of geographical indications, indications of source can be loosely protected by mentioning “made in” and/or stating the name of the region, and declarative protection can also be applied through declarations by the local government in order to advance the economy of the local community.

Geographical indications and indications of source of a product identify its specific qualities associated with geographical origin or region of origin (Belletti, 2017). These origin-based indications result from the interactions of social and economic mobilizations of local resources including specifics such as local knowledge and cultural traditions. The increasing demand for quality products in the market, especially craft products, sets

reputation as the most important factor. In such situation, geographical indications and indications of source make the name of the place of origin better known to consumers and synonymous with the quality of the goods, thus establishing the geographical or location name as differentiator of one item's quality in comparison to that of similar items.

International Legal Instruments for Geographical Indications and Indications of Source

In general, the protection of geographical indications in various international conventions is based on one factor in common, namely the origin of a product. Nevertheless, these international conventions specify protection using different terms, object scopes, and tightness of protection. Before the TRIPS Agreement, international conventions had closed in on the protection of the place of origin of a product, including the Paris Convention for the Protection of Industrial Property in 1883 and its revision, the Madrid Agreement Concerning the International Registration of Marks in 1891 and the Protocol Relating to that Agreement in 1989, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods in 1891, the General Agreement on Tariffs and Trade in 1947, and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration in 1958.

It is noteworthy that, given their relevance with geographical indications, two international agreements share the same abbreviated name and year despite their different scopes. These are the Madrid Agreement Concerning the International Registration of Marks of 1891 and the Protocol Relating to that Agreement in 1989, and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of 1891. Usually, to facilitate the mention of various international agreements, both agreements are briefly titled the Madrid Agreement of 1891. In fact, one of them regulates aspects of marks while the other regulates aspects of indications of source. Thereby, specifically for these two international agreements, the full title of the agreement must be presented to avoid confusion.

The Paris Convention uses the terms "indications of source" and "appellations of origin" for objects of geographical indications in the broadest sense. This convention principally guarantees the protection of indications of source by ruling the seizure of imported goods that directly or indirectly use false or misleading indications of geographical origin or of the identity of the producer's source. According to the World Intellectual Property Organization (WIPO), an indication of source or a geographical indication is a sign used on a good that has a specific geographical origin and possesses qualities or reputations that pertain to that place of origin, and may highlight particular qualities of a product which are attributed to geographical and human factors (Rahmah, 2017).

In addition, the Paris Convention regulates the prevention of unfair competition by requiring its member countries to seek effective protection for producers engaged in industry and commerce, so that they avoid underhanded competition practices.

Consumers must also be protected from the consequences of the possibility of such sham.

Unfair competition in the context of geographical indications occurs if producers who have ill intentions deliberately market a product with a sign or label that implies as if the product originates from a producer or a certain known geographical origin, while it actually does not. The trick is to pin a manufacturer's mark or the origin of another known product in such a way that the consumer is deceived and convinced that the product really comes from the pinned producer or geographical origin. This way, these bad-faith producers are able to easily grab a proportion of the consumers of a particular indication of source without having to struggle and spend much money to build their own reputation. Consequently, the financial gain that should have been fully enjoyed by the true owner of the source indicated is reduced or practically “stolen” by the producer in bad faith.

Geographical indications are defined in Article 22(1) of the TRIPS Agreement as “indications which identify 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 characteristic of the good is essentially attributable to its geographical origin.” An appellation of origin is delineated in Article 2(1) of the amended 1958 Lisbon Agreement as “the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors.” It can therefore be inferred that the definition of GI in the Indonesian legal system combines those provided by the TRIPS Agreement and the Lisbon Agreement (Ayu, Ramli, & Sukarsa, 2018).

A geographical indication is one type of protection of intellectual property rights cited in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This agreement was ratified together with the World Trade Organization (WTO) Agreement as Annex IC, and entered into force on January 1, 1995. Following the Agreement to Establish a World Trade Organization as its parent, TRIPS also requires full compliance from all signatory countries.

The Paris Convention uses the terms “indications of source” and “appellations of origin” for objects of geographical indications in the broadest sense. This convention substantially endorses the protection of indications of source by mandating seizure of imported goods that directly or indirectly utilize false or misleading geographical indications or indications of source .

A geographical indication and indication of source protection system has been introduced and carried out for more than a hundred years in France, arising out of urgent circumstances to protect preparations of liquor such as wine and spirits (Zhong, 2013). Protection of geographical indications and indications of source has been an effective way to protect local businesses that use traditional methods and local materials from the surrounding area. Geographical indications and indications of source have long been a tool to improve the economy of local communities (Calboli, 2015).

The Paris Convention delineates an appellation of origin as “the geographical name

of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristic of which are due exclusively or essentially to the geographical environment, including natural and human factors.” Indications of source have similarities with appellations of origin and geographical indications in signs that have distinguishing features and the use of a particular place’s name to indicate quality as well as differentiation.

Protection of Indications of Source of Tenun Ikat Sumba to Encourage the Economy of the Local Community

Geographical indications and indications of source do not only refer to a place but also to the regional features and signs of an area including the landmark of a particular location that identifies the source of the product. Concrete examples are the Gedung Sate (Satay Building) which is identical to the city of Bandung, the Merlion image printed on clothing from Singapore, and the Petronas Twin Towers that represent the Malaysian state.

Most manufacturers and companies from the European Union and the wider international community consider protection and application of appellations of geographical origin as an important marketing tool based on a positive image of the country of origin that favors sale of local agricultural and food products as import substitution (Simin, 2016). Indications of source are traits of the source of goods and services that are not directly related to natural factors. Tenun ikat Sumba bears an indication of source because of the insertion of the word "Sumba" in its naming and marketing, as Sumba is a region located in the province of East Nusa Tenggara.

The scope of protection of geographical indications and indications of source encompasses:

- a. Broad and flexible understanding of a “geographical unit” compared to a “geographical name,” which is a term originally used in the definition of origin in the Lisbon Agreement before it was replaced by “geographical denomination” in the amendment of the 1958 Lisbon Agreement on September 28, 1979;
- b. Protected objects, either “goods” or “products;”
- c. The definition of a territory as basis for product representation, either using the English term “a territory” or the French “un territoire”;
- d. Reputation, whether it is the main requirement or not;
- e. Links between products and producing regions, whether the interpretation of “essentially attributable to its geographical origin” in the TRIPS Agreement is only limited to the true origin or also to everything that forms the unique character of the product, including how it is formed, whether naturally or culturally, and the method of testing (Passeri, 2004).

Communal ownership of geographical indications and indications of source that refer to the geographical area and to the reputation, quality or similar characteristics that pertain to certain geographical names according to places of origin entirely differs from

trademarks, because trademark ownership only refers to one particular company and individual ownership. Regardless of difference in the subject of protection, appellations of geographical origin are similar to trademarks in effect and power, and can be used to support regional and national economic development.

Indications of source play multiple economic roles: Firstly, they are used as part of marketing strategies to promote products of the country or region; secondly, consumers sometimes give greater value to regional specialties; thirdly, appellations of geographical origin are collectively owned since all producers who inhabit a specific area hold the exclusive right to use geographical indications as a powerful tool for regional and national development (Forsyth, 2016).

Geographical indications and indications of source root production in particular locations and protect unique environmental and cultural resources that have developed over time in those places. Scholars and development practitioners have framed them as a means of localizing production within the framework of globalization. Optimistic appraisals suggest that “GIs may be as close to a comprehensive, equitable and market-oriented rural development package as we have seen” (Gangjee, 2017).

Geographical indications or indications of source identify that particular goods originate from the territory of a specific country or region or a locality within such territory, where a given quality, reputation or other characteristics of such goods can be essentially attributed to their geographical origins, and that such goods are produced and/or processed and/or prepared within a definite geographical area. The conditions for protection are less demanding, to the extent that it sufficiently fulfills only some of the requirements, such as in the cases of Jelen Pivo beer from Apatin, Bezdanski damast, and others.

In the Indonesian legal system of intellectual property, conditions for protecting geographical indications and indications of source set human factors as an independent element of environmental factors. In determining the existence of links between a product and its area of origin, natural and human environmental factors can be seen as two distinct determinants or interchangeable elements. Therefore, some products that have lost the significance of natural factor influence, such as Jepara carved furniture, Tanimbar woven silk, tenun ikat Gringsing or tenun ikat Sikka, can remain subjected to protection of geographical indications.

The naming of the area of origin in a tenun ikat Sumba craft product in trade will indirectly describe an exotic location and harmonious cultural relationships of the indigenous people of Sumba. Tenun ikat Sumba is one of the tangible results or embodiments of the courteous Sumba society because tenun ikat is produced from the way the Sumba community performs acts of worship and cultural activities such as weddings and other sacred traditional ceremonies.

The object of protection of an indication of source slightly differs from that of a geographical indication, in that the object of an indication of source is a characteristic of a good/service that is not directly related to natural factors. One such object is tenun ikat

Sumba. Tenun ikat Sumba is a type of fabric that has been worn by the Sumba people for thousands of years and has become part of the community's customs. The tenun ikat is one piece of essential equipment in customary events such as weddings or the coronation of the King.

Ikat cloth is traditionally woven using non-mechanized looms (ATBM), and is called "ikat" as the threads are tied with raffia or rattan rope to create the intended motif before they are dyed. The motif is a typical feature of tenun ikat, the design of which bears a meaning specific to the people of Sumba. Each motif contains a story inherited through generations, predominantly featuring elements of humans and animals represented by horses, crocodiles, chickens, and cockatoos. Another common trait of tenun ikat Sumba is using natural dyes to color the fabric, although some ikat cloth is also tinted with chemical dyes, dividing tenun ikat into quality levels. Nonetheless, the cloth is typically tied with rope made of *gewang* palm or raffia by the time of the tinting process.

The tenun ikat Sumba cloth-making process goes through several stages, namely shading, coloring, and weaving. Generally, natural dyes are obtained from plants existing in Sumba. Coloring is done three to four times on average with a maximum of six times. Blue dye (*kawaru*) is made from *woru* or *tarum* or indigo leaves (*Indigofera tinctoria*), whereas red dye (*kombu*) is extracted from the roots of the noni tree (*Morinda citrifolia*), and black dye is derived from mud (Ndapakawang, 2017).

The traditional looms applied to create tenun ikat Sumba are made from wood and bamboo. At the stage of coloring, the threads are dipped into liquid dyes drawn from leaves and savory herbs. Traditionally, these natural dyes are mixed with the chanting of certain spells and prayers for good quality of the finished woven fabric. Today, however, the colors can alternatively be obtained from chemicals. Plants used for coloring are noni roots, indigo, hyssop, nutmeg, saffron, etc. Noni roots, for instance, produces red, while indigo provides indigo color and turmeric yields yellow. The tinting process takes a long period so that the coloring substances wholly seep into the threads. Once dyed, the colored threads are dried and then untied. As a result, the threads show a combination of white and natural colors. In East Sumba tenun ikat fabric is made using natural dye substances that come from dye-producing plant parts, such as roots, barks and leaves, and classifies as a non-timber forest product (Takandjanji, 2017).

The colors and patterns on each piece of tenun ikat vary according to how each tribe on the island of Sumba manually weaves it. Sumba cloth patterns generally consist of three parts, namely figurative art which depicts humans, animals and plants, graphics that resembles a series of charts and tends to be geometric, and figures from foreign influences such as the cross, the Indian *patola* pattern, and the Chinese dragon.

The specific quality of tenun ikat Sumba is determined by the coloring by natural ingredients and design containing meanings that generally describe the processes of human life and nature. Some ikat artisans who do not employ natural materials in the coloring can be protected by indication of source through the typical motifs made in the area of Sumba.

Indications of source can describe and state where the product originates or in which country or region of origin the production takes place. Such indication is significant because it relates to the authenticity and quality of the product. Distinctive signs and reputation denoting the preservation of quality play a key role in identifying a certain level of quality (Ngokkuen & Grote, 2012). As a result of the protection of indications of source, it is not permissible for other parties who make tenun ikat outside the Sumba area to use the name "Sumba" in their products, as those are not made in Sumba nor by the people of Sumba. Protection of indications of source is carried out declaratively and can involve the local government (Besky, 2014).

Indications of source are very closely similar to geographical indications, but the 1958 Lisbon Agreement implies that, as a geographical name, an indication of source emphasizes more on human factors, signifying that human factors are more dominant in identifying indications of source, whilst natural and climatic factors marginally relate to an indication of source. In other words, an indication of source underlines the human skills of the maker by stating the name of the area where the object or product of the geographical indication is made (Vats, 2016). The indications of source and geographical indications of tenun ikat Sumba have collective owners because all producers who make tenun ikat Sumba in the Sumba region in particular holds the exclusive right to use those geographical indications or indications of source (Simin, 2016).

An appellation of origin is more complex in regard to the intellectual property protection of geographical indications, as it includes mandatory submission of study outcomes in the application for protection to the International Bureau (Simin, 2016). The study must prove that an object produced in a particular geographical area actually meets the criteria, specifically in terms of quality and other prominent characteristics conditioned by the geographical environment where the fabrication of the protected product takes place.

Safeguarding indications of source is easier to do because the registration of an indication of source is declarative, which is why protection of indications of source becomes one of the strategies to improve the economy of small and medium enterprises in the region. The strong attachment of tenun ikat Sumba to the use of coloring materials taken from nature, especially Sumba forests, is a significant force for the identification of its indication of source.

The protection of indications of source by the local government can be given by declaring that tenun ikat Sumba is owned by the community and the local government in Sumba and that tenun ikat made outside the Sumba region may not use the name "Sumba" for its woven fabric. This form of declaration can be released in the shape of a governor's decree or other possible arrangements. In addition to the involvement of the local government, protection of indications of source can also be enforced by emblazoning the name "Sumba" on the label and packaging of each tenun ikat product to give information as well as a guarantee of quality to consumers.

Efforts to boost economic improvement in the local community by means of the

protection of indications of source of tenun ikat Sumba is only one step in the development of the local economy, since local economic growth is a process which involves the people through community organizations and the local government, both of whom work together to improve the economy (Susanti, 2013). GIs can help a community of producers to differentiate their products from competing products in the market and build goodwill around their products, which often attracts a premium price as a result (Kulkarni & Konde, 2011).

Local economic development is a process that endeavors to formulate regional development institutions, increase human resource capacity to create better products, and foster industry and business activities on a local scale. Thus, regional development is seen as an effort by the provincial government and the community in building economic opportunities that are compatible with human resources and optimizing the utilization of local natural and institutional resources (Susanti, 2013).

The International Labor Organization (ILO) explicates that local economic development is a process of collaboration between the business community, government, and society to encourage partnerships in specific regions that enable cooperation in planning and implementing development strategies in general by utilizing and empowering local resources with the aim of prospering the community, creating jobs and stimulating economic activities (Gasser, 2005).

Indonesian geographical indications and indications of source are regulated under communal intellectual property law due to their non-individual ownership. GIs are largely used by communities because they are based on the concept of collective rights (Tehrani & Manap, 2012). Such communal arrangement is not simple because ways of grouping individuals recognized by law are widely diverse.

In international law relating to intellectual property, these groupings include organizations, associations, institutions, agencies, unions, legal entities, commissions, boards, bodies, councils, assemblies, corporations, groups of employers, cooperatives, and society (Fournier, 2017). In relation to cultural or traditional values (Verma & Mishra, 2018), the holders of communal intellectual property rights include indigenous people, indigenous and local communities, indigenous and tribal people, cultural societies, and ethnic groups. They may also include nations, vulnerable groups, ethnic minorities, custodians, and beneficiaries.

A number of these groupings, if translated into Indonesian, can also be found in Indonesian national law. These terms can be added to those typical of Indonesian law and many other groupings in different local languages whose structures are unique to their respective local traditional contexts.

Indication of source protection schemes may implement the microeconomic standard model, which emphasizes the special value of origin in trade. This approach underscores the assessment of consumers in trade in valuing goods of which production and quality are based on the source of the products (Belletti, 2017). Management of local resources that are specific to individual and collective investment in the preservation of

natural resources and culture can be achieved with the concept of cultural preservation.

Tenun ikat Sumba is an output of the Sumba community's cultural process through indications of source. The implementation of protection does not only aim for results in the form of economic value but also to place the process under the policies of the local government in order to raise local income and the welfare of the community as owner of the indications of source. Stakeholders, such as local governments, industries, universities and community groups, need to actively participate in managing the process according to modern management principles, but still using local resources as it has to be carried out in specified locations.

Indications of source contribute directly to the development of a region, in particular its economic development, as the rights of indications of source lie in the hands of regional and local producers in an area, and the added value arising from indications of source increases the quality of the product to a premium level and automatically generates a higher price. Indications of source also have an impact on the creation of jobs at a local level, especially for female workers in the Sumba area, that would eventually prevent urbanization and trafficking (Vats, 2016).

The improvement of the local economy can be bolstered with an origin application system which is not restricted to the relationship between the product and natural and human factors as in geographical indications, or a model of indication of source protection that is more flexible than that of geographical indications which is relatively rigid. Protection of indications of source is not limited to natural factors but more to human factors and other underlying factors including traditional knowledge, folklore, and genetic resources.

In using indications of source, producers apply trademarks in marketing their products along with evidence of the source region. Even though the trademark refers to the company that sells the product in the market, confirmation of a geographical point of origin ascribes the product with the reputation, quality, or other characteristics attributed to its source. Regardless of differences in the subject of protection, registration of the origin of the product is identical to a trademark in its effect and strength, and can be used to support regional and national economic development as part of an economic marketing strategy for the promotion of the product (Simin, 2016). Furthermore, the initiative for the promotion and marketing of geographical indications and indications of source is important in improving perception of quality and developing reputation (Anson, 2012). Quality and geographical indications are inseparable, since in GIs there is as much emphasis on the quality of the product as is on its geographical origin. Over time an indication of source becomes synonymous with the quality of the product (Vinayan, 2012). It is thereby crucial that the characteristics and quality of the product are exclusively derived from its place of origin (Sanders, 2010).

Through the protection of indications of source, the economic growth acceleration of the local community can be synergized by means of collaboration between various parties related to the indications of source. As every individual in the indigenous

community commits worship and performs cultural processes by weaving, the local government should protect them by declaration in the form of local regulations, and community groups ought to maintain the quality of the weaving made by the indigenous people. Indications of source can help the local community grow further because, whereas the notion of appellation merely covers names, indications comprise drawings, photographs, national emblems, flags and even symbols. In other words, the overall scope of an “indication” is wider than the notion of a “name” (Gervais, 2010).

The benefits of this range from having different new sociocultural values for traditional and indigenous assets to more straightforward economic gains resulting from increased employment, higher income and improved market access. Indications of source also occasionally provide indirect added values in commodities of economic improvements, such as the establishment of tourist sites by the local government to exploit fame prompted by the products and increases in the price of the surrounding land. Geographical indications and indications of source are effective tools that allow producers to gain competitive advantages, achieve market recognition and sell products, due to the perception that when a product bears an indication of source or geographical indication, it must have the special qualities attributable to its geographical source (Albayrak & Ozdemir, 2012).

In the development of geographical indications thus far, the local government is more deeply involved in protecting indications of source as it directly interacts with the community, making it easier to negotiate with the owner of the source, aside from the fact that the local government has a better position to promote indications of potential source in the region through tourism and cultural promotion. Protection of indications of source can be declared by the local government through local government regulations or decrees stating that tenun ikat Sumba is a product which originates in the Sumba area and possesses the quality specifications of Sumba weaving. With such statement or determination to ensure the quality of tenun ikat in the market, ranging from premium woven cloth made with natural dyes to minimum quality, quality assurance can be provided through trade services in coordination with the tourism agency of the Sumba local government.

The attachment of indications of source to the region renders the government's responsibility large enough to protect indications of source and increase local income through the sales of products with those indications which will positively impact on improving community welfare. The affirmation of protection and enforcement of appellations are essential in maintaining the rights of products and indications which determine specific commercial, traditional or national interests.

Conclusion

The lack of obligation to register for protection makes declarative protection of indications of source more flexible than that of geographical indications in protecting local wealth owned by the community. A declaration of indications of source from the local

government is thereby applicable as a strategy to enhance the economic growth of the local community.

The protection of tenun ikat Sumba by its indications of source can thus be enforced by the local government through its authority to declare that the Sumba community owns tenun ikat Sumba and prohibit others from using the name "tenun ikat Sumba" in trade for products not made in Sumba nor by the Sumba community. The protection of tenun ikat Sumba would enable the improvement of the economy of the local Sumba community with the involvement of various parties in the production chain. The tenun ikat Sumba marketing chain and the concept of endorsing the economic growth of the local community would encourage the people, community groups and local government to unite and collaborate with the aim of advancing the local economy.

Suggestion

The local government is required to immediately declare ownership of tenun ikat Sumba in a governor's decree or any other arrangement possible. Furthermore, cooperation between the local government, community groups, traditional stakeholders and the community needs to be realized without further ado to synergize in the enterprise of intensifying the production and marketing of tenun ikat Sumba so as to improve the economy of the local community.

References

- Anson, C J. (2012). Marketing flexibilities in Geographical Indications (GI) and Trademark: A comparative study. *International Journal of Marketing, Financial Services & Management Research*, 1(11). 100-107.
- Ayu, M. R., Ramli, A.M, & Sukarsa, D.E. (2018). Indonesian System of Geographical Indications to Protect Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions. *Journal of Intellectual Property Rights*, 23.174-193.
- Ayu, M.R. (2009). *Geographical Indication in Indonesia*. Jakarta: Nagara.
- Badan Pusat Statistik Kabupaten Sumba Barat. (2018). *Indikator Ekonomi Kabupaten Sumba Tengah 2017*. Sumba Barat: CV Inhud.
- Belleti, G. (2017). *Geographical Indication, Public Goods and Sustainable Development: the Roles of Actors Strategies and Public Policy*. World Development. 98C.45-47.
- Calboli, I. (2015). Time Tos Say Cheese and Smile at Geographical of Origin? International Trade and Local Development in The United States. *Houston Law Review*, 53, 1-34.
- Forsyth, M. (2016). Making the case for a pluralistic approach to intellectual property regulation in developing country. *Queen Mary Journal*, 6(1). 3-26.
- Fournier, C. D. (2017). *Can Geographical Indications Modernize Indonesian And Vietnamese Agriculture? Analyzing The Role Of National And Local Governments And Producers” Strategie”*. World Development. 98C. 93-104.
- Gangjee, D.S. (2017). *Proving Provenance Geographical Indication Certification and Its Abiguities*. World Development. 98 (C). 12-24.

- Gasser, M. (2005). *Pembangunan Ekonomi Lokal Dalam Situasi Pasca Krisis: Panduan Operasional*. Organisasi Perburuhan Internasional (ILO).
- Gervais D J. (2010). Reinventing Lisbon: The case for a Protocol to the Lisbon. *Chicago Journal of International Law*, 11(1). 67 -126.
- Hopperger, M. (2017). Introduction to Geographical Indication and Recent Documents In the World Intellectual Property Organization, Worldwide Symposium on Geographical Indication. Worldwide Symposium on Geographical Indication. 64-75.
- Kulkarni V. & Konde V. (2011). Pre- and Post- Geographical Indications Registration Measures for Handicrafts in India. *Journal of Intellectual Property Rights*, 16, 463-469.
- M, Albayrak & Ozdemi M. (2012). The role of geographical indication in brand making of turkish handicrafts. *International Journal of Business and Social Research*, 2 (3). 109-118.
- Marina Jovičević Simin, P. J. (2016). Appellations of Geographical Origin as a Generator of National Competitiveness. *Economics of Agriculture*, 63(2). 567-583.
- Ngokkuen C & Grote U. (2012). Challenges and opportunities for protecting geographical indications in Thailand. *Asia-Pacific Development Journal*, 19(2), 93-123.
- Passeri, S. (2004). *Geographical Indications (GIs)*. *Workshop Indikasi Geografis di Indonesia*. Jakarta: Institut Francais Recherche Agronomique au Service des Pays du Development (CIRAD).
- Rahmah, M. (2017). The Protection of Agricultural product, Journal of Intellectual Property Rights under Geographical Indication: An Alternative Tool for Agricultural Development in Indonesia. *Journal of Intellectual Property Rights*, 22, 90-103.
- Sanders A K. (2010). Incentives for and protection of cultural expression: Art, trade and geographical indications. *The Journal of World Intellectual Property*, 6(13), 82.
- Susanti, E. A. (2013). pengembangn ekonomi lokal dalam sektor pertanian. *Jurnal Administrasi Publik*, 4-17.
- Takandjandji, M. (2017). Tingkat Pemanfaatan Tumbuhan Penghasil Warna pada Usaha Tenun Ikat di Kabupaten Sumba Timur. *Jurnal Penelitian Hutan Tanaman*, 33(1), 223-237.
- Tehrani M.P. & Manap A. N. (2012). Urgency and Benefits of Protecting Iranian Carpets using Geographical Indications. *Journal of Intellectual Property Rights*, 18, 72-82.
- Vats, N. K. (2016). Geographical Indication-The Factors of Rural Development and Strengthening Economy. *Journal of Intellectual Property Rights*, 21, 347-354.
- Verma S & Mishra N. Recognition and Marketing Opportunities of a “GI” Tag in Handloom Product: A Study of Banaras Brocades and Sarees. *Journal of Intellectual Property Rights*, 23, 101-110.
- Vinayan, S. (2012). Intellectual Property Rights and the Handloom Sector: Challenges in Implementation of Geographical Indications Act. *Journal of Intellectual Property Rights*, 17. 55-63.
- Zhong, Z. S. (2013). Protection of National Geographical Indication Product of Coptis Geohebs. *Medical Plant*, 3, 96-98.