Exploring the Intellectual Property Rights Potential of an Intangible Heritage

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Abstract. This Article discusses the unique and distinct characteristics of Songkok to Bone product as economic potential product with promising market share to reach countries such as Malaysia and Singapore. However, until now, this potential has not been accommodated with protective efforts to secure the intellectual property rights aspect of this product, namely geographical indications. The purpose of this study was to analyze the potential protection of intellectual property rights in the form of Geographical Indications for Songkok to Bone products. The approach method used in this research is a normative and empirical approach by reviewing the laws and regulations relating to Geographical Indications and conducting direct interviews with the local government of Bone Regency and Songkok To Bone craftsmen in Paccing Village and Compong e Village in the District of Awangponge, Bone Regency. The results showed that the ignorance of the craftsman community (including the local government in Bone Regency) about the importance of protecting intellectual property rights for the songkok to bone product as well as the economic benefits of the registration, became the driving factors that the Songkok To Bone product had not been registered as a Geographical Indication Rights for the people of the Bone Regency, especially by the Songkok To Bone craftsmen.

Keywords: Intellectual; Property; Rights.

1. INTRODUCTION

Over the years, enthusiasts of geographical indication (GI) protection have often asserted its benefits for developing countries. It has been said that GIs can assist with the promotion of rural and regional development. Indonesia introduced a completely new Law on Trade Marks and Geographical Indications in November 2016. The new Act No. 20 of 2016 invalidates the former Trade Marks Act of 2001, including its

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provisions on GI.

*Songkok To Bone* from Bone Regency has officially become an intangible cultural heritage of Indonesia. The decision was made by the Ministry of Education and Culture of the Republic of Indonesia on the Appreciation Night for the Designation of Indonesian Intangible Cultural Heritage in 2018 at the Jakarta Arts Building, 1 October 2018. The uniqueness and distinctiveness inherent in *Songkok To Bone* products, is truly an economic potential and adequate market share which is in great demand by consumers both in Bone Regency itself and throughout Indonesia, even abroad such as Malaysia and Singapore. Of course this is an economic potential of handicrafts made by the people of Bone Regency which is very important to get special attention from the local government to provide legal protection for these products in order to maintain their quality and reputation.

2. RESEARCH METHODS

This research is qualitative research with legal historical law approach. One form of legal protection that can be provided based on the characteristics inherent in *Songkok To Bone* products is in the form of Geographical Indication Rights. Geographical factors (either natural factors or human factors or both factors) as a requirement that a product must have to be registered in the Geographical Indication regime exist in *Songkok To Bone* products. With the protection of geographical indication rights, it will certainly have a positive impact on improving the welfare of the *Songkok To Bone* craftsmen in Bone Regency.

3. RESULT AND DISCUSSION

3.1. Prospects of Intellectual Protection Rights Protection Based on Geographical Indication of Songkok to Bone

Geographical Indications are regulated in the Law of the Republic of Indonesia Number 20 of 2016 concerning Marks and Geographical Indications. According to Act No. 20 of 2016 concerning Marks and Geographical Indications, namely in Article 1 Number 6 that Geographical Indications are a sign indicating the area of origin of an item and/or product due to geographical environmental factors including natural factors, human factors or a combination of both factors, it gives reputation, quality, and certain characteristics to the goods and/or products produced.

Geographical Indication is a form of legal protection for the name of the area of origin

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of the goods.\textsuperscript{5} The essence of the legal protection of Geographical Indications is that unauthorized parties are not allowed to use Geographical Indications if such use tends to deceive the consumer community about the origin of the product, in addition, Geographical Indications can be used as a bridge to achieve added value in the commercialization of Geographical Indications products.\textsuperscript{6}

For simplicity in understanding Geographical Indications, we can discuss it starting from several points of view:\textsuperscript{7}

- In terms of definition or understanding, Geographical Indication is the name of the area used as an indication indicating the region/area of origin of the product.
- In terms of the nature that Geographical Indications indicate the quality, reputation and characteristics of a product.
- In terms of ownership, Geographical Indications are communally owned.
- In terms of the period of protection, Geographical Indications do not have a time limit of protection as long as the reputation, quality and characteristics that are the basis for the protection are maintained. Or geographical indication protection ends if the area can no longer produce geographical indication products.

Legal protection against Geographical Indications has two characteristics of ownership, namely communal or collective ownership. Communal ownership character means being the common property of the community that includes in the registered Geographical Indications area. After registering a product that has the potential for Geographical Indications and obtaining legal protection through Geographical Indications, the community has the exclusive right to distribute and trade its products so that other regional communities are prohibited from using the registered Geographical Indications mark on their products.\textsuperscript{8}

3.2. The History of Songkok to Bone

The \textit{songkok}, also known as the cap or skullcap, is a kind of traditional hat for the Malays. In Indonesia, the songkok, also known as the cap, later became part of the national dress, and was worn by Muslims. Songkok is also worn by Malaysian and Bruneian soldiers and police in certain ceremonies. This headgear is a variation of Fes


\textsuperscript{7} Ibid. page 32

\textsuperscript{8} Paserangi, Hasbir (2020). Intellectual Property Rights, Pulu' Mandoti as a legacy of Geographical Indications from the Earth of Massenrempulu (Enrekang Regency). Rajawali Press, Jakarta. p.28
or Tharbusy from Morocco. Songkok is popular with the Malay community in Malaysia, Singapore, Indonesia and Southern Thailand. This equipment is said to have come from the clothes worn in Ottoman Turkey. Songkok became popular among Muslim India and according to experts eventually gradually became Songkok in the Malay world. For Muslims in the archipelago, the skullcap is the official head wear when attending official ceremonies such as wedding ceremonies, Friday prayers, religious ceremonies and when welcoming Eid al-Fitr and Eid al-Adha. Certain meeting.

Songkok Recca, also known as Songkok Pamiring, is often called Songko 'To Bone. The three names each have a different story and time span. Originally called Songkok Recca when the 15th Bone King Arung Palakka attacked Tanah Toraja (Tator) in 1683, it only succeeded in occupying a few villages in the Makale-Rantepao region. The Toraja Land Warriors fought fiercely against the Arung Palakka troops. In this period the skullcap was called Songko' Recca.

One of the hallmarks of the Bone kingdom in the past was wearing a sarong tied at the waist (Mabbida or Mappangare' Lipa). Laskar Tator also has a habit of wearing a sarong but slinging it (Massuleppang Lipa) so that when a battle occurs at night the two armies are difficult to distinguish which one is an enemy and a friend, they are mistaken for an opponent even though they are friends because both the Tator troops and the Bone troops each wear gloves. To deal with such a situation, Arung Palakka looked for a strategy by ordering his soldiers to put a mark on their head as a differentiator by wearing a recca' skullcap.

In 1905 the Dutch Army attacked Bone, at that time Bone was led by Lapawawoi Karaeng Sigeri. The Dutch managed to capture Lapawawoi so that in Bone there was a government vacuum but Ade Pitue (Traditional Stakeholder in the Kingdom of Bone) continued to function but remained under Dutch control. So Bone experienced a government vacuum for 26 years between 1905-1931. Furthermore, to fill the government vacancy in Bone, the Dutch appointed Lamappanyukki as the 32nd King of Bone in 1931 with the approval of Ade' Pitu. La Mappanyukki is a Gowa people (father of Gowa mother of Bone) during the reign of the 32nd King of Bone. La Mappanyukki in 1931 songko recca' became a kind of official skullcap or greatness skullcap for kings, nobles, and royal courtiers.

To distinguish the level of degree between them, the songko’ recca is made with a gold border (pamiring pulaweng) which indicates the strata of the wearer. At this time not just anyone who can wear the songko pamiring except members of the kingdom and adat seven. During this period the songko was called Songko' Pamiring. When Songkok Recca became the official skullcap of the Bone kingdom, La Mappanyukki said that only two kingdoms could use Songko Pamiring, namely Mangkau ri Bone Majjajareng and Sombayya Ri Gowa. (Only Sombayya ri Gowa and Petta Mangkaue in Bone and equal kings are entitled to wear the highest gold circle). This is where Songkok Pamiring started in Gowa called Songkok Guru and then expanded to the surrounding area to Takalar.

10 ibid
11 ibid
Songkok Recca which is patterned with a gold layer is also known as Songkok Pamiring. At the time of the Bugis kingdoms, the gold thread that wrapped around the Songkok Pamiring had a meaning, namely the higher the gold circle, the sign of the higher the nobility of the wearer, only about one centimeter left without a gold bandage. At that time there was a rule that applied to Songkok Pamiring wearers, where high nobles or those who were kings and also for the king's son who was considered blue blooded (Maddara Takku), Mattola's son, could use a pamiring songkok made entirely of pure gold thread.

![Image of Songkok Pamiring](image)

Regarding the use of Songkok To Bone, it can be divided into several groups of people:

- The group called Arung Mattola Menre, Anak Arung Manrapi, Anak Arung Sipue and Anakkarung may wear Songkok Pamiring with a gold width of three-fifths of the height of the skullcap;
- The group called Rajeng Matase, Rajeng Malebibi may wear a pamiring skullcap with a gold width of half the height of the skullcap;
- Groups called Tau Deceng, Tau Maradeka and Tau Sama are allowed to wear a recca skullcap with a gold rim; and
- The group called Ata (slave) is absolutely not allowed to wear this skullcap.

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In 1957 the people of the Kingdom of Bone declared themselves to be part of the Unitary State of the Republic of Indonesia, two years later, Act No. 29 dated July 4, 1959 concerning the Establishment of Level II Regions was issued in Sulawesi. Including the Establishment of Bone Regency. With the enactment of the law, the royal government system in Bone ended. At this time Songkok Pamiring anyone can wear it regardless of kings, nobles, rich people, and others. So this period is called Songkok To Bone.

Along with the development of society that no longer sees caste differences, these rules are no longer valid and all levels of society are allowed to use them. But this skullcap is still special because it shows the charisma of the wearer. The privilege will appear if this skullcap is above the heads of important and famous people or Pictures, officials, descendants of nobility, rich people, and the like. Besides being expensive, Songkok To Bone becomes even more special if the threads that decorate the edges of the skullcap are replaced with pure gold. Especially if the arrangement is melted down and made to resemble threads that cover the entire side of the skullcap.

Songkok To Bone no longer belongs to the kings or the nobility, but for those who understand the philosophy, they will not use it carelessly. In addition to showing the degree of wearer, pamiring skullcap also shows who actually the person who wears it. Because the more "good" Songkok To Bone is used, measured by the gold decoration that covers it, it will show the level of achievement of the wearer. In other words, Songkok To Bone is a marker of "who the wearer really is". After the end of the royal period, songko' recca or songkok pamiring, all people can wear it regardless of strata, so it is called Songkok To Bone which means the songkoknya all Bone people.

For this reason, Songkok To Bone, apart from historically originating from Bone, is also the result of the creation, taste, and initiative of the people in Bone Regency. Why was it originally called Songkok Recca? Because Songkok Recca is made from palm leaf midrib fibers by beating (in Bugis language: direcca'-recca) the midrib of the palm leaf until all that is left is the fiber. This fiber is usually white, but after two or three hours...
later the color changes to brownish. These fibers in the Bugis Bone language are called "ure' ca".

To turn black, the fiber is soaked in mud for several days. So the black fiber is not because it is intentionally dyed so that it turns black. There are fine fibers and some are coarse, so to make Songkok Recca smooth, fine fibers are taken and vice versa coarse fibers produce slightly coarse results depending on the order. To weave the fibers into a skullcap, use a reference or pattern called "Assareng". Assareng It is made of jackfruit wood and then shaped in such a way that it resembles a skullcap. The reference or assareng is what is used to string the fibers to become Songkok To Bone. Assareng size depends on the size of the skullcap to be made.

In Bone Regency, Songkok To Bone is produced in Awangpone District. In this area there is a community of people who have passed down from generation to generation to provide for their families from the procession of weaving the palm leaf midrib. Songkok To Bone is the identity of the Bone people, Bugis ethnic identity, national identity, and has even become a world identity. Songkok To Bone has now been designated as a national cultural heritage as an intangible heritage by the Indonesian government in 2018.

3.3. Pohon Lontar

Lontar tree (Borassus flabellifer Linn) is a type of palm (Arecaaceae) that grows wild in areas with an altitude of 500 meters above sea level. Lontar, known to have originated from India and Sri Lanka, then spread to Saudi Arabia to Southeast Asian countries such as Malaysia, Thailand, to Indonesia.

In Indonesia, lontar which can grow as high as 10 – 30 meters can be found all over the coast of Sumatra; from Aceh to Lampung, also Java, Sulawesi, Maluku, Bali and Nusa Tenggara to Papua. However, lontar are mostly found in NTT, East Java and South Sulawesi. South Sulawesi made this tree a symbol of the province.

The palm leaves, which have a width of one to three meters and are shaped like a large fan, have contributed a lot, especially to the history and literature of the Indonesian nation. Human civilization is documented through lontar. Ancient humans wrote or described something through lontar, in addition to several other media such as pictures in caves. Some Dutch colonial literature mentions that lontar are still used in official correspondence of the Sasak tribal leaders until the end of the 19th century.

Some regions call this classic tree by different names. Javanese people know it as a siwalan tree or rontal tree. Balinese people call the same thing (rontal). The people of Sabu Island, NTT, call this tree kepuwe duwe, while the people of Rote call this tree old. The Papuan people call it uga. The general term lontar may be derived from the

word rontal which means leaf of the tal tree. Because it is too difficult to pronounce, people may twist the initial and final letters of rontal, becoming lontar.

There are at least 800 benefits of palm trees, ranging from physical to chemical benefits because almost all parts of this tree can be used. As an illustration, the total sugar in 100 cc of sap water is 10.93 grams. Reducing sugar 0.96 g, there is also a little protein, nitrogen, minerals, calcium, phosphorus and iron. With a pH ranging from 6.7 to 6-9, sap water has a high enough vitamin C of 13.25 g/100 cc and vitamin B1 of 3.9 IU.

In the province of NTT, palm sticks are used as building materials for houses as pillars. It can also be used as home furniture such as tables and chairs and made boats. The large and strong midrib can be used for fences and house walls. The wide leaves can be used as a water container called haik (a kind of bucket), as a roof for houses, sasando musical instruments and ti’ilangga hats (typical of NTT) and several other functions.

In the past, houses in this province were entirely made of palm trees, so they were often called the house of leaves. Now many houses there have brick walls, but some still have palm leaf roofs before being replaced with tin. Young fruit bunches or mayang lontar can be eaten and taste like young coconut but less water. Meanwhile, the fruit bunches of the palm tree which are quite old are tapped and produce palm fruit water (sap water) which tastes sweet. Each mayang can produce fruit as much as 20-24 grains with fruit sizes between 15-20 cm. Each fruit contains three seeds that are not too large and flat.

On the island of Java, this sap water is called legen which is commonly found on the north coast of Java such as Pati, Tuban and Gresik. In some areas such as Aceh and Yogyakarta, people process palm sap water into palm sugar.

In NTT, mayang lontar is further explored because it can be used as water sugar, ant sugar (granulated brown sugar), and granulated sugar (solid brown sugar) or fermented into palm wine, sopi and as an ingredient for making soy sauce. In this province, lontar have a special place for people's lives.

3.4. The Making of Songkok Recca

Geographical indications referred to in the TRIPs agreement are signs that identify an area of a member country, or an area or area within that region as the origin of the goods, where the reputation, quality, and characteristics of the goods in question are largely determined by these geographical factors. Based on these provisions, it can be understood that the origin of an item which is attached to the reputation, characteristics, and quality of an item associated with a certain area is legally protected. The positive role of the name of origin of goods on goodwill or other characteristics that can directly increase the economic benefits of trading in these goods must exist. In short, the name itself should have a reputation. Reputation is one

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of the elements of protection that is explicitly stated by the TRIPs agreement.\textsuperscript{16}

In meeting the needs of their lives, humans always adapt to the geographical conditions in which they live. This condition is the reason why most people in rural areas, especially those living in the highlands, generally make a living as farmers and craftsmen. Because their livelihood is the only one that can be found in their area so that it is developed and preserved, every human being must have a choice which one is good which one is not good in the sense that how do we manage the natural resources that exist in our environment and serve as the needs of our life, as experienced by the people of Componge Village, especially housewives, mostly housewives who play a role in earning a living compared to their husbands.

The growing interest in handicrafts has not been accompanied by a good marketing system. Craftsmen who are economically capable, market their own products through various exhibitions and bazaars that are funded by millions. Meanwhile, economically disadvantaged craftsmen are only able to sell to their acquaintances. Of course, this condition is not favorable for individual small craftsmen who are not touched by aid funds. But at the beginning of a journey, of course, going through things like that over time will grow rapidly when our business goes well. So it needs as much support as possible from the local government to facilitate the business of craftsmen, therefore the role of the government as head of government is very large, especially Componge Village, Awangpone District, Bone Regency.

*Songkok Recca* craftsmen are the work of the people of Componge Village, Paccing Village which are still popular among the local community, because this work is their daily work as a community in the village to meet their daily needs. It's no wonder that *Songkok Recca* craftsmen continue to create their creativity, taste, and intention as the bone people, which have received appreciation from both the people of Sulawesi and Indonesia, even worldwide.

Picture 1: Lontar tree, Lontar tree midrib as raw material for making *Songkok Recca*’ or *Songkok To Bone*.

Picture 2: Lontar (Siwalan) tree fronds, which are soaked, beaten (direcca'-recca), then the fiber is taken as the main ingredient for making *Songkok Recca/Songkok To Bone*. 
Picture 3: Lontar tree midrib fiber.

Picture 4: The process of making Recca' bribe
Picture 5: *Songkok Recca* Dipping Process in the mud

Picture 6: Drying Process for *Songkok Recca*’
3.5. Bone Regency Efforts to Legally Protect Songkok To Bone Products

One of the consequences of Indonesia's participation in international agreements concerning free trade and TRIPs (Trade Related Aspects on Intellectual Property Rights) is the necessity to reduce or eliminate barriers to international trade and recognize the need for effective protection of intellectual property rights. Likewise, there must be a will to develop procedures for implementing IPR in free trade. This is the basic philosophy of the TRIPs agreement signed by Indonesia.\(^\text{17}\)

History records that Bone was once one of the great Bugis kingdoms in South Sulawesi. The Kingdom of Bone was first founded by Mattasi LompoE ManurungE ri Matajang in 1330 as well as serving as the first king. The kingdom of Bone reached its glory during the reign of the 15th king, La Tenritatta Arung Palakka in the 17th century. In Bone Regency, many cultures are still preserved today. One of the cultures is the result of creativity, taste, and initiative of the Bone community and is an "icon" of the pride of the Arung Palakka earth, namely "Songkok Recca" or commonly known as "Songkok To Bone".\(^\text{18}\)

In the manufacture of Songkok Recca, in Componge Village, Awangpone District, the author observed that the manufacture of Songkok Recca using improvised materials, is only made from palm leaf sheath fibers by beating in the Bugis language (\textit{direcca-}

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\(^{18}\) Muhammad Farid Ariandi, 2021. The Existence of Songkok Recca in the Civilization of the Bone Society. Thesis p.4
recca) until only fiber, fiber is left. It can be white, but after two or three hours it turns brown. To turn black, the fiber is soaked in mud for two days. So the black fiber is not intentionally colored so that it turns black. There are fine fibers and some are coarse, so to make Songkok Recca' smooth, fine fibers are taken and vice versa coarse fibers produce coarse results depending on the order. Fiber is used depending on the reference called Assareng. Assareng made of jackfruit wood is then shaped in such a way that it resembles Songkok. The reference or Assareng is what is used to string the fibers to become Songkok. Assareng size depends on the size of the skullcap to be made.

In another manuscript it is said that Songkok Recca’ is made from palm leaf midrib fibers by beating (in Bugis: direcca-recca) the palm leaf midrib until only the fibers are left. This fiber is usually white, but after two or three hours later the color changes to brownish. To turn black, the fiber is soaked in mud for several days. So the black fiber is not because it is intentionally dyed so that it turns black. Some of the fibers are fine, some are coarse. So that to make a smooth recca' songkok, it is the fine fibers that are taken and vice versa the coarse fibers produce a slightly coarser result depending on the order. resembling a skull. The reference or assareng is what is used to string the fibers into a skullcap. Assareng size depends on the size of the skullcap to be made.

In Bone Regency, Songkok Recca or Songkok To Bone is produced in Componge Village, Paccing Village, Awangpone District. In this area there is a community of people who have passed down from generation to generation to provide for their families from the process of weaving the palm leaf sheaths called Songkok Recca or Songkok To Bone. The expertise to make Songkok Recca products by the people in Bone Regency has been passed down from time to time until now, which historically has been attached and developed along with the development of society in Bone Regency.

The manufacturing process still uses traditional equipment, as well as raw materials provided by the natural environment in Bone Regency, namely from the "Lontar" tree or tala' tree that grows in the Awangpone District area, which is still maintained and preserved to this day. Likewise with the promising economic potential for the economic welfare of the craftsman community for the songkok to Bone product. However, until now the government's attention to providing legal protection in the form of Geographical Indications of Intellectual Property Rights on Songkok To Bone, has not met the expectations of the craftsman community.

Ignorance of the craftsman community (including the local government in Bone Regency) about the importance of protecting intellectual property rights for Songkok To Bone products and the economic benefits of the registration, are the main factors so that until now Songkok To Bone products have not been registered with Geographical Indication Rights as a form of protection. law in the Intellectual Property Rights regime.

So far, Recca's songkok making activities have only been limited to meeting the family’s economic needs with makeshift equipment and produced according to orders. The Government of Bone Regency is still limited to efforts to make Songkok To Bone

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19Bugiswarta.com, History of Songkok To Bone, accessed on 23 August 2022
products an intangible cultural heritage which has now been determined by the
government (Minister of Education and Culture of the Republic of Indonesia on October
1, 2018), but there has been no attempt to provide legal protection in the form of
Geographical Indication Rights.

4. CONCLUSION

The inherent characteristics of Songkok To Bone products, both in terms of raw
materials, manufacturing processes, coloring, and manufacturing techniques are an
economic potential and very important market share to be registered and given legal
protection of Intellectual Property Rights in the form of Geographical Indication Rights.
The handicrafts of the people of Bone Regency are very important to get special
attention from the Regional Government of Bone Regency with the hope that through
the registration of Geographical Indication Rights, it can later have an impact on
increasing the economic welfare of Songkok To Bone craftsmen. In addition, with the
registration of Geographical Indication Rights on the product, its characteristics,
quality, and reputation can be maintained. Ignorance of the craftsman community
(including the local government in Bone Regency) about the importance of protecting
intellectual property rights for songkok to bone products as well as the economic
benefits of the registration, is the main factor that Songkok To Bone products have not
been registered as Geographical Indication Rights for the people of Bone Regency,
especially craftsmen. Songkok To Bone. To provide an understanding related to
Intellectual Property Rights, it is necessary to hold continuous socialization related to
Intellectual Property Rights (Geographical Indications), both for the local government
of Bone Regency, and for the wider community, especially Songkok To Bone
craftsmen.

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