



## The legal protection of geographical indication to aceh handicraft as intellectual property: Embroidery aceh

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### Abstract

Identification of GI is based on Law Number 20 Year 2016 regarding Marks and Geographical Indications, that GI is protected as long as the maintenance of reputation, quality, and characteristics. GI has two functions, namely as a promotional product that has unique characteristics, and a source of information for consumers about quality, reputation, and authenticity. GI registrations can be submitted by institutions representing communities in certain geographic areas who are looking for natural products or products, handicraft articles and industrial products. The registration authority is the Provincial or Regency/City Government. Local potential is one of the characteristics that can have the potential to be registered as a GI. Aceh has a very diverse local potential including handicrafts produced by craftsmen in Aceh. This article will analyze the potential of Aceh embroidery as a GI. This study found that Acehnese embroidery met the criteria as a GI, namely characteristics, quality and reputation. Acehnese embroidery has very different characteristics from embroidery from other regions, both in terms of manufacturing techniques, motifs and the use of color combinations that really show the local potential of the Aceh region. The quality of Aceh embroidery is very good which has competitiveness in national and international markets. The reputation of Aceh's embroidery has reached various provinces and abroad. Some countries such as Malaysia, Singapore, America are already familiar with Acehnese embroidery crafts such as Aceh embroidery bags and wallets. Therefore, Acehnese embroidery has the opportunity to be registered as a GI.

**Keywords:** GI, handicraft, aceh, embroidery

### Introduction

Geographical indication (GI) is one of the safeguards related to product character,<sup>[1]</sup> which emphasizes the importance of the relationship between quality product owners and suppliers in the value chain of many agricultural products<sup>[2]</sup>, and traditional products. GI is a market<sup>[3]</sup> and marketing strategy<sup>[4]</sup> in the value potential growth of agricultural and food products<sup>[5]</sup>. It has long been associated with the unique quality attributes and characteristics of GI products.

GI has two functions, namely as a promotional product that has unique characteristics, and a source of information for consumers about quality, reputation, and authenticity<sup>[6]</sup>. Thus, GI is a powerful regulatory tool for product quality control<sup>[7]</sup>, and one of the most controversial categories of rights intellectual property (IPR)<sup>[8]</sup>. Geographical indications provide protection against signs that identify an area of a country, or an area or area within the region as the origin of the goods, where the reputation, quality and characteristics of the goods are largely determined by the geographical factors concerned. The characteristics and quality of goods that are maintained and can be maintained for a certain period of time will give birth to a reputation for these goods, which in turn allows these goods to have high economic value<sup>[9]</sup>.

In international level, the Paris Convention of 1883, has stated that "... the geographical name of a country, region, or locality, which serves to designate a product originating in it, its qualities and characteristics which are exclusively or essential in the geographical environment, including natural and human factors..."<sup>[10]</sup> Further in the TRIPs Agreement it is stated, GI is an indication that identifies an item originating from a member territory, or an area or locally

within that territory, where the quality, representation or characteristics of certain items given is basically derived from its geographical origin under article 22.1

The Madrid Treaty of 1891 confirms that IG protects against any indication of origin, direct or indirect, as the country or place of origin<sup>[11]</sup>. The protect all indications of origin from the parties' sources against false or misleading use in commercial transactions. The Lisbon Treaty of 1958 also affirmed protection against the registration of originating products. This agreement serves to protect the "geographical denomination of a country, region, or locality", which serves to designate a product originating from there, the quality or characteristics of which are exclusively or essential to the geographical environment, including natural and human factors.

In Indonesian law, GI has been regulated in Law Number 20 of 2016 concerning Marks and Geographical Indications. Article 1 paragraph (6) confirms that, GI is a sign indicating the origin of goods and/or products due to geographical environmental factors including natural factors, human factors or a combination of these two factors giving the reputation, quality, and certain characteristics of the goods and/or products or the resulting product.

Aceh is one of the provinces in Indonesia that has handicrafts that reflect regional cultural characteristics, such as Kasap, Acehnese embroidery which makes bags, clothes, shoes, skullcaps, and bags, Brouch of Pintu Aceh, and Rencong Aceh. This article analyzes the potential of Aceh embroidery bags as Acehnese crafts to be protected as GIs.

### Protection of Geographical Indications in Indonesia

Identification of GI is based on the Law on Marks and Geographical Indications that, GI is protected as long as the maintenance of reputation, quality, and characteristics that under the provision of GI protection for quality goods as stated in Article 61 paragraph (1) Therefore, a GI that does not meet these requirements will be rejected and canceled based on Article 61 paragraph (2) of the Law on Marks and Geographical Indications. Types of agricultural products and handicrafts that have the potential to be registered as geographical indications according to the Law on Trademarks and Geographical Indications. This is based on factors of natural resources, human resources or a combination of both that give reputation, quality and certain characteristics to the products produced.

GI registrations can be submitted by institutions representing communities in certain geographic areas who are looking for natural products or products, handicraft articles and industrial products. The registration authority is the Provincial or Regency/City Government. This article regulates the parties who can register the GI. Institutions that represent communities in certain geographic areas, namely: Community groups who own goods that are natural products or natural resources, such as producers of agricultural goods, makers of handicrafts or industrial products, or traders who sell the goods<sup>[12]</sup>. Thus, apart from local communities, community groups or local governments, others do not have the authority to register the GI<sup>[13]</sup>.

GI registration must meet objective and subjective requirements. The objective requirements are: GI owners must have: a. Strong and effective management system; b. Excellent product quality and well-maintained consistency; c. Marketing system includes strong promotion d. Able to supply market needs in sufficient quantities on a sustainable basis; e. Willingness to enforce legal provisions related to GIs<sup>[14]</sup>.

The subjective requirement, that to obtain legal protection as GI. Registration of GI products original from natural resources, handicrafts or industrial products. GI is submitted to the Minister for registration, with a substantive examination by the Geographical Indication Expert Team<sup>[15]</sup>. Therefore, the protection of Indonesia's GI is regulated by a constitutive system and collective ownership<sup>[16]</sup>.

Thus, protection is granted if the relevant Geographical Indication has been registered based on the request of an institution representing the community in the area that produces the goods. The institution in question may consist of parties who cultivate goods which are natural products or natural resources, or producers of agricultural products, or makers of handicrafts or industrial products, or traders who sell these goods. The commodities produced by the craftsmen have characteristics and qualities related to geographical factors, natural factors and human factors that exist in the area. So, community handicraft items are very relevant to be registered under Geographical Indications.

Under the Indonesian Trademark and ID Law, protection against geographical indications is provided if registered. The registration system adopted in the law is based on constitutive registration, which protects the rights of applicants only for the first and subsequent applicants will not receive legal protection. This means that only the first application will be given legal protection, otherwise anyone who does not have the right to use a sign that has overall

similarities with Geographical Indications from other parties for and/or products for the same or similar goods or registered products can be punished.

### Aceh Handicrafts as Geographical Indications

Aceh is a city with the nickname Veranda of Mecca, has a variety of very unique and famous handicrafts. Many tourists visiting Aceh are very interested in Acehnese crafts. Handicrafts are cultural products that have great opportunities to compete in the global market<sup>[17]</sup>. This embroidery craft uses Acehnese motifs which are cultural heritages that have existed since the days of the Iskandar Muda kingdom in the Aceh region, namely Acehnese motifs that are natural and full of creativity. The motifs commonly used are Aceh pintoe, pucok rebong, rencong, and other motifs. The use of these traditional motifs is usually combined with motifs that are currently trending and adapted to the products created<sup>[18]</sup>.

Aceh has handicrafts with various patterns or motifs,<sup>[19]</sup> as cultural identities<sup>[20]</sup>. There are Acehnese embroidery bags and clothes, Kasab in Aceh North District<sup>[21]</sup>. Aceh Songket, Aceh Tenun, Aceh Kasab, Rencong Aceh, Skullcap in Aceh Besar District<sup>[22]</sup>. Acehnese Embroidery Bags and Clothing<sup>[23]</sup>, and Songket Weaving Craftsmen in South Aceh District<sup>[24]</sup>.

The batik industry in Central Aceh Regency, which has the Gayo Ceplok pattern inspired by the motifs on the ends of the openwork carvings of the Gayo traditional house and the Parang Gayo pattern<sup>[25]</sup>. The literary industries of Central Aceh, Bener Meriah, Gayo Lues, are Skullcap Gayo<sup>[26]</sup>.

Acehnese handicrafts show the authenticity of the place where the product is made in Acehnese society. Acehnese handicrafts are an indicative source in Aceh which is not identical with other regions. The pattern of Acehnese handicrafts is very distinctive, showing the culture of the Acehnese people as the original name. For example, Aceh embroidery from Door Aceh on bags, clothes, prayer rugs. Pattern Brouch from Door Aceh and Rencong Aceh, Pattern Aceh Kasab as Acehnese handicrafts that are not found outside Aceh. The current development, embroidery bag crafts created by craftsmen, bags are increasingly in demand by the public. Bag motifs have developed with various motifs such as door Aceh motif a combination of sun and swivel motifs. The Aceh door combination and ball motifs, creative conch cloud motifs, batik motifs, peanuts, jasmine flower, rice stems motifs, worms motifs, sun motifs, three-dimensional floral motifs (embossed flowers), a combination of Aceh motifs and embossed flowers (three-dimensional flowers), and embroidery flower motifs.

### The Potency of the Embroidery Aceh as IG

Acehnese embroidery is one of the spearheads of the Acehnese economy, a craft that is occupied by craftsmen in Aceh<sup>[27]</sup>. Acehnese embroidery is made based on the skills and knowledge possessed by the Acehnese as craftsmen. Aceh embroidery sewing technique, it takes skills that not everyone can sew Aceh embroidery. The craftsman factor as a human factor determines the existence of Aceh embroidery. This shows that Aceh's embroidery as a local potential is produced based on human factors.

The process of making the Aceh embroidery and the motifs used are different from those in other regions. Embroidery has various motifs that reflect the life of the Acehnese people. For example, the embroidery of bamboo shoots on

the southern coast of Aceh is a more varied motif. This is different from the shoots of bamboo shoots in the highlands of Central Aceh which have a simple triangular motif as a picture of bamboo shoots that are commonly found in the area.

The process of making Aceh embroidery begins with the technique of making patterns, cutting the fabric, choosing the color of the thread according to the motif and sewing the embroidery on the fabric with a sewing machine. Pattern making and sewing techniques have special characteristics in each Aceh region. Then the use of color in Aceh's embroidery sewing as a distinctive color is red, green, yellow, black and blue. The use of color is largely determined by the motif to be sewn.

Acehnese embroidery products have been continuously produced by craftsmen in Aceh and traded in souvenir shops in almost all districts in Aceh <sup>[28]</sup>. In fact, Acehnese embroidery products have been traded on the national market and exported to various world markets, such as Malaysia, Thailand, the United States of America, Australia, Dubai, London, South Africa and Singapore. Thus, Aceh embroidery can meet the criteria as a GI, namely characteristics, quality and reputation.

### Conclusion

Geographical indications provide protection for those who identify the rights of the country, or region as the source of the goods, where the reputation, quality and characteristics of the goods are determined by the relevant geographical factors. The characteristics and quality of goods that are stored and can be maintained for a certain period of time will give rise to the reputation of the goods, which in turn allows the goods to have high economic value. GI is an exclusive right granted by the State to GI rights holders who have registered, as long as they meet the characteristics, quality and reputation elements.

Aceh embroidery is one of Aceh's handicrafts which is well known for various products such as bags, clothes, wallets, shoes. Aceh embroidery has been made based on the skills and knowledge of craftsmen in Aceh. The manufacturing techniques and motifs used in Acehnese embroidery are very distinctive and different in each region. They also design embroidery according to the potential of each region, for example from the motif of oil palm shoots from Nagan Raya Regency, cocoa motifs from Pidie Jaya Regency, motifs with cotton paddy, jasmine and cloves from Simeulue Regency. This shows the local potential of the Acehnese people who can become GIs.

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