

Geographical Indications Protection “Pulut Mandoti Rice” as an Alternative of People Economic Empowerment

Hasbir Paserangi

Faculty of Law, Hasanuddin University

Jln. Perintis Kemerdekaan KM. 10, Tamalanrea, Makassar, South Sulawesi-Indonesia

Abstract

Pulut Mandoti is one kind of sticky rice in Indonesia and only found in the villages of Kendenan and Salukanan, Enrekang regency of South Sulawesi. The advantageous among others: when cooked, the rice will release typical smell such pandan leaves until tens of meters. If this kind is grown in other land, then its smell will be different. This study aimed to identify and understand the extent of geographical factors (natural and including human factors) for Pulut Mandoti rice has potency to be registered as Intellectual Property Rights in Geographical Indications regime. This study was conducted in Enrekang of South Sulawesi. This study is a legal research using normative and empirical approaches through data collection techniques, direct-interviews and questionnaires which have been prepared, daily notes and observations. Data processing used through qualitative and descriptive techniques. The result of study is the rise of motivation, attitudes and people’s knowledge about intellectual property rights, especially geographical indication. In addition, the achievable goal is the establishment of legal protection in the registration of Geographical Indications on Pulut Mandoti rice for farmer groups Pulut Mandoti rice in Enrekang of South Sulawesi to improve the local economy.

Keywords: Geographical Indication, Legal Protection, Mandoti, Pulut

1. Introduction

Indonesia is a mega-diversity country, with cultural and resources diversities, both natural and human resources. Many regions leading product that has been produced by Indonesia and potentially get a place in the international market.¹ Arabica Coffee Gayo from Aceh Province, Central Aceh district, Arabica Coffee Lintong/Mandailaing from North Sumatra Province of Lintongnihuta district, Kayu Manis Kerinci from Jambi Province of Kerinci district, Robusta Coffee Lampung from Lampung Province of Lampung district, and Salted Egg Brebes from Central Java Province of Brebes district as examples of leading product that could potentially get a place in the international market.²

Since the signing of the Agreement of Establishing the World Trade Organization in 1994, the importance of the meaning and role of Intellectual Property Rights in the world of global trade has been growing. As it has been well known, the Agreement on Trade Related Aspects of Intellectual Property Rights-TRIPs, one part of the establishment of WTO Agreement, has sparked a phenomenal change in the development of IPR protection systems around the world, including in Indonesia.

As the case with law of trademarks, geographical indication is a form of intellectual property protection that must be pursued for the member countries of the World Trade Organization. Provisions regarding this matter are contained in the Trade Related Intellectual Property Rights (TRIPs),³ especially Article 22 to Article 24. Based on Article 56 Paragraph (9) of Act 15 of 2001 regarding Trademarks, the provisions of registration procedures of Geographical Indication would be regulated further under a government regulation. On the basis of these considerations, the Government Regulation (PP) No. 51 of 2007 on Geographical Indication was produced. The

¹ Directorate General of International Trade Cooperation of the Republic of Indonesia. (2004). “Peningkatan Nilai Tambah Komoditas Indonesia dengan Pengembangan Indikasi Geografis”. Available online from: http://ditjenkpi.depdag.go.id/index.php?module=news_detail&news_content_id=406&detail=true Accessed: May 16, 2015.

² Source: Directorate General of Intellectual Property Right – Ministry of Justice and Human Rights of the Republic of Indonesia <www.dgip.go.id/ebhtml/hki/filecontent.php?fid=14871>.

³ World Trade Organization (WTO). *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)*.

regulations are intended to comprehensively regulate implementation of the provisions of Law No.15 of 2001 regarding Trademarks on Geographical Indication.

Geographical indication is a sign that unwittingly has long existed and can indirectly indicate the specificity of products produced from certain areas. The sign is used to indicate the origin of products, either in the form of agricultural products, foods, handicrafts, or other products, including raw materials and/or processed goods, either of agricultural or mining products. The indication of the origin of products is an important issue because the influence of geographical factors including natural factors, human factors, or a combination of both factors in a particular area where the goods are produced that can provide the characteristics and the quality of the goods which are kept and maintained in a certain time period will be able to result in a reputation (fame) on the goods, which in turn allows the goods to deserve a high economic value.¹

Pulut Mandoti is rice varieties as a region leading product in Enrekang Regency of South Sulawesi Province. The rice varieties are included in the category of aromatic rice. Typical fragrant aromas make this rice is more demanded by consumers both locally and nationally. Besides, this rice is not easy to grow in other land. It makes this variety of rice has a higher economic value compared to other rice in Enrekang.

If the characteristics are maintained and the consistency of high quality are preserved, the boat product will get a highly potential market. On the contrary, if the characteristics and quality cannot be preserved, the product value will crash. It is common that a product that has a distinctive quality would be widely copied by people. Consequently, efforts have to be made to obtain adequate legal protection for the product.

In accordance with Saidin's research,² in the context of national legal development of Indonesia, an effective constitutional structure today, need to be re-studied by formulating the government which is appropriate with the improvement of human civilization (think globally), but also able to catch the vibe and the passion of legal pluralism of Indonesian society. Related to this, the registration is conducted on Pulut Mandoti rice from Enrekang district of South Sulawesi province in the geographical indication regime, and then a product can provide economic benefits in order to improve peoples' lives.

This paper discusses two main problems: *First*, the extent to which the influence of natural factors, including human in produce the type of Pulut Mandoti rice so it potentially to be registered as a geographical indication rights. *Second*, how the role of local government Enrekang in encouraging the registration of Intellectual Property Rights on Pulut Mandoti rice in the geographical indications regime so can provide economic benefits in order to improve peoples' lives.

2. Method of Research

The research is a legal research using a normative approach (statutes approach, historical approach) and an empirical approach (sociological approach).³ The research was held to analyze the legal aspects (normative) and the legal sociology aspects (empirical) for obtaining a legal protection of Geographical Indication rights for Pulut Mandoti in Enrekang, South Sulawesi Province. The techniques applied for collecting data were face-to-face interviews and prepared questionnaires, daily notes, and observation. The data were analyzed by qualitative analytical techniques (analytical techniques by using a non-numerical analysis) and a descriptive analysis technique.

3. Intellectual Property Rights in the TRIPs Agreement

In this era of free trade, the issue of Intellectual Property Rights (shortened by IPR) increases the concern of the nations throughout the world. The reason is quite simple, the globalization of economy and especially the globalization of trade also mean that IPR globalization increasingly becomes a necessity, both in terms of international trade relations and promoting national economic development.

One of the consequences of the participation of Indonesia in international treaties concerning free trade and TRIPs (Trade Related Aspect on Intellectual Property Rights) is the necessity to reduce or eliminate the barriers to international trade and a recognition of the need for effective protection of IPR. Similarly, there must be a will to develop procedures for the implementation of intellectual property rights in free trade. This is the basic

¹ Directorate General of Intellectual Property Right – Ministry of Justice and Human Rights of the Republic of Indonesia. Kompilasi Undang-Undang Republik Indonesia di Bidang Hak Kekayaan Intelektual, Japan Internasional Co-operating Agency.

² O.K Saidin. (2015). "Transplantation of Foreign Law into Indonesian Copyright Law: The Victory of Capitalism Ideology on Pancasila Ideology". *Journal of Intellectual Property Rights*, 20(4): 230-249.

³ Peter Mahmud Marzuki. (2009). *Penelitian Hukum*. Fifth edition. Jakarta: Kencana, pg. 93-95.

philosophy of the TRIPs agreement which has been signed by Indonesia.¹

TRIPs is an instrument of international laws. Based on the Statute of the International Court of Justice (ICJ), the agreement is one of the fundamental sources of international laws. However, TRIPs is not the starting point for the growth of the concept of Intellectual Property Rights. A variety of international conventions have long been born and amended several times. A convention which is significantly a primary basis for the establishment of the concept of industrial property is the Paris Convention for the Protection of Industrial Property (Paris Convention), while for the field of copyright is the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention).²

The principal characteristics of the TRIPs agreement has a pattern which can be divided into three issues, as follows: 1) TRIPs is patterned on norms and standards that are different from the other international agreements, especially the agreements on trade in goods, which are more patterned on such concrete aspects as access to markets and tariffs; 2) As the minimum requirements, a characteristic set up by TRIPs is a Full Compliance to several international agreements in the field of IPR; 3) TRIPs contains provisions regarding strict law enforcements including dispute resolution mechanisms and rights for harmed nations to take measures regulated in the field of trade in a cross way.

Besides the three characteristics above, there are three other elements covered by TRIPs which need to be observed by any countries that intend to adjust their national legislation in the field of IPR. They are new norms, higher standards, and strict law enforcement. TRIPs agreement was held with the intention to reduce the interference (distortion) and obstacle (impediment) in the international trade and the need to effectively and adequately improve the IPR protection and to ensure that the process and measures of law enforcement of IPR not become obstacles on the trade.³

4. Geographical Indication

As one of the regimes of the TRIPS agreement, arrangements of Geographical Indication must certainly be based on the the main purposes of the TRIPS. The main purpose of the TRIPS agreement is to promote a strong and effective protection for intellectual property rights. Another purpose is to ensure that intellectual property rights would not be a non-tariffs aspect that hinders the flow of goods and services in the international trade. Geographical Indication is independently regulated in Section 3 of Article 22-24 of TRIPs agreement. In accordance with Article 22 Paragraph (1) of TRIPS agreement, Geographical Indication is:

“...indication which identifies a good as originating from the territory of a member country, 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....”

The definition is in accordance with the understanding of Geographical Indication in the legal system within European Community (EC) or European Union (EU), which sets it as "protected geographical indication" (PGI); the word "protected" is added to the phrase "Geographical Indications" in that law. The addition is intended to distinguish the geographical indication which has been granted a legal protection at the level of European Community with a legal protection at the national level. Geographical indication that is not protected at the European Community level has usually been protected, but only by laws and regulations of the national level in one of the countries of the European Community.⁴

Geographical indication referred to in the TRIPS agreement is an indication which identifies a good as originating from the territory of a member country, 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. Based on these provisions, it is understandable that the origin of such goods are attached to the reputation, characteristics and quality of products that are associated with certain areas that get a juridical protection.⁵ The positive role of the name of origin of the goods to the goodwill or other characteristics that can directly increase the economic benefits of trade of the goods must exist. In short, the name itself must have a reputation. Reputation is one of

¹ Nurhayati Abbas. (1999). *Hak Atas Merek dan Perkembangannya*. A paper presented at a National Seminar on Implementation of Acts on Intellectual Property Rights at the Beginning of 2000 and Its Impacts on Free Trades. In Cooperation between Law Faculty of Unhas and Yayasan Klinik HAKI (IP Clinic) and *Foundation of Intellectual Property Studies in Indonesia (FIPSI)*. Makassar, pg. 1.

² Achmad Zen Umar Purba. (2005). *Hak Kekayaan Intelektual Pasca TRIPs*, Alumni, Jakarta, pg. 21.

³ Rachmadi Usman. (2006). *Hukum Hak atas Kekayaan Intelektual*, Bandung, Alumni, pg.41

⁴ Miranda Risang Ayu. (2006). *Memperbincangkan Hak Kekayaan Intelektual-Indikasi Geografis*, Bandung, Alumni, pg. 42

⁵ Subir Kumar Roy. (2016). "Consumer Justice: A Symbol of Economic Prosperity and Social Progressiveness." *Hasanuddin Law Review*, 1(2), 170-181. doi: <http://dx.doi.org/10.20956/halrev.v1n2.302>

the protective elements mentioned explicitly by the TRIPS agreement.¹

Article 56 Paragraph (1) of Indonesia Trademark Law regulates that geographical indication is protected as a sign which indicates the origin of goods, which is due to the geographical environment including natural factors, human factors, or a combination of both factors, a characteristic and a certain quality are assigned to produced goods. The signs that are used as geographical indications can be an etiquette or a label that is attached to the produced goods. These signs can be either the name of a place, area, territory, words, pictures, letters, or a combination of these elements. By definition, the name of the place may be derived from a name that is constantly used so that it becomes commonly known as the name of the place of origin of the goods. Protection of Geographical Indication includes goods produced by the nature, agriculture, handicrafts, or other certain industrial products.

Based on Article 1 paragraph (1) of PP No.51 of 2007 on Geographical Indication, the definition of Geographical Indication is:

"A mark which indicates the place of origin of goods, due to the geographical environment including natural factors, human factors or a combination of both these factors, assigns characteristics and a certain quality of the produced goods."

Based on the Government Regulation (PP) No. 51 of 2007 on Geographical Indication, Article 2 specifies that marks referred to in Article 1 Paragraph (1) are the name of place or territory or other specific marks that indicate the origin of the produced goods protected by Geographical Indication. Such goods can be agricultural products, refined products, handicrafts, or other goods as referred to in Article 1 Paragraph (1) of PP No.51 of 2007 concerning Geographical Indication.

Besides being a distinctive mark, specific aspects of the name of area origin of the goods should also have an economic value. This means that the name of area origin of the goods should not only serve to distinguish the goods from other goods, but also indicate clearly that the place of origin of the goods has a great impacts on the improvement of the quality of the goods, so that they can contribute to increasing the selling price of the goods.²

Basically, the protection of Geographical Indication is not only for agricultural products, but also other products that have relevance to geographic factors, including natural and/or human factors that are dominant in the establishment of characteristic and its existence had been known to be protected as a geographical indication. In the area of agricultural products, Geographical Indication appears on the strongest relationship between a product with the character of the land that produces raw material of the products. For example, Australian red wine "Connawarra". This wine is famous because of its taste peculiarities that arise from the red soil in Connawarra named *terrerosa*.

In short, at a glance, Geographical Indication products seem to depend on the type of soil. Besides, aspects that affect the characters of a product that can be protected in the regime of Geographical Indication can be derived from natural elements which are not soil. Several countries, especially those that have signed the Lisbon Treaty in 1958 and have Geographical Indications products that are rich or very significant for increasing their foreign exchange, have interpreted environmental effects not only in the sense of the influence of earth elements.

Environmental influence is also defined extensively as the influence of natural environment in a totality, a view which is adopted in the International Convention on Biodiversity. Based on the context, natural environment can be seen as a natural unity that can include human factor, that is, indigenous people, that are inseparable from environment. Such a view is based on the fact that the TRIPS agreement does not specifically determines these aspects except that they should significantly determine the quality, reputation, or other special characteristics of a good; the environmental aspects can be interpreted extensively.³

Geographical Indication in principle contains four basic elements, as follows: 1) The determination of goods-producing region; 2) The specification of production methods; 3) The specification of product quality; and 4) Name and a certain reputation that distinguishes a product from other similar products.

Unlike other Intellectual Property Rights that regulate individual ownership, Geographical Indication controls collective ownership rights. Collective rights mean that every person in a region that produces goods and those who get permission for producing the goods deserve to jointly have the right and use the name of Geographical Indication for their production as long as the requirements determined collectively in the book of requirements can be met.

¹ *Ibid*, pg. 43

² Miranda Risang Ayu, *Op. Cit.*, pg. 43

³ *Ibid*, pg. 32

A requirement book is an absolute requirement that must be complied with by all parties that wish to register their Geographical Indication products. In accordance with Article 1 point (9) PP No.51 of 2007 on Geographical Indication, a requirement book is: "A document that contains information about the quality and the characteristics of goods that can be used to distinguish the goods from other goods of the same category."

Article 56 Paragraph (2) of PP No.51 of 2007 on Geographical Indication specifies that eligible parties that can apply for the right are:

- a. An institution that represents a community in the region that produces the goods, which consists of:
 - Parties that exploit products resulted from nature or natural resources;
 - Producers of agricultural products;
 - Makers of handicrafts or producers of industrial products; or
 - Merchants who sell the goods.
- b. An institution that is given authority to do so; or
- c. The consumer group of the goods.

According to Article 3 of PP No.51 of 2007 on Geographical Indication, there are several categories of Geographical Indication that cannot be registered. The indications are those that:

- a. Contradict to laws and regulations, religious morality, ethics or public order;
- b. Mislead or deceive public on characteristics, nature, quality, source of origin, the process of making the goods and/or its usefulness;
- c. Have local geographical names which have been used as the names of plant variety and are used for similar crop varieties; or
- d. Have become generic. Generic indication is an indication of goods that have become public property for its frequent use in daily language.

The benefits from the protection of Geographical Indication are as follows:¹

- 1) To clarify the identification of products and establish production and process standards among the stakeholders of Geographical Indication;
- 2) To avoid the practice of unfair competition in trades and provide consumers with protection from misuse of Geographical Indication reputation by selling products that come from other areas with different characteristics or even worse than those of original products;
- 3) To assure that the quality of products protected by Geographical Indication are original products, which give confidence to consumers; and

To foster local producers, and support the coordination and solidify the organizations of rights holder in order to create, provide, and strengthen the image and reputation of the product name.

5. Overview on Pulut Mandoti Rice

According to the latest data from Coordinating and National Mapping Agency (*Badan Koordinasi Survei & Pemetaan Nasional* -BAKORSUTANAL), Indonesia is an island country that administratively consists of 33 provinces, 349 districts, 91 municipalities, 5.263 sub-districts, 7.113 villages and 62.806 sub-villages. With a population of about 238.452.952 inhabitants which occupies about 6.000 islands of a total of about 13.000 islands,² so that Indonesia is a rich country in biodiversity both in land and sea.

Thus, each region in Indonesia has different strength, if reviewed from then the richness of natural resources, human resources (HR), as well as industrial that utilize it. The varied strength, causes each region has leading sectors in producing a leading product. One is Pulut Mandoti rice as local rice sticky kind are fragrant and rare. Can only grow in the mountainous region altitude of 700 dpl, Salukanan village Baraka subdistrict, about 60 km from Enrekang city, Enrekang capital, South Sulawesi. Sticky rice with reddish color is also as rice that most expensive of all kinds of sticky rice in Indonesia.

The origin of Pulut Mandoti rice, as the evolving story is actually varied. However, in principle, the public assumes that Mandoti Pulut rice appears suddenly and came from the sky brought by *Towalli* and inherited to *Bolong Ulu*. While, the history of Pulut Mandoti in Salukanan comes when rice was grown by *Bolong Ulu* and when yield of rice crops is cooked for ritual ceremonial, and release sharp aromatic.

¹ Direktorat Jenderal Kekayaan Intelektual – Ministry of Justice and Human Rights of the Republic of Indonesia <www.dgip.go.id/ebhtml/hki/filecontent.php?fid=14872>

² Badan Koordinasi Survei & Pemetaan Nasional – BAKORSUTANAL. Available online at: <http://www.bakosurtanal.go.id/informasi-publik1/> Accessed: Feb 23, 2015.

At that time the understanding is increasingly among the peoples that if there is a pungent smell and strange, immediately they ran away from the smell. Another story, when someone fails to steal in the house because the sharp taste and strange smell, which it considered by the host prepare the offerings to refuse disaster. In the community, rice releases a distinctive and sharp aroma is also used for ritual means in order to attack other people, by the community called “Doti”, which is greatly feared. With regard to these facts, the local people named Pulut Mandoti.

As described above, it seems clear that Pulut Mandoti rice from Enrekang as one of richness assets and diversity of the nation, especially for Enrekang. Not only have a good quality, this rice also has historical and traditional custom values are very strongly attached to the society based on the folklore which is owned by the origin of the name of Pulut Mandoti rice, it certainly cannot be owned by other regions.

In free trade era, many countries have started to look for new products alternative that are unique for trading. For that, they started to look for distinctive products are based on traditional knowledge from developing countries like Indonesia, which has a wealth of culture to be acquired and developed further, so that the product is able to control the world market without any contribution to the state or community as these products owners.¹

However, until now Pulut Mandoti rice is the potential of this area wealth has not been registered with the Directorate General of Intellectual Property Rights (IPR) of Indonesia. This can result in the typical products of Enrekang are used by other countries in a way brought to their countries for manufactured and marketed even registered to gain benefits for their country as has happened in some typical products of the origin of Indonesia that registered in advance by other countries such as Toraja coffee registered by Japan. When this occurs certainly harm the community as the origin of this product and potentially geographical indications.

Pulut Mandoti rice as one region wealth has distinctive characteristic and have a good reputation holds the potential to be registered as a geographical indication to get law protection against any other parties who wish to take advantage of the advantages of Pulut Mandoti rice. If has been registered, this will positively impact for Enrekang peoples' lives as rice-producing areas of this Pulut Mandoti rice, especially in the field of economy so it can improve the welfare of people.

6. Overview of the Legal Protection

The existence of laws in the society is to integrate and coordinate the interests of people that might conflict against each other. Laws must be able to prevent the conflicts as effectively as possible.² Protection of a particular interest against others can only be assured by limiting the interests of involved parties.

About the function of laws to provide protection, Lili Rasjidi and B. Arief Sidhartha stated that laws were set up and required by human beings, and laws were based on their assessments to create a condition that could protect and promote their dignity, and enabled them to live a normal life in accordance with their dignity.³

The protection of society has many different dimensions, one of which is a legal protection. A legal protection for every citizen of Indonesian, without exception, can be found in the 1945 Constitution of the Republic of Indonesia. Every legal product produced by a legislature should always be able to provide a guarantee of legal protection for all people, and even must be able to accommodate any legal and justice aspirations developing in society. Such messages can be seen from the provisions regulating the legal equality for all Indonesian citizens without exception.

There are some opinions that can be cited as a reference to a legal protection, as follows:

- a. According to Satjipto Rahardjo, a legal protection is the attempt to protect the interests of a person; it is realized by allocating him/her an authority to act in order to meet the interests.⁴
- b. According to Setiono, a legal protection is an act or an attempt to protect the public from arbitrary acts committed by authorities who do not comply with the rules of laws, to bring order and peace, allow the people to enjoy their dignity as human beings.⁵

¹ Sudarmanto. (2012). *KI & HKI Serta Implementasinya Bagi Indonesia, Pengantar tentang Hak Kekayaan Intelektual, Tinjauan Aspek Edukatif dan Marketing*, P.T Elex Media Komputindo, Jakarta, pg.121

² Hertogh, Marc. (2004). “A `European' Conception of Legal Consciousness: Rediscovering Eugen Ehrlich”. *Journal of Law and Society*, 31: 4.

³ Lili Rasjidi and B Arief Sidhartha. (1994). *Filsafat Hukum Madzab dan Refleksi*, Bandung: PT. Remaja Rosda Karya, pg.64.

⁴ Satjipto Rahardjo. (2003). *Sisi-sisi Lain dari Hukum di Indonesia*, Jakarta: Kompas, p. 121.

⁵ Setiono. (2004). *Rule of Law (Supremasi Hukum)*, Surakarta, Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, pg.3

- c. According to Muchsin, a legal protection is an activity to protect individuals by harmonizing the relationship of values or principles which manifest in attitudes and actions in creating an order, in the social life among humans.¹
- d. According to Hetty Hasanah, a legal protection is every effort to ensure a legal certainty in order to provide legal protection to parties concerned or those who take a legal action.²

The legal protection is a matter of protecting the subjects of law through applicable laws and regulations and enforcing its implementation with a penalty. The legal protection according to the Philipus M. Hadjon can be divided into two types. *Firstly*, Preventive Legal Protection. A preventive legal protection is a protection that is provided by the government for the purpose of prevention prior to the occurrence of a violation. It is contained in the laws and regulations with a view to preventing a violation as well as providing guidelines or restrictions in performing an obligation. *Secondly*, Repressive Legal Protection. Repressive legal protection is the final protection in the form of penalty such as fines, imprisonment, and additional penalties if a dispute occurs or a violation has been made.

One of the natures and at the same time the objective of the law is to provide protection for the public. Therefore, the protection of law for the people must be manifested in the form of legal certainty. Accordingly, in this research the legal protection is defined as an effort made in the field of law with the intent and purpose of guaranteeing a protection for the Intellectual Property Rights of Mandoti Rice (Geographical Indications) in order to create legal certainty.

IPR protection is basically has its own urgency. The urgency is that all the products of intellectual work will be protected. The meaning of the "protected" here is correlated to the three purposes of the law. First, legal certainty; this means that by an IPR protection the real owner of the product of intellectual work (IPR) will be very clear. Second, benefit; it implies that the IPR protection will provide benefits, especially for the party who gives the protection. For example, by providing a license for the party that holds the rights to IPR, the protection provider will obtain a benefit, in the form of royalty payments. Finally, justice; justice can provide welfare for rights-holders particularly in the form of increased revenue, and it can increase the foreign exchange for the country.

In the teaching of casuistic priorities, the purpose of law includes fairness, benefit, and legal certainty in the order of priorities, proportionally to the case at hand.³ Priority choice that has been standardized could conflict with a legal requirement in certain cases. This is so because sometimes in a particular case, justice takes precedence over benefit and certainty. But, this is not necessary so. In another case benefit is prioritized over fairness and certainty, and even in other cases, it just could happen that certainty must be given priority over fairness and benefit.⁴

7. Rights Protection of Geographical Indications as Effort to Improve Farmer Economic Level of Pulut Mandoti Rice in Enrekang, South Sulawesi - Indonesia

In association with the protection of Geographical Indications as an effort to improve the farmer economic level of Punut Mandoti rice in Enrekang, it certainly requires further research. This is due to the registration of Pulut Mandoti rice in the regime of intellectual property rights (indication) requires the Requirements Book that must be made and contains things that require in-depth study. For example, required the groups/community associations that established formally (there is membership structure/management), there are detail description of the characteristics associated with natural factor or human factor or natural and human factors.

Requires examine administrative and substantive of the Directorate General of Intellectual Property Rights and others. In general, it can be said that the Punut Mandoti rice meets the requirements of the basic elements to be registered as a geographical indication, as follows:

1. Determination of the product-producing region, which is only found in the Kendenan and Salukanan villages in Enrekang and not found in other areas.
2. Specifications of production method, which can only be harvested within 2 (two) times a year.
3. Specification of product quality, i.e if cooked will produce a distinctive smell like pandan leaves aroma with distance until tens of meters. It is not found in other kind of Pulut rice in Indonesia.

¹ Muchsin. (2003). *Perlindungan dan Kepastian Hukum bagi Investor di Indonesia*, Surakarta: Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, pg.14.

² Hetty Hasanah. (2004). *Perlindungan Konsumen dalam Perjanjian Pembiayaan Konsumen atas kendaraan Bermotor Dengan Fidusia*. *Majalah Ilmiah Unikom Online*, pg. 1

³ Achmad Ali. (2012). *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*. 4th Edition. Jakarta: Kencana, pg. 213.

⁴ Achmad Ali. (2008). *Menguak Tabir Hukum (Suatu kajian Filosofis dan Sosiologis)*. 2nd Edition. Bogor: Ghalia Indonesia, pg. 68.

4. Name and certain reputation that differentiates it from similar products, i.e, that the name of Pulut Mandoti rice of Enrekang is only found in South Sulawesi, including the most expensive kind of rice in Indonesia. Besides, this rice is only served when guests or important officials at certain events.

8. Conclusion

Natural factor (geographical) is dominant as soil content in Salukanan and Kendenan villages of Enrekang district of South Sulawesi so it produces the varieties of “Pulut Mandoti” rice, has potency to be registered as Geographical Indications Right are able to provide legal protection to the farmers of Pulut Mandoti rice in Enrekang district of South Sulawesi. In addition, the realization of legal protection in the form of “Geographical Indications of Pulut Mandoti Rice” registration to the Directorate General of Intellectual Property Right in Jakarta for community groups, farmers of Pulut Mandoti rice in Enrekang district of South Sulawesi which is able to improve the local economy, must be followed up proactively and together given that for the registration of Intellectual Property Rights of Pulut Mandoti rice in Geographical Indications regime requires several requirements that must be met, including in this case is the Requirements Books that prepared as a condition of registration.

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