

VARIETY OF GEOGRAPHICAL INDICATIONS AND VALUE CAPTURE FOR INDONESIAN

VARIETIKA INDIKASI GEOGRAFIK DAN PEROLEHAN NILAI BAGI BANGSA INDONESIA

Abd Thalib, Admiral, Rosyidi Hamzah & Nur Aisyah Thalib

Abstract

Geographical Indications (GIs) are considered as the Sleeping Beauty of the intellectual property (IP) world, there has been a widespread literature on the international protection of GIs. GIs are a form of collective IP through which, it is anticipated, producers can capture the place-related value embodied within a product. As such, they are often promoted as a development initiative for lagging rural communities to improve livelihoods and alleviate poverty. This paper applies the concepts of value capture and strategic coupling from the Global Production Networks (GPN) literature to assess the developmental impacts of formally-registered (protected) GIs especially, in the Indonesian coffee sector. Based on an assessment of indicators along a logical impact pathway, this study finds there is no reliable and credible evidence, and a limited likelihood, of tangible economic benefits for coffee growers resulting from current GIs in Indonesia, at least in the immediate future. This poor developmental performance is explained in terms of the inability of local institutional settings supporting the GIs to strategically couple with the actor practices of lead firms in the coffee sector. The GIs, however, do appear to deliver intangible benefits for some stakeholders in terms of promoting a sense of regional pride and cultural identity. While one intention of GIs is to assert a moral claim over the geographical and cultural property embodied in consumer products, they require far greater engagement with extra-legal moral conventions throughout the value chain to achieve rural development outcomes.

Key Words: GIs, Indonesia, global value chains, global production networks, impact evaluation, institutions, cultural property.

Abstrak

Indikasi Geografi (GIs) dianggap sebagai Kecantikan yang sedang tidur dari dunia intelektual (IP), terdapat kesusasteraan yang meluas mengenai perlindungan antarabangsa GIs. GIs adalah bentuk IP kolektif di mana, diharapkan, pengeluar dapat menangkap nilai berkaitan tempat yang terkandung dalam produk. Oleh itu, mereka sering digalakkan sebagai inisiatif pembangunan untuk menggulingkan masyarakat luar bandar untuk memperbaiki mata pencarian dan mengurangkan kemiskinan. Makalah ini menggunakan konsep penangkapan nilai dan gandingan strategik dari kesusasteraan Pengeluaran Global (GPN) untuk menilai impak pembangunan GI secara rasmi (dilindungi) GI terutamanya, dalam sektor kopi Indonesia. Berdasarkan penilaian indikator sepanjang laluan impak

yang logik, kajian ini mendapati tiada bukti yang boleh dipercayai dan boleh dipercayai, dan kemungkinan terhad, manfaat ekonomi yang ketara untuk penanam kopi akibat GI semasa di Indonesia, sekurang-kurangnya dalam masa terdekat. Prestasi perkembangan yang lemah ini dijelaskan dari segi ketidakupayaan pengaturan institusi tempatan yang menyokong GIs untuk pasangan yang strategik dengan amalan pelakon syarikat-syarikat utama di sektor kopi. GI, bagaimanapun, nampaknya memberikan manfaat tidak ketara kepada beberapa pihak berkepentingan dari segi mempromosikan rasa kebanggaan serantau dan identiti budaya. Walaupun satu niat GI adalah untuk menuntut tuntutan moral ke atas harta geografi dan budaya yang terkandung dalam produk pengguna, mereka memerlukan penglibatan yang jauh lebih besar dengan konvensyen moral yang lebih sah di seluruh rangkaian nilai untuk mencapai hasil pembangunan luar bandar.

Kata kunci: GI, Indonesia, Rangkaian Nilai Global, Rangkaian Pengeluaran Global, Penilaian Impak, Institusi, Harta Kebudayaan.

INTRODUCTION

Some of the ASEAN Member States had GI protection prior to the TRIPS Agreement and before joining the WTO through i.e., consumer protection, unfair competition, or even appellation of origin (hereinafter AO), adhesion to the WTO was for many ASEAN countries the occasion to adopt new legal protection schemes for GIs, following pressure from the more developed countries in WTO's accession. ASEAN countries are also involved in numerous regional and bilateral free trade agreements (RTAs and FTAs), and have implemented a wide range of initiatives for the protection of GIs. ASEAN, thus, became one of the most active GI protected areas in the world.

GIs is defined in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and become one of the most contentious intellectualproperty (IP) issues in the WTO and multiple treaties (WIPO 2004).GIs are "...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 geographicalorigin (hereinafter GO)."This concept is a coined bridge between the two old notions of Indication of Source (hereinafter IS) and AO. A convergence of new concept in TRIPS agreement cannot stop the divergence between Party advocating stronger multilateral protection for GIs and Party favoringa less ambitious outcome, led by the European Union (EU) and United States (US) (TRIPs Agreement, Art 22.1.)

A Protected GI is a collectively-owned form of IP that makes a direct link between the distinctive characteristics and quality of a product and its GO, such as Darjeeling tea or Parmigiano-Reggiano cheese. In some countries, such as Indonesia, the indication is formally registered. GIs are collectively owned by regional producers and processors, and are commonly issued by national IP offices. Here, Giovannucci present GIs as a tool for "institutionalizing the resources of a place" (Giovannucci et al. 2009). For the purposes of this paper, the GIs under consideration are the outcome of the formal registration process with the Government of Indonesia, which therefore provides for their legal protection. The primary objective of a GI is to capture the economic benefits of place-related quality attributes within the locality of production, although there may also be secondary non-economic benefits such as the protection of environmental and cultural values, and the strengthening of social institutions. Even when the product enters extra-local markets, the purpose of a GI is to ensure that some control over product differentiation is retained by producers (Bowen, S. 2010). As a result of credible product differentiation through a GI, it is anticipated that producers can gain improved access to specialty or niche markets, effectively limit supply and increase sales at higher prices, thereby capturing and retaining more value. Within developing country contexts, local capture of economic value has the capacity to stimulate broader rural development and poverty alleviation.

It is interesting to note that the legislations of Indonesia allow producers, traders to register or claim on the GIs. In Indonesia even allow consumers to register for GIs. However, due to the general absence of collective organization for the registered GI, the lack of experience in the creation and management of such organizations (including financial and legal aspects) is also amplified by literacy and organizational weaknesses in rural areas as well as insufficient communication between producers, traders and other actors, GI protection is mainly a top-down approach, with authorities, at local or national level identifying and registering GI (Trademark and Geographical Indication Law No. 20, 2016), Art. 53.c.).

Here, this study aim to analysis the potential of GIs for providing access to markets and promoting rural development, especially in the coffee sector. No doubt, coffee is an important beverage in most societies around the globe. Not only for consumers' delight of drinking it but also for its economic value for the coffee bean producing and exporting countries (such as Indonesia). By some this product, made from roasted beans of the coffee plant (flowering plant of the Rubiaceae family), is called the world's "second most legally traded commodity" in human history. Beside it, Indonesia is among the world's top coffee producing and exporting countries. Most of production constitutes the lower quality robusta type. Indonesia is also famous for having a number of specialty coffees such as 'kopi luwak' (known as world's the most expensive coffee) and 'kopi Mandailing'. Regarding agricultural commodities, coffee is Indonesia's fourth-largest foreign exchange earner palm oil, rubber and cocoa.

OBJECTIVES OF THE RESEARCH

This paper provides an overview these issues. Firstly, begins with a brief background to the protection for GIs in Indonesia according to Trademark and GI Law No. 20, 2016. Secondly, describes possibilities for adopting a more interoperable approach to protections for geographical indicators in Indonesia. Finally, focuses on the possible ways to facilitate the registration and protection of GIs in Indonesia.

SCOPE THE STUDY

Among many others GIs potential belongs to Indonesia, this study examines only the coffee sector, where place-based marketing is a widespread and acknowledged strategy for value-adding at points of consumption.

This study aim to analysis, describes possibilities for adopting a more interoperable approach to protections for GIs in Indonesia. Finally, focuses on the possible ways to facilitate the registration and protection of GIs in Indonesia, not only under the statutory Trademark and GI Law No. 20, 2016, but also from international dimension.

METHODOLOGY

The research methodology employed in this study is predominantly library research. Relevant articles, books, local and international law reports, reviews, conference and seminar papers constituted the main source of information for this study.

Throughout this study, nationally as well as internationally reported will be resorted to wherever possible, focuses on the possible ways to facilitate the registration and protection of GIs in Indonesia under discussion. The extensive use of case law is necessary to provide a greater understanding of the law.

INDONESIA LAW

There are at least 2 rules that specifically regulate the GIs, i.e.:

1. Law of the Republic of Indonesia Number 20 Year 2016 on Trademark and Geographical Indication.

GIs are protected by law as a sign indicating the origin of a good, which due to geographic environmental factors including natural factors, human factors, or a combination of both factors, provide certain characteristics and quality of the goods produced. Similar to the legal protection of Trademarks in Indonesia, legal protection of GIs also requires the existence of a registration application process. It's just that GI registration is done by interested parties specified in Trademark Law and GI (Article 1 point 6 and Article 53).

In Indonesia, numerous products have been registered as GIs. Coconut sugar, coffee, furniture, fruits, tobacco, honey, herbs, horse milk, patchouli oil, rice, vegetables, and white pepper are among just a few examples. Applicants originate from across Indonesia, and certain areas are often famous for producing a particular kind of product.

Kintamani Bali Arabica Coffee is a good example of a GI registered in Indonesia. The coffee has a unique orange taste which is derived from certain geographical factors. This unique taste distinguishes it from other types of coffee, making the coffee registrable as a GI. In Indonesia, GIs are protected under the country's Trademark Law, unlike other jurisdictions such as Thailand, Malaysia, or India where GIs are protected under sui generis Acts. Therefore, many of Indonesia's trademark regulations and procedures, such as appeal proceedings, are used for GIs.

According to the Trademark Law and Government Regulation of the Republic of Indonesia Number 51 Year 2007 on GIs, three types of applicants are eligible to apply for a GI:

- (i) An institution/association that represents the community in the area where the products are produced, which consist of: (a) parties who undertake business on goods of natural products or natural resources; (b) producers of agricultural products; (c) producers of handicrafts or industrial products; or (d) merchants who sell the goods.
- (ii) An authorized government institution.
- (iii) A group of consumers of the goods.

2. Government Regulation of the Republic of Indonesia Number 51 Year 2007 on GIs.

In the Trademark and GI Law, it is explained that the procedure of registration of GI will be regulated further by Ministerial Regulation. However, until now the Ministerial Regulation has not existed so that the Government Regulation on GI is still valid as long as it is not contradictory to the provisions in the Trademark and GI Law for a maximum of two years since the law becomes effective. Government Regulation on GI established under Article 56 paragraph (9) of the Trademark Law is intended to regulate thoroughly the provisions of the implementation of the Trademark on GIs Law. However, with the coming into effect of the Trademark and GI Law, it is declared no longer valid, but all laws and regulations which are the implementing Regulations of Law Number 15 Year 2001 regarding Trademark, State Gazette of the Republic of Indonesia (hereinafter RI) Year 2001 Number 110, Supplement to State Gazette of the (RI) Number 4131, shall remain valid as long as they are not contrary to the provisions of this Law. The Government Regulation on GI contains provisions concerning the procedure of registration of GIs conducted in several stages, as follows:

- “The First Stage: Submitting an Application;
- The Second Stage: Administrative Examination;
- The Third Stage: Substance Examination;
- The Fourth Stage: Announcement;
- The Fifth stage: Opposition of Registration;

The Sixth Stage: Registration;
 The Seventh Stage: Monitoring the Use of Geographical Indications;
 The Eight Stage: Appeal.”

An application of GI may be rejected by the Directorate General of IPRs of the Minister of Law and Human Rights of the (RI) if it is contrary to religious morality, decency, public order, or may deceive or mislead the public about the nature, characteristics, quality, source of origin, process of manufacture, and/or usefulness. It may also be rejected if it does not qualify to be listed as a GI, for example not having the characteristics and quality of a product produced.

International Framework of Geographical Indication Protection

The increasing interest and use of origin-related signs has made GIs a subject of different national concepts such as AO, IS and designation of origin in 19th Century. The international protection for GIs, marked by TRIPS Agreement can be divided into 2 period: before and after the adoption of TRIPS Agreement.

1. The Protection of GIs before the TRIPS Agreement

The Paris Convention for the Protection of Industrial Property of 1883 (hereinafter “the Paris Convention”), for the first time, recognized appellations of GO or indications of source as protected subject matter of industrial property. Article 1(2) provides:

“The protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.”

Article 10.1 prohibits the direct and indirect use of false indications of the source of goods or identity of the producer, manufacturer or merchant. Thus, the terms ‘appellations of GO’ or ‘indications of source’ became territorial links only and do not emphasize the particular characteristics, quality or reputation of the goods. Further, Article 10bis of the Convention defines an act of unfair competition as “any act of competition contrary to honest practices in industrial and commercial matters”.

Thus, the Paris Convention is silent about the reputation, quality of the product and consumer deception or confusion concerning the GO. There are no special remedies against infringement of this provision.

The Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of 1891 (hereinafter the Madrid Agreement) was the first international agreement to provide specific rules for the repression of false and deceptive IS. The Agreement do not add much to the protection already given by the Paris Convention but required the indication being protected under domestic law. It protects all the direct and indirect indications of source of the Contracting Parties against false or misleading use and this protection is extended to any use in commercial transactions. In this context, The Madrid Agreement of 1891, Art 1.1 states:

“All goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, or a place situated therein, is directly or indirectly indicated as being the country or place of origin shall be seized on importation into any of the said countries.”

The Madrid Agreement do not protect generic appellations and let the court of each country to decide whether a GI constitutes an indication of source protected by the Agreement or is a generic name (Art 4).

The Lisbon Agreement for the Protection of AO and their Registration, 1958 (hereinafter the Lisbon Agreement) clearly defined the concept of AO as the “Geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are exclusively or essentially due to the geographical environment, including natural and human factors” (The Lisbon Agreement of 1958, Art 1).

It is mandatory that geographical names should identify the product and any other name indicating the product cannot be protected as an AO under the Lisbon Agreement. This makes it clear that non-geographical names are excluded from the scope of protection. There is also a clear link between the products and their place of origin through quality and characteristics of the products attributable to the various factors of the place of origin.

The free riding on the reputation of indications is regulated in the Lisbon Agreement by ensuring protection against any usurpation or imitation even if the true origin of the product is indicated or the appellation is used in translated form or accompanied by terms such as kind, type, or imitation (Art. 3). It is clear that Lisbon stands as an effective mechanism in protecting AO.

Both first international conventions, however, have very limited membership. The Madrid Agreement on IS has only 35 members while the Lisbon Agreement has 26 members. Among the main international treaties related to the protection of GIs before TRIPS Agreement, ASEAN Member States are only signatories of the Paris Convention (except Myanmar). The restricted participation of ASEAN Member States in these international treaties also means that these nations were limitedly integrated in the international system for the protection of GIs until the WTO's establishment.

2. The Protection of GIs under the TRIPS Agreement

The TRIPS Agreement is one of the most significant multilateral agreement for the international protection of GIs (Gervais 2003). There are two level of GI protection.

First, a minimum protection for all products in the WTO Members against “the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good” (The TRIPS Agreement, Art 22.1).

The Article 22 protection is therefore to provide an ground to prevent misleading indications and acts of unfair competition under Article 10bis of the Paris Convention. Further, Article 23 of the TRIPS Agreement provides the additional protection for wines and spirits by requiring WTO members to provide legal means for “interested parties to prevent use of a GI identifying wines for wines not originating in the place indicated by the GI in question or identifying spirits for spirits not originating in the place indicated by the GI in question, even where the true origin of goods is indicated or the GI is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like.”

Article 23 also turns on the problem of notification and registration system by providing a mandate for the Council for TRIPS to undertake negotiations on the establishment of a multilateral system of notification and registration of GIs for wines. These issues have been addressed to the Doha Round Agenda as well as new proposals by a number of WTO Members for the extension of the protection provided for wines and spirits under Article 23 to all products.

The literature identifies various conditions considered necessary for the success of a GI, with Yeung and Kerr (2011) suggesting that failure of any of these conditions would limit commercial success. Galtier et al. (2013) identify three key constraints to the development of ‘effective and fair’

GIs (in the coffee sector): i) Code of Practice (CoP) design that fails to consider distribution of benefits along the supply chain; ii) poor local governance capacity to connect to intermediate and final markets; and iii) a reluctance of roasters to use GIs on final consumer products. Supportive institutional settings (including local governance capacity) are considered fundamental to the success of a GI, often requiring the interaction of local and national institutions, which collectively promote enhanced social capital within the locality Vázquez (2005). Barjolle et al. (2017) emphasized the critical role of the state in establishing and regulating GIs, while Neilson (2007) argued that “the limited capacity of government or industry associations in Indonesia to administer and regulate a GI is a large obstacle to ensuring the on-farm retention of economic benefits”. Indeed, it has been suggested that GIs may even unwittingly contribute to economic marginalization within the GI locality unless supported by adequate rural policies, legislation, and capacity-building (Mancini 2013). It would appear that some level of state involvement, is a necessary, although not sufficient, precondition for successful GIs (Bowen 2010).

Yet, while local institutions are clearly important, the role of the state can be contentious. Durand and Fournier (2017) discuss the “very active” role of government in supporting GIs in both Indonesia and Vietnam, identifying a raft of motivations for state involvement, including producer empowerment, but also encompassing price controls, environmental and cultural conservation and a desire to promote agricultural modernization. The use (and potential abuse) of GIs by the state as a means of regulatory control over rural populations certainly requires serious attention given the sometimes predatory characteristics of the state in many countries. GIs are frequently implemented as top-down, state-driven initiatives, where local government authorities facilitate a negotiation between producers and external GI ‘experts’, but as argued by Bowen (2010), top-down implementation can be easily coopted by powerful extra-local actors. Political motives are evident in Indonesia, which has undergone a process of expanded regional autonomy since 1999. In Indonesia, GIs have proven especially popular amongst local governments as an instrument to develop a positive image of the region (Djulaeka et al. 2014) and to strengthen their own legitimacy by visibly demonstrating a commitment to regional economic development (Murwito 2013).

After a GI has been registered, it will be protected indefinitely as long as the specific characteristics and qualities which form the basis of the grant of protection exist. Any person—including the GI Experts Team, a nonstructural body consisting of GI experts and representatives of the officials whose scope of duties are related to agriculture, forestry, industry, commerce, etc., who evaluates the book of requirements and gives advice to the Directorate General with regard to registration, amendment, cancellation, or control of national GIs—can make a submission to the Directorate General of IPRs that the specific characteristics and/or qualities no longer exist, and as such, the GI should be invalidated. It is therefore important for the institution that registered the GI to manage, maintain, and control the specific characteristics and qualities of a product registered as a GI.

The institutional settings supporting the GIs in Indonesia are currently misaligned with the strategic needs of lead firms. Indeed, Galtier et al. (2013) has earlier identified a reluctance of roasters to use GIs as a cause of failure. The transfer of skills and knowledge necessary to successfully engage with sophisticated specialty coffee markets could potentially be developed within producer communities, at least initially, through partnership with lead firms, even if mediated by commodity traders. Yet, the MPIGs (*Masyarakat Perlindungan Indikasi Geografis*, or the Community of GI Protection) are currently poorly positioned to do this. The MPIGs are unable to provide the quality control and marketing functions currently performed by lead firms and their strategic suppliers that would enable alternative forms of value creation and potential value capture. In the case where an international roaster established seasonal contracts with a Subak Abian in Bali, the MPIG was unable to perform a function of quality assurance as required by lead firms, and the relationships were established entirely independently of the GI. The inability of the MPIGs to implement a system of quality control, and their lackluster attempts to embed an understanding of the GIs within the producing community, did not allow a process of coupling with buyers. In turn, specialty coffee buyers simply dismiss the GIs as irrelevant and unable to deliver meaningful quality signals.

3. Explaining inability to strategically couple as a path-dependent process

If the failure of the GIs to ensure value capture can be explained through the inability of regional actors to strategically couple with extra-local actors in the GPN, then we need to better understand how supportive institutions arise in the first instance. In the application of strategic coupling, MacKinnon (2012) argues for greater attentiveness to evolutionary economic geography and the path dependence of particular institutions and regional assets over time. This study into the establishment of GIs in the Indonesian coffee industry presents something of a puzzle in that the chronic misalignment of local institutions with lead firm strategies belies a continued strong interest in promoting GIs by the Indonesian state. This suggests that the development of GI-related institutions have arisen due to a more complicated set of drivers than a technocratic attempt at value capture within a GPN. Durand and Fournier (2017) identified state support for GIs in Indonesia (and Vietnam) principally as an attempt to further an agricultural modernization agenda. We develop further explanations for this strong state interest, which reflect path dependent historical processes heavily shaped by Indonesian political economy. We suggest four likely drivers of state interest in GIs in Indonesia that, for the most part, have led to the emergence of particular regional institutions that are misaligned to the prevailing governance structures of the GPN.

Firstly, the process of GI certification involves the allocation of resources for research, training, meetings, equipment, registration, and control systems, which were financed by the Government and its international supporters. Critical scholars such as Aspinall (2013) and Li (2016), have emphasized how the allocation of resources to such an activity in Indonesia frequently takes the form of a time-bounded and non-politicized project, or 'project', which is both an act of governing in itself and a means to channel funds from the state through various state-sanctioned project implementers and finally to favored members of the rural elite. State interest in GIs could certainly be interpreted in these terms as an attempt to develop a project, although we believe this is only a partial explanation that contributes to a broader institutional matrix.

Secondly, the establishment and partially effective functioning of MPIG cooperatives, engaging in coffee trading activities, was somewhat anomalous to the otherwise poor functioning of other GI institutions. MPIG leaders and local government representatives alike expressed a widespread desire for the GI to create a supply monopoly (*jalur satu pintu*), and the MPIG Cooperative was identified as the institutional vehicle to achieve this. The proposed regulatory intervention in Bajawa to legally mandate GI labeling reflects such a desire, and a District Head (*Bupati*) in another Indonesian coffee district explained to us his vision for the GI where all locally-produced coffee would be channeled into the international market through a large, state-sanctioned processing factory (All other coffee sales would be deemed illegal). Political rent-seeking arrangements have a long history in Indonesia that can be traced back to colonial roots refer to Yoshihara (1988), Macintyre (2000) and Robison (2009) for further discussion, and the largely unfulfilled potential for GIs to deliver monopoly rents is a second viable driver of state-linked interest.

The implementation of regional autonomy in Indonesia after 1999 (at the district or *Kabupaten* level) has coincided with the establishment of numerous GIs at this *Kabupaten* scale. Regional autonomy has been associated with the emergence of regional cultural politics in a country with more than 700 living languages (Lewis et al. 2009). GIs are mobilized by local political elites as a symbol of cultural recognition by the central government for regional product identities linked to cultural revivalism and populist politics. The GI Certificate from the Ministry of Law and Human Rights, which frequently adorns the walls of local government offices, is a material manifestation of this symbolic recognition, and is commonly presented to the MPIG in a highly ceremonial fashion. The political importance of such symbolism should not be underestimated, as argued in the classic presentation of the "Theatre State" by Geertz (1980). The issuance of a GI certificate then is taken to be a symbolic end in itself rather than being a legal mechanism towards enhanced value capture, and so subsequent implantation of the GIs is neglected as unimportant.

Finally, Butt (2017) identified a nationalist desire to protect cultural property against potential (and actual) foreign appropriation as a key rationale for GIs. The appropriation of cultural and geographical property by foreign commercial interests, both legally in the form of registered trademarks and through the more mundane use of origin place names and cultural imagery in branding to add symbolic value to retail sales (Daviron 2005) has further prompted interest in GIs in Indonesia as a defensive strategy. The unrealized aspiration of GIs in Indonesia, we believe, is to stake a moral claim over intangible geographic property that can counter foreign appropriation through legal protection. However, the processes through which this should and could occur in practice have been poorly articulated to date (Butt 2017). It would appear that MPIGs, or producing country interests on their behalf, need to move beyond the technocratic use of GIs as a signifier of mere material quality to a broader engagement with symbolic quality conventions elsewhere in the value chain. Interestingly, a similar attempt to stake such a moral claim over symbolic geographic property in the coffee sector was enacted by the Ethiopian Government in 2005, through the trademarking of place names rather than through GIs (Arslan & Reicher 2011). The Ethiopian initiative asserted a legal claim over the identities of Sidamo, Harrar and Yirgacheffe that bypassed any requirement to ensure the empowerment of producer institutions, traceability, and the monitoring of quality, as would otherwise be required by GIs.

These four drivers of state interest in GIs reflect the dominant political economy in Indonesia whereby “extractive institutions” as used by Acemoglu and Robinson (2012), to refer to institutions that permit the political elite to rule over and exploit others, resulting in limited innovation and entrepreneurship are predominant, and where powerful oligarchic interests continue to set the broad institutional contours of state action (Robison & Hadiz 2004). Marie-Vivien and Bienabe (2017) suggest “there is an urgent need to build capacity and skills in the diverse public authorities, and to reinforce emerging expertise and networks so as to ensure efficient state intervention in interaction with value chain stakeholders”. Within the Indonesian context described in this article, however, the diagnosis of GI failure as simply “poor institutionalization”, and thereby requiring further technocratic interventions, risks further failure unless adequate consideration is given to the way power is organized and reorganized by these same institutions.

CONCLUSION

The misalignment of lead firm priorities and the regional institutions supporting Protected GIs in the Indonesian coffee sector has resulted in failure to successfully capture the place-related value embedded within specialty coffee products. While some Indonesia-based actors (such as exporting firms) have become effectively embedded with the logic of the coffee GPN, the dominant institutional forms in both case-study regions remain firmly entrenched in state relations and a state-based logic of (extractive) accumulation and symbolic action. The establishment of GIs, and the high level of state interest in them, can be explained not by a genuine commitment to value creation and capture with the GPN, but a commitment to a domestically-oriented political economy and ceremonial reinforcement of relationships between the state and rural populations. While the GPN concepts of strategic coupling and value capture trajectories have provided a useful conceptual lens through which to analysis processes that might lead to value capture and rural development, this study has furthered this agenda by considering regional development outcomes as a product of localized path-dependent socio-institutional evolution.

SUGGESTIONS

Author would concur with Bowen’s suggestion of ‘institutional monocropping’ of GIs, where the technocratic application of a GI system borrowed from Europe has failed to generate any tangible benefits for producers within the institutional milieu of Indonesia. However, perhaps unexpected, set of social processes where the appropriation of GI institutional forms is serving a distinct set of political and cultural objectives within Indonesia. The political context within which regional institutions around the GIs have emerged in Indonesia suggests that providing further technical support and resources for institutional strengthening of the MPIGs is unlikely to remedy the institutional failure author observed earlier. Moreover, a key insight from this study has been the

way in which the GIs themselves have been re-shaped by local institutional settings to serve political objectives quite distinct from their intentions elsewhere.

It is important to recognize that the first three drivers of state interest in GIs identified in the previous section, which in turn create the regional institutional settings within which the GIs are embedded, are all satisfied at the point when the GI is formally registered (stage one in the ToC). The GI does not actually need to be properly functioning, replete with complicated quality control mechanisms, for these outcomes to be realized. The fourth driver, in contrast, requires an active engagement with moral and ethical debates in sites of consumption. The intangible benefits of GIs, frequently raised by several actors in Indonesia, seems to partly allude to this non-technical moral claim over intellectual property.

For this aspiration to be successful however, producing country interests need to not only be aligned with quality conventions along the value chain, they need to politically engage with the moral legitimacy of roasters and café owners to use place names and cultural property without acknowledging producer claims of ownership. (In this context, it is important to recognize that advocacy organizations in the US, such as Oxfam, played a critical role in pressuring the specialty roasting sector to eventually sign licensing agreements over the Ethiopian trademarks.) Such a moral claim would demand that the symbolic value and quality attributes contained in specialty coffee products are more equitably shared between producing and consuming country actors, and this might lead to more genuine partnerships in the sector. It would, however, require the active construction of new moral and quality conventions to allow processes of value capture and GPN upgrading.

REFERENCES

- Acemoglu, D. & Robinson, J. 2012. *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*. New York: Crown Business.
- Arslan, A., & Reicher, C. P. 2011. The Effects of the Coffee Trademarking Initiative and Starbucks Publicity on Export Prices of Ethiopian Coffee. *Journal of African Economies* 20(5): pp. 704-736.
- Aspinall, E. 2013. A Nation in Fragments: Patronage and neoliberalism in contemporary Indonesia. *Critical Asian Studies* 45(1): pp. 27-54.
- Barjolle, D., Quiñones-Ruiz, X. F., Bagal, M., & Comoé, H. 2017. The Role of the State for Geographical Indications of Coffee: Case Studies from Colombia and Kenya. *World Development* 98: pp. 105-119.
- Biénabe, E. & Marie-Vivien, D. 2017. Institutionalizing Geographical Indications in Southern countries: Lessons Learned from Basmati and Rooibos. *World Development*. Vol. 98, pp. 58-67.
- Bowen, S. 2010. Embedding Local Places in Global Spaces: Geographical Indications as a Territorial Development Strategy. *Rural Sociology* 75(2): pp. 209-243.
- Butt, S. 2017. GIs in Indonesia: Indications of Legal Atrophy? *European Intellectual Property Review*. Vol. 39 (5), pp. 303-310
- Daviron, B. & Ponte, S. 2005. The Coffee Paradox: Global Markets, Commodity Trade and the Elusive Promise of Development. *Zed Books*
- Djulaeka, Harimurti & M. Zulkifli. 2014. Tantangan Daerah Dalam Upaya Perlindungan Indikasi Geografis. *Prosiding SNaPP: Sosial, Ekonomi & Humaniora*, 4. pp. 259-264.
- Durand, C., & Fournier, S. 2017. Can Geographical Indications Modernize Indonesian and Vietnamese Agriculture? Analyzing the Role of National and Local Governments and Producers' Strategies. *World Development*. Vol. 98(C), pp. 93-104.
- Galtier, F., Belletti, G., & Marescotti, A. 2013. Factors constraining building effective and fair geographical indications for coffee: Insights from a Dominican case study. *Development Policy Review* 31(5): pp. 597-615.
- Geertz, C. 1980. *Negara: The Theatre State in Nineteenth-Century Bali*. Princeton: Princeton University Press.

- Gervais. 2003. *The TRIPS Agreement: Drafting History and Analysis*. London: Sweet and Maxwell.
- Giovannucci, D., Josling, T. E., Kerr, W., O'Connor, B., & Yeung, M. T. 2009. Guide to geographical indications: linking products and their origins. International trade centre. Geneva.
- Government Regulation of the Republic of Indonesia Number 51 Year 2007 on Geographical Indications.
- Le Thi Thu Ha. 2016. The New Evolution of Protection of Geographical Indications. *VNU Journal of Science: Policy and Management Studies* 32(1): Vol. 32, No. 1 pp. 68-78.
- Lewis, M. P., Simons, G. F., & Fennig, C.D. 2009. *Ethnologue: Languages of the World*. Cambridge Core, Vol. 33 pp. 12-18.
- Li, T. M. 2016. Governing rural Indonesia: Convergence on the Project System. *Critical Policy Studies* 10(1): pp. 125-146.
- MacIntyre, A. 2000. *Funny money: fiscal policy, rent-seeking and economic performance in Indonesia, Rent-Seeking and Economic Development: Theory and Evidence in Asia*. Cambridge: Cambridge University Press.
- MacKinnon, D. 2012. Beyond Strategic Coupling: Reassessing the Firm-Region Nexus in Global Production Networks. *Journal of Economic Geography* 12(1): pp. 227-245.
- Mancini, M. C. 2013. Geographical Indications in Latin America Value Chains: A "Branding From Below" Strategy or a Mechanism Excluding the Poorest? *Journal of Rural Studies* 32: pp. 295-306.
- Marie-Vivien, D. & Biénabe, E. 2017. The Multifaceted Role of the State in the Protection of Geographical Indications: A Worldwide Review, World Development.
- Murwito, S. 2013. Memberdayakan Investasi Daerah Melalui Regional Marketing. KPPOD Brief, Edisi Juli-September, (Thesis).
- Neilson, J. 2007. Institutions, the Governance of Quality and On-Farm Value Retention for Indonesian Specialty Coffee. *Singapore Journal of Tropical Geography* 28(3): pp. 188 – 204.
- Robison, R & Hadiz, V. 2004. *Reorganizing Power in Indonesia: the politics of oligarchy in an age of markets*. London: Routledge.
- Robison, R. 2009. *Indonesia: The Rise of Capital*. Singapore: Equinox Publishing.
- SanzCañada J, Vázquez AM (2005), Quality Certification, Institutions and Innovation inLocal Agro- Food Systems: Protected Designations of Origin of Olive Oil in Spain. *Journal of Rural Studies* 21(4): pp. 381-494.
- The Lisbon Agreement of 1958
- The Madrid Agreement of 1891
- The Paris Convention of 1883
- Trademark and Geographical Indication Law, No 20 of 2016.
- TRIPs Agreement
- West, P. 2012. *From Modern Production to Imagined Primitive: The Social World of Coffee from Papua New Guinea*. Durham: Duke University Press.
- WIPO. 2004. Geographical Indications: historical backgrounds, nature of rights, existing system for protection and obtaining protection in other countries, WIPO document SCT/8/4.
- Yeung, M.T. and Kerr, W.A., (2011), Are Geographical Indications a Wise Strategy for Developing Country Farmers? Greenfields, Clawbacks and Monopoly Rents. *The Journal of World Intellectual Property* 14(5): pp. 352-67.
- Yoshihara, K. 1988. *The rise of ersatz capitalism in South-East Asia*. USA: Oxford University Press.
- http://wipo.int/edocs/mdocs/sct/en/sct_8/sct_8_4.pdf quoted Jan 2019

Abd Thalib (Ph.D?)
Faculty of Law, Universitas Islam Riau Pekanbaru
Jl. Kaharuddin Nasution No. 113
Marpoyan Pekanbaru Riau
Email: thalib@law.uir.ac.id, Thalib_abd7164@yahoo.com

Admiral (Dr)
Faculty of Law, Universitas Islam Riau Pekanbaru
Jl. Kaharuddin Nasution No. 113
Marpoyan Pekanbaru Riau
Email: admiral@law.uir.ac.id

Rosyidi Hamzah (Dr)
Faculty of Law, Universitas Islam Riau Pekanbaru
Jl. Kaharuddin Nasution No. 113
Marpoyan Pekanbaru Riau
Email: rosyidihamzah@law.uir.ac.id

Nur Aisyah Thalib (S. H.)
Faculty of Law, Universitas Diponegoro
Jl. Prof. Soedarto, Tembalang, Kec. Tembalang, Kota Semarang, Jawa Tengah
E-mail : nuraisyahthalib@yahoo.com

Submitted: 15 October 2018

Accepted: 27 January 2019