

*Research Article*

# Geographical Indication and Gastrodiplomacy as Nation Branding: A Perspective from Indonesia

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**ABSTRACT:** In response to the success of “Eat, Pray and Love” in 2010, Paul Rockower highlighted Indonesia's great opportunity to carry out a robust culinary-based public diplomacy campaign. As a specialist in culinary diplomacy, he noted this to be the key to help Indonesia to enhance its longstanding reputation as an exotic culinary locale. This paper aims to analyze the opportunities and challenges in implementing geographical indication (GI) as part of gastrodiplomacy strategies, and how it impacts the strengthening of Indonesia's national branding. This paper finds that, to effectively integrate GI protection into the gastrodiplomacy strategy, it is necessary to take strategic steps that follow the characteristics of GI as IP with a collective dimension—through a series of collective action stages, using an institutional approach. Although the collaboration is time-consuming, involving different stakeholders (such as local producers, organizations, research institutions, the local and central government, private sectors, communities, and other institutions) is the key to integrating GI protection into gastrodiplomacy strategies.

**KEYWORDS:** Gastrodiplomacy, Geographical Indication, Nation Branding.

## I. INTRODUCTION

The concept of gastrodiplomacy was pioneered by Paul S. Rockower, and refers to concerted and sustained campaigns of public relations and investment by governments and states (often in collaboration with non-state actors), to increase the value and standing of their nation's brand through food by striking emotional connections.<sup>1</sup> Gastrodiplomacy became an increasingly popular strategy for public diplomacy and strengthening nation branding.<sup>2</sup> Many nations have

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<sup>1</sup> Paul S Rockower, “Recipes for Gastrodiplomacy” (2012) 8:3 Place Branding and Public Diplomacy at 235–246.

<sup>2</sup> *Ibid.*

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implemented gastrodiploamacy campaigns during the past decade to increase their cultural influence worldwide, and to enlarge their national brand.

For example, the Thai government launched the “Global Thai Campaign” in 2002 to rebrand national tourism, which in turn increased foreign tourist visits.<sup>3</sup> South Korea also launched the “Global Hansik Campaign” and “Kimchi Diplomacy” as part of their gastrodiploamacy in 2009, in consideration to the fact that Korean food was not as popular as other South Korean commodities (such as Korean Pop Music [K-Pop] and Korean Dramas).<sup>4</sup> Taiwan with its “Diplomacy by Dim Sum” aimed to strengthen its identity and differentiate itself from China. The Peruvian government is currently attempting to construct a national branding centered on its cuisine, by utilizing the promotional campaign “Cocina Peruana Para el Mundo” (“Peruvian Cuisine for the World”).<sup>5</sup>

Simon Anholt coined the term “Nation Brand” in 1996 to indicate that a nation’s reputation behaves similarly to brand images of businesses and products. As a result, a nation’s brand can have a big impact on its prosperity and welfare.<sup>6</sup> Previous studies mostly linked gastrodiploamacy and nation branding with tourism, public diplomacy, and culinary export. In these,<sup>7</sup> gastrodiploamacy was specifically adopted into programs to promote Indonesian tourism as an instrument of public diplomacy,<sup>8</sup> and to capture the global culinary arts market.<sup>9</sup>

In addition to the diplomatic aspect, legal aspects of gastrodiploamacy are important to elaborate on: namely, Geographical Indications (GIs). While the

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<sup>3</sup> Michelle & Riski Baskoro, “A Lesson Learned From Pioneer of Gastrodiploamacy: Strategies of Utilizing Nation Brand By the Country of White Elephants Through the Global Thai Campaign” (2022) 6:1 AEGIS : Journal of International Relations at 60–78.

<sup>4</sup> Gita Madyaning Ratri, *Global Hansik Campaign As South KOrea’s Gastrodiploamacy in 2009 - 2017* Universitas Muhamadyah Yogyakarta, 2018) [unpublished].

<sup>5</sup> Rachel Wilson, “Cocina Peruana Para El Mundo: Gastrodiploamacy, the Culinary Nation Brand, and the Context of National Cuisine in Peru” (2011) 2:1 Exchange: The Journal of Public Diplomacy at 2.

<sup>6</sup> Patricio T Murphy, “Nation branding: beyond a cosmetic symbol” *WIPO Magazine* (2022).

<sup>7</sup> Arindha Nityasari & Usmar Salam, *Gastrodiploamacy as a Strategy to Promote Indonesian Tourism* Gadjah Mada University, 2018) [unpublished].

<sup>8</sup> Marsha Huwaidaa, “The Gastrodiploamacy: Indonesia’S Culinary Publicity in the Netherlands” (2022) 1:1 Jurnal Sosial Humaniora dan Pendidikan at 74–78.

<sup>9</sup> Yusuf Rahmadi Kadarisman, “Recipe for The Global Plate: Policy Recommendation to Globalise Indonesian Culinary Arts” (2022) 16:2 Jurnal Kepariwisata Indonesia at 117–137.

economic impacts of GIs have been well documented by various researchers,<sup>10</sup> correlation between gastro diplomacy and geographical indications development requires a deeper analysis. Further assessments should include how it can provide opportunities for Indonesia to strengthen its national branding, considering that Indonesia is not a new name in international cuisine. It is home to several cuisines, which have emerged as global culinary icons.<sup>11</sup> For example, *Rendang*, a well-known dish from Padang, West Sumatra was crowned within CNN's list of the world's 50 most delicious foods. *Nasi Goreng* (Fried Rice) came in second, and *Sate* (Satay) came in at number 14.<sup>12</sup> In addition, *Luwak Coffee* (Civet Coffee) has been included in the world's most expensive coffee list.<sup>13</sup>

Many typical Indonesian culinary delights have great potential to be protected with GI. They have special characteristics related to geographic factors, human factors, and a combination of both. However, apart from this potential, the legal protection aspect and diplomacy strategies still struggle to coordinate and find synergy. Following this perspective, this article aims to illustrate the opportunities, challenges, and potential solutions in co-integrating the legal protection of GI and the gastro diplomacy strategies—to strengthen the taste of Indonesia's national branding.

## II. METHODOLOGY

This study uses a normative juridical and sociological juridical approach, by examining the concept of gastrodiplomacy and its strategies carried out by Indonesia. The laws, regulations, theories, and legal principles of Geographical

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<sup>10</sup> Tim Josling, “The War on Terroir: Geographical Indications as a Transatlantic Trade Conflict” (2006) 57:3 *Journal of Agricultural Economic* at 337–363. Daniele Giovannucci et al, “Guide to Geographical Indications: Linking Products and Their Origins (Summary)” (2012) November 2022 SSRN Electronic Journal. Emilie Vandecandelaere et al, “Economic Impacts of Geographical Indications: Worldwide Evidences from 9 Case Studies” (2018) July 13th European IFSA Symposium at 1–17.

<sup>11</sup> Heinz von Holzen & Lothar Arsana, *The Food of Indonesia : Delicious Recipes from Bali, Java and the Spice Islands* (Hongkong: Periplus Editions (HK) Ltd., 2006).

<sup>12</sup> *Once Again! Indonesia's RENDANG and NASI GORENG Crowned World's Best Foods*, by CNN (2017).

<sup>13</sup> Conrad Davis, “From Farm to Cup: How the Most Expensive Coffee in the World Is Made”, (2022), online: *ValiantCEO* <<https://valiantceo.com/from-farm-to-cup-how-the-most-expensive-coffee-in-the-world-is-made/>>.

Indications that are relevant to the research are also examined. Furthermore, the correlation between gastrodiplomacy and GI development in strengthening nation branding is analyzed to examine the opportunities, challenges, and potential solutions in integrating and synergizing between legal protection of GI, and the gastrodiplomacy strategies. The data analysis methods include collecting data through a review of library sources on primary legal materials, secondary legal materials, and tertiary legal materials in the form of documents and applicable legal regulations.

### III. GEOGRAPHICAL INDICATION, GASTRODIPLOMACY, AND NATION BRANDING

#### *A. Theoretical Context of Geographical Indication*

Geographical Indication protects the historical link between a product's place of origin and the people who produce the product.<sup>14</sup> GIs convey the cultural identity of a nation, region, or locality. GIs have become a product protection regime rooted in their locality and accepted on an international scale as an essential aspect of product marketing.<sup>15</sup> GI has a significant impact on the region: the desire of tourists to taste and purchase regional foods, beverages, and flavors drives an increase in tourism.<sup>16</sup>

GIs as an IP regime has potential for collective benefits, by acting as a catalyst in the Indonesian sharing economy and its local heritage valuing.<sup>17</sup> GI is also understood by customers to denote the origin and the quality of products, and develop consumer perceptions about the product.<sup>18</sup> Many countries have benefited economically from the increasing product sales value. Bramley et al.

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<sup>14</sup> Alcido Elenor Wander et al, "Geographic indications (GI): linking history and tradition with competitive business" (2020) 6:5 Brazilian Journal of Development at 24601–24618.

<sup>15</sup> C R Elsy & Ram A Adheena, *Geographical Indications : a Marketing Tool for Unique Goods From Specific (Kerala)*, (2012).

<sup>16</sup> Mohanad Ayub Dar & Megha Ojha, "Destination Imaging, Compatibilities with intellectual property-rights based tourism" (2023) 26:1 The Journal of World Intellectual Property.

<sup>17</sup> Dyah PB Asri et al, "Valuing local heritage: Issue and challenges of geographical indication protection for local artisans in Indonesia Kasongan village heritage" (2022) 25:1 Journal of World Intellectual Property at 71–85.

<sup>18</sup> CJ Anson, "Geographical Indications : a Marketing Stance" (2012) 2:2 International Journal of Economics, Commerce and Research (IJEER) at 11–17.

elaborated the wide articulation that protected GIs may contribute to rural development.<sup>19</sup>

Regulations regarding GI in Indonesia are integrated with regulations on trademarks, specifically: Law Number 20 of 2016 concerning Trademark and Geographical Indications, and their implementing regulations through Government Regulation Number 51 of 2007, concerning Geographical Indications. Article 1 paragraph (6) defines Geographical Indications as:

“A sign indicating the area of origin of goods and/or products which due to geographical environmental factors including natural factors, human factors or a combination of these two factors give certain reputation, quality and characteristics to goods and/or the resulting product.”

Furthermore, in the explanation it is stated that,

“A Geographical Indication is an indication sign or identity of an item originating from a certain place, area or area which shows the existence of quality, reputation, and characteristics including natural factors and human factors which are used as attributes in the goods.”

To be eligible to apply for GI protection, a product must have a reputation, special quality, and certain characteristics influenced by the geographical conditions of the product's originating area.<sup>20</sup> GI as a legal protection lies in the intersection of several aspects. These include natural factors resulting from the products' characteristics, and human factors in the form of traditional knowledge and skill in product processing.<sup>21</sup> The provisions and requirements for GI protection imply that the proposed GI product has a reputation. However, the qualifications of such requirements are relative. There is no rigid indicator to

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<sup>19</sup> Cerkia Bramley, Estelle Biénabe & Johann Kirsten, “The Economics of Geographical Indications: Towards A Conceptual Framework for Geographical Indication Research In Developing Countries” (2009) July 2014.

<sup>20</sup> Dionisius Ardy Tanzil, “Perlindungan Rendang sebagai Sebuah Indikasi Geografis dalam Ruang Lingkup Pengetahuan Tradisional dan Pemajuan Kebudayaan” (2021) 3 Jurnal Simbur Cahayiwijayaa Fakultas Hukum Universitas Sr at 187–201.

<sup>21</sup> Pulung Widhi Hari Hananto & Rahandy Rizki Prananda, “The Urgency of Geographical Indication As a Legal Protection Instrument Toward Traditional Knowledge in Indonesia” (2019) 15:1 Law Reform at 62.

count the degree of product reputation, which has become a fundamental provisional challenge for GI registration and development in Indonesia.<sup>22</sup>

The concept of communal ownership of GI is brought into a practical realm in Article 53 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications.<sup>23</sup> Regarding the applicants in the context of GI registration, the provision of Article 53 verse 1 states that Geographical Indications are protected after registration. In addition, verse 2 states that the Applicant is required to apply to the Directorate General of Intellectual Property of the Ministry of Law and Human Rights. Furthermore, concerning the classification of applicants, verse 3 stipulates two categories of entities that can act as applicants for GI registration. The first are institutions representing communities in certain geographical areas, which cultivate goods and/or products in the form of natural resources, handicraft items, or industrial products. The second are local governments, such as provincial, district, or city governments.

According to the Elucidation of Article 53 (3), institutions that represent communities in certain geographical areas include producers, associations, cooperatives, and “*Masyarakat Perlindungan Indikasi Geografis (MPIG)*” (“Society for the Protection of Geographical Indications [SPGI]”). Local government involvement arises when considering that the GI registration process provides both economic and social benefits for the region (directly and indirectly). Furthermore, the GI registration process is quite complex, as it requires the preparation of the GI Description Document. This requires synergy and collaboration, therefore the role and involvement of local governments are considered necessary.

This involvement is also an implementation of the local government’s obligations, based on Article 70 verse (1) and (2) of the Trademark and GI Law. This obliges the local government to participate in the GI registration process, as well as carry out training and supervision of the GI. Such training includes preparation to supervise GI application requirements; application for GI

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<sup>22</sup> Ria Wierma Putri, Yunita Maya Putri & Dorothy R H Pandjaitan, *Challenges of Geographical Indication in Indonesia: A Study from Lampung Province* (Atlantis Press SARL, 2023).

<sup>23</sup> Ranti Fauza Mayana & Tisni Santika, “Pengembangan Produk Indikasi Geografis Dalam Konteks Sharing Economy Di Era Disrupsi Digital” (2020) 21:21 Litigasi at 128–146.

registration; utilization and commercialization of GI; socialization and education of GI protection; mapping of GI product potential; training and mentoring; monitoring, evaluation and training; legal protection; and facilitating the development, processing and marketing of GI products.

The GI label on a product is a competitive advantage with a significant influence on trade, as it can carry out various functions. These range from guaranteeing product authenticity, to guaranteeing product quality standards, to promotional tools that have long been collectively practiced.<sup>24</sup> Within the scope of Indonesia, GI has proven capable of increasing the price of specialty coffee from certain regions. For example, *Gayo* Coffee, which was registered as a GI product within six years, experienced a price increase for roasted beans from 60,000 Rupiah to 200,000 Rupiah.<sup>25</sup>

The culinary arts is a cultural element of a nation, easily recognized as the identity of a society.<sup>26</sup> Indonesian culinary specialties are famous for the richness and diversity of spices; thus, Indonesia is known as “The Land of Spices”. As a result, Indonesian culinary specialties are famous for the rich utilization of spices, which give a distinctive taste and aroma. Some of Indonesia's spices are already registered and protected as GIs, for example, *Muntok White Pepper Boleh Solok* from West Sumatra, *Amed Salt* from Bali, *Koerintji Cinnamon* from Jambi, *Pala* (nutmeg) from Fakfak Island, West Papua.<sup>27</sup> Despite the substantial potential, their GI registration has seen several challenges, consequently contributing to the low level of GI registration and development in Indonesia.<sup>28</sup>

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<sup>24</sup> *Ibid.*

<sup>25</sup> Anton Muhajir, “Indikasi Geografis Belum Berdampak Pada Petani Kopi, Benarka”, (2018), online: *Mongabay* <[ps://www.mongabay.co.id/2018/05/02/indikasi-geografis-belum-berdampak-pada-petani-kopi-benarkah/](https://www.mongabay.co.id/2018/05/02/indikasi-geografis-belum-berdampak-pada-petani-kopi-benarkah/)>.

<sup>26</sup> Sri Utami, “Kuliner Sebagai Identitas Budaya: Perspektif Komunikasi Lintas Budaya” (2018) 8:2 *Journal of Strategic Communication* at 37.

<sup>27</sup> Direktorat Jenderal Kekayaan Intelektual Kementerian Hukum dan HAM Republik Indonesia, “Membangun Kuliner Indonesia Lewat Indikasi Geografis”, (2023), online: *DJKI* <[https://www.dgip.go.id/artikel/detail-artikel/membangun-kuliner-indonesia-lewat-indikasi-geografis?kategori=Berita Resmi Desain Industri](https://www.dgip.go.id/artikel/detail-artikel/membangun-kuliner-indonesia-lewat-indikasi-geografis?kategori=Berita%20Resmi%20Desain%20Industri)>.

<sup>28</sup> Putri, Putri & Pandjaitan, *supra* note 22.



### *B. Gastrodiplomacy: Indonesia's Nation Branding Strategy through National Cuisine*

The term “gastrodiplomacy” was first used in 2002 by The Economist, to describe a new effort by the Thai government to promote its cuisine worldwide. This was identified as having marked the beginning of state-sponsored food promotion campaigns.<sup>29</sup> Pairing cuisine with national values increases any nation's outreach to the world populace, bringing various advantages to the nation itself. Gastrodiplomacy thus provides substantial opportunities for Indonesia as one of the largest archipelagic countries in the world. With more than 17,000 islands, each possesses unique and diverse natural conditions, combined with skills and sociocultural factors. These inform a great potential to develop high-quality products, including cuisine.<sup>30</sup>

Many Indonesian traditional foods such as *Rendang*, *Nasi Goreng*, and *Sate* have made it to the list of the World's Best Foods.<sup>31</sup> Indonesian cuisine is empowered by its rich natural resources in the form of spices, which largely influence its character.<sup>32</sup> The attractiveness of Indonesian spices is compelling; numerous works of literature stated that European colonization in Indonesia began with their desire to control these spices.<sup>33</sup>

The book “*Mustikarasa: Indonesian Food Recipes*,” inherited from Indonesia's first and founding President Sukarno, is a literacy encouragement to build a solid identity and culture through food. The book provides around 1,600 recipes for typical Indonesian food as a reflection of Indonesia's culinary diversity and richness of spices. In addition, Sukarno saw the potential problem of food shortage in the future and tried to provide various alternative solutions for Indonesia.<sup>34</sup>

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<sup>29</sup> Anna Lipscomb, “Culinary Relations: Gastrodiplomacy in Thailand, South Korea, and Taiwan” (2019) Spring Issues The Yale Review of International Studies at 17–30.

<sup>30</sup> Mayana & Santika, *supra* note 23.

<sup>31</sup> Meinitya Azzahra, “Rendang and Nasi Goreng Crowned World's Best Foods” *Volix* (August 2021).

<sup>32</sup> Direktorat Jenderal Kekayaan Intelektual Kementerian Hukum dan HAM Republik Indonesia, *supra* note 27.

<sup>33</sup> Adirini Pujayanti, “Gastrodiplomasi – Upaya Memperkuat Diplomasi Indonesia” (2017) 8:1 Jurnal DPR RI at 325–332.

<sup>34</sup> Arief Rosyid Hasan, “Gastrodiplomasi Indonesia di Eropa”, *Media Indonesia* (4 February 2023).



Indonesia's gastrodiplomacy strategy started via first-track culinary diplomacy. This was mainly government-centered, with The Ministry of Foreign Affairs as the main actor in building government-to-government communication.<sup>35</sup> Then the Indonesian government began to include "gastrodiplomacy" in its diplomacy framework, and the wider strategy was carried out through the establishment of the "Restaurant Task Project".<sup>36</sup> Several agencies carry out efforts to introduce more authentic Indonesian food to the international community, and to improve Indonesia's image abroad. For example, The Embassy of the Republic of Indonesia has introduced Indonesian cuisine to people from other countries by regularly holding culinary festivals, or events presenting Indonesian chefs.

Collaboration became the preferred approach for gastrodiplomacy from 2011 onward. The Indonesian Embassy in Colombo collaborated with Discovery Kartika Plaza Hotel-Kuta (*Sanggar Seni Indah Prima-Legian*) and Taj Samudra Hotel-Colombo to organize The 2011 Indonesian Food Festival. This incorporated the theme "Delightfully Bali," supported by a team of executive sous chefs, kitchen artists, and professional dancers intentionally invited from Bali. For 10 days, local people in and surrounding Colombo could taste a variety of Balinese specialties in the form of a buffet.<sup>37</sup>

In 2012, the Ministry of Tourism and Creative Economy of the Republic of Indonesia designated 30 Indonesian traditional dishes as culinary icons.<sup>38</sup> Apart from its promotional and gastrodiplomacy purposes, this was also an effort to record the richness of Indonesian traditional culinary culture, so that it can be preserved for future generations.<sup>39</sup> The Indonesian Cuisine Cooking Contest (ICCC) was held on 21-22 November in 2013 as a collaboration between Indonesian Embassy in Washington, D.C. and the Culinary School Department

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<sup>35</sup> A Trihartono et al, "The early stage of Indonesia's gastrodiplomacy: In the middle of nowhere?" (2020) 485:1 IOP Conference Series: Earth and Environmental Science.

<sup>36</sup> Rockower, *supra* note 1.

<sup>37</sup> Farah Fitriani Faruq, "Finding Sparkling Bali in Sri Lanka", (2011), online: *Good News from Indonesia* <<https://www.goodnewsfromindonesia.id/2011/08/21/finding-sparkling-bali-in-sri-lanka>>.

<sup>38</sup> Hanni Sofia, "30 ikon kuliner jadi bahan diplomasi Indonesia", *Antara News* (March 2013).

<sup>39</sup> SA Marliyanti, D Hastuti & T Sinaga, "Eco-Culinary Tourism in Indonesia" in Teguh Avenzora, ed, *Ecotourism and Sustainable Development in Indonesia* (Jakarta: Kementerian Pariwisata dan Ekonomi Kreatif Republik Indonesia, 2013) at 251.

of Stratford University in Virginia. This competition intended to introduce Indonesian cuisine to food experts, cooks, and the general public in the US.<sup>40</sup>

The development of gastrodiplomacy is further carried out through domestic culinary festivals such as the Ubud Food Festival (UFF). Here, various activities are held such as food exhibitions, a cooking demo/cooking class called “Kitchen Stage”, workshops, a discussion panel themed “Think Talk, and Taste”, and a food tour of a local market.<sup>41</sup> Indonesian President Joko Widodo has also directly contributed to encouraging gastrodiplomacy by serving traditional food and coffee in state banquets. Most recently, Indonesia introduced a variety of archipelago foods in a series of activities at the G-20 summit in Bali. The event introduced the archipelago’s food culture through a gastronomic format, and was packaged in the form of integrated food theatre performances titled “Gulu and Friends Stories” and “Archipelago on a Tray”.<sup>42</sup>

#### **IV. ELEVATING INDONESIA'S NATIONAL IMAGE: INCORPORATING GEOGRAPHICAL INDICATION INTO GASTRODIPLOMACY**

Normatively, Indonesia has attempted to contain more comprehensive GI protection through Law No. 20 of 2016 concerning Trademark and Geographical Indications. However, the protection of GI under (or along with) the trademark regime does not provide for protection as comprehensive as offered by a *sui generis* GI system. The essence of trademark and GI protection lies in the protection of product identity, or the use of the sign in the market as a form of communication. Though both ultimately represent certain reputations, there are significant distinctions that make the inclusion of GI in trademark law inherently unsuitable.<sup>43</sup>

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<sup>40</sup> DetikNews, “Ketika Masakan Indonesia Jadi Haute Cuisine di Amerika”, *detikNews* (25 December 2013).

<sup>41</sup> PRK Dewi & NWR Priadarsini, “Peran Non-State Actors Dalam Gastrodiplomacy Indonesia Melalui Ubud Food Festival” (2018) 9:1 Jurnal Ilmiah Hospitality Management at 1–15.

<sup>42</sup> CNN Indonesia, “Santapan Khas Indonesia Dikenalkan Lewat Food Theatre di KTT G20”, (15 November 2022).

<sup>43</sup> Mas Rahmah, “Promoting Local Branding Under Geographical Indication: Prospect and Challenges for Protecting Indonesian Products” (2014) at 1–15.

Three challenges are raised in practice. First, a trademark is a sign used by enterprises to distinguish its goods and services from those of other enterprises as commercial origin. Meanwhile, a geographical indication tells consumers that a product is produced in a certain place, and has certain characteristics due to the place of production. In other words, GI describes the geographical origin of the product. A trademark gives its owner the right to exclude others from using the trademark. Meanwhile, GIs may be used by all producers who make their products in the place designated by a geographical indication, and whose products share typical qualities.<sup>44</sup>

Second, trademarks are the result of human creativity, created by the intention to use. Therefore, trademarks are qualified as private property. Meanwhile, GIs are collective rights, and not capable of ownership by any individual—since GIs are linked to something more than mere human creativity. However, geographical conditions like the climate, humidity, altitude, soil conditions, and other factors independent from human creativity. GIs are more associated with the right to use. Therefore, as private property, trademarks can be licensed, whereas GIs cannot be licensed.

Third, a trademark requires renewal after a certain period (10 years);<sup>45</sup> while GI provides perpetual protection that does not require validity renewal, as long as the specific characteristic and quality of the product is maintained. Although the TRIPs Agreement obliges state members to provide legal means for GI protection, it also opens the room for member states to consider deciding the form of the protection.<sup>46</sup> TRIPs members are allowed to adopt a *sui generis* system, and are free to establish any legal regime following their social and economic

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<sup>44</sup> Spyros M Maniatis, Queen Mary & Westfield College, “The Communicative Aspects of Trade Marks : a Legal, Functional and Economic Analysis.” (1998).

<sup>45</sup> Ranti Fauza Mayana & Tisni Santika, *Hukum Merek : Perkembangan Aktual Pelindungan Merek dalam Konteks Ekonomi Kreatif di Era Disrupsi Digital (Trademark Law : Actual Developments of Brand Protection in the Context of the Creative Economy in the Digital Disruption Era)*, Nurul Falah Atif, ed (Bandung: Refika Aditama, 2021).

a. <sup>46</sup> Michael Blakeney, “Geographical Indication and TRIPs” in Meir Perez Pugatch, ed, *The Intellectual Property Debate : Perspective from Law, Economic and Political Economy* (Cheltenham: Edward Elgar, 2006) at 293.

development interests.<sup>47</sup> Therefore, formulating the *sui generis* system of GI protection is a potential solution.<sup>48</sup>

Another challenge relates to procedural matters. GIs can be problematic and complex when entering the stage of registration and legal protection. According to the provisions of Article 6 paragraph (3) Government Regulation of the Republic of Indonesia No. 51 of 2007 concerning Geographical Indications, the application of GI protections must be accompanied by requirements consisting of:

- a. The name of the goods protected by GI;
- b. A description of the characteristics and qualities, that distinguish certain goods from other goods of the same category, and explain the relationship with the area where the goods are produced;
- c. A description of the geographical environment, as well as natural factors, which form a single entity affecting the quality or characteristics of the goods produced;
- d. A description of regional boundaries and/or maps of areas covered by GI's;
- e. A description of the history and traditions of the GI's use, including the public's acknowledgment of the GI, to mark the goods produced in the area;
- f. A description explaining the production, processing, and manufacturing processes, to enable producers in the area to make or process related goods;
- g. A description of the method used to test the quality of the goods processed;
- h. Labels used on goods as Geographical Indication.

Those requirements can render the process of GI registration costly and time-consuming, requiring the involvement and active participation of a wide range of stakeholders (such as local producers, organizations, research institutions, local government, and even private sectors). This is one obstacle of a relatively small number of GIs, which have been registered at the Indonesian Directorate General of Intellectual Property (DGIP).

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<sup>47</sup> Patricia Lucia Cantuaria Marin, *Patents, Sui Generis Systems and Biopartnerships* (Netherland: Kluwer Law International, 2002).

<sup>48</sup> Fenny Wulandari et al, "Sui Generis System: GI Protection for The Herbal Product in Indonesia as Communal Property Right" (2023) 9:1 Cogent Social Sciences.

On a practical level, the challenges range from the identification of potential GI products, product development, branding, and promotion to monitoring. The identification of GI products begins with inventorying origin-linked products; identifying the links between the product, the place, and the people; and deriving special characteristics from the links.<sup>49</sup> The possibility of developing GI products depends on the presence of the product, the place, and the people as the 3 main prerequisites. Here, the product presents specific characteristics linked to the geographical origin, which gives the product special quality and reputation. These special qualities are the outcome of natural and/or human resources of the local area, that result *in terroir*: the capacity of the territory to confer the specificity and specialty to the product over time. The people herein represent the inherited traditional knowledge of product creation, the know-how on preservation, and the collective dimension and potential for action.<sup>50</sup>

In terms of product development, the challenges include identifying the potential for promoting the product; how to establish the basis of the reputation of the origin-linked product; the best practices in product development; and which actors, internal or external to the production system and territory, can be involved. As the quality of GI products is deeply rooted and linked to specific local resources, a collective approach is required. In most cases, the development and value creation of GI products depends on the will, motivation, and capacity of the local community and the local production system. Culinary products are open for rapid and massive types of development and innovation, while the scope of GI protection is clearly defined in the GI certificate.

In September 2021, the Directorate General of Intellectual Property Ministry of Law and Human Rights Republic of Indonesia launched a guidebook for Indonesian Geographical Indication branding, with the ARISE+ Indonesia Trade Support Facility. This book provides information regarding the use of GI labels and applications on product packaging. It additionally includes other

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<sup>49</sup> Food and Agriculture Organization, *Identification : Awareness and Potentials* (Food and Agricultural Organization, 2012).

<sup>50</sup> *Ibid.*

promotional media in various formats and sizes, as a sign that the product is authentic.<sup>51</sup>

GI products are generally registered, produced, and managed in every region by “*Masyarakat Perlindungan Indikasi Geografis (MPIG)* (Society for the Protection of Geographical Indications [SPGI])”. It is necessary to strengthen the role of MPIG/SPGI as the producer of goods protected by the GI regime. For example, it is formed legally through a local regional head's decision or with a notary's deed. It is also important to support and facilitate activities related to product marketing, distribution, and promotion. Additionally, its support would further the branding of GI products from a legal, economic, and creative perspective to reach broader market access.<sup>52</sup>

In the era of digital disruption, the process of creating market access has been simplified through the support of digital technology. The e-commerce platform provides broader access to the market access in a more effective and faster way, at a relatively low cost. The research from Bartoli et al. reveals the need for learning and increasing digital literacy and competence of stakeholders. It also elucidates the need for the government to support digital transformation, due to changes in the consumer relationship, product experience, and the integration between physical and virtual space.<sup>53</sup> Digital media is also perceived to be an effective tool in increasing local culinary marketing. Through digital media, culinary delights can be recognized and explored by the younger generation: introducing and popularizing the richness of Indonesian cuisines as a soft power of diplomacy, to increase the competitiveness of the Indonesian culinary business.<sup>54</sup>

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<sup>51</sup> Kantor Wilayah Bengkulu Kementerian Hukum dan HAM Republik Indonesia, “Pentingnya Branding Produk Indikasi Geografis Indonesia Untuk Tingkatkan Nilai Ekonomi”, (2021), online: *Kantor Wilayah Bengkulu Kementerian Hukum dan HAM Republik Indonesia* <<https://bengkulu.kemenkumham.go.id/berita-kanwil/berita-utama/pentingnya-branding-produk-indikasi-geografis-indonesia-untuk-tingkatkan-nilai-ekonomi>>.

<sup>52</sup> *Ibid.*

<sup>53</sup> Chiara Bartoli, Enrico Bonetti & Alberto Mattiacci, “Marketing geographical indication products in the digital age: a holistic perspective” (2022) *British Food Journal* at 2857–2876.

<sup>54</sup> Senny Luckyardi & Diva Anindita Apriliani, “Pemasaran Kuliner Indonesia Berbasis Digital Marketing Sebagai Sarana Gastro Diplomasi” (2022) 16:2 *Jurnal Ilmiah Bisnis dan Ekonomi Asia* at 282–291.

It's also important for MPIG/SPGI, along with local governments and/or relevant stakeholders, to establish a set of common rules. These would be to identify the product, define its production and standardized processing practices, and avoid unfair reproduction and commercial practices. These would materialize through the arrangement of the "Code of Practice (CoP)", "Book of Requirements", "Product Specification" or "Disciplinary Document". The model of formalized regulation and self-enforcement is important. Its enforcement is first and foremost based on a system of self-enforcement by producers and through mechanisms such as mutually agreed upon social controls, and rules of practices and standards. Without legal protection of codified rules and a regulatory system for the market, it may be difficult to avoid the misuse of geographical names, especially when the reputation is high.

Protecting GI can provide benefits for producers to develop regional communities and encourage regional economic activities, by contributing to job creation, increasing the income of farmers and producers, contributing to regional market value, and contributing to communal social strength. When the reputation of GI products is owned and known in the market, local stakeholders will benefit in the form of market share.<sup>55</sup>

The integration of GI Protection into Indonesia's gastrodiplomacy strategy requires coordination between stakeholders in a collective dimension, through a series of six collective action stages with an institutional approach.

The first stage is the support for the identification process of local products that have the potential to be registered as GIs. These identification stages cannot separate the GI's place of origin from its local and/or indigenous people: who generally have information about the potential products, the characteristics, the production method, and the linkage between the product characteristics and the geographical factors.<sup>56</sup>

The second stage is the support in GI registration and the protection of GI. This considers that GI adheres to the principle of constitutive protection, where legal

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<sup>55</sup> Nuzulia Kumala Sari et al, "Protection and Characteristics of Geographical Indications in Indonesia" (2023) 2:2 American Journal of Arts and Human Science at 1–4.

<sup>56</sup> I I Isnani, "Identifikasi Dan Pemanfaatan Indikasi Geografis dan Indikasi Asal Melalui Program Pembinaan Pada Masyarakat" (2019) 2:1 Jurnal Pengabdian Hukum Indonesia at 39–45.



protection is granted based on registration. DGIP has assisted in the process of applying for GI registration, by utilizing digital platforms through the establishment of *E-Geographical Indications*. This accommodates the simplification of GI registration to be more measurable and effective.<sup>57</sup> Related to the protection, it is important to standardize and clearly identify the character and quality of the product and establish the production and process standards. Additionally, it is pertinent to classify the GI right holder and beneficiaries among the producers and stakeholders, all to avoid unfair competition and free-riding. The standardization will guide the behavior of local producers and support the coordination and collaboration—to create, protect, preserve, and improve the GI product's reputation and quality.

The third stage is the branding and promotion. Branding and promotion of GI-related culinary products concerns both economic and legal aspects. Branding at this point is concerned with building the image of the product that clarifies product identification. It also establishes production and process standards among GI stakeholders to create, preserve, or improve the GI products' reputation and name value.

The fourth stage is the optimum utilization of IP tools to create, produce, and market GI-based culinary products. This stage requires both horizontal and vertical collaboration. Horizontal coordination enables a shared vision for quality management and definition; as well as economic scale in production, branding, and marketing. Vertical coordination among the value chain actors allows for the distribution of value-added strategy. Various initiatives have been taken, for example through Indonesia's Geographical Indication Show 2022 (IGIS-2022): initiated by the Ministry of Trade, through the Directorate General of National Export Development, Directorate General of Intellectual Property, Ministry of Law and Human Rights of the Republic of Indonesia and ARISE+ Indonesia. IGIS-2022 synergizes with various stakeholders such as business owners, culinary experts, policymakers and general public. This is to further increase their support for community empowerment efforts, increase competitiveness and strengthen

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<sup>57</sup> Direktorat Kerja Sama dan Pemberdayaan KI Direktorat Jenderal Kekayaan Intelektual, *Optimalisasi Fasilitas Indikasi Geografis Kekayaan Intelektual dalam Tatanan Kenormalan Baru* (Jakarta: Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2022).

Indonesia's position through authenticity and premium product community. Ten Geographical Indications of Indonesia are involved in this initiative: Gayo Arabica Coffee, Cinnamon Koerintji, Muntok White Pepper, Java Preanger Tea, Coconut Sugar Kulon Progo, Amed Salt, Minahasa Clove, Pala Siau, East Luwu Pepper, Adan Krayan Rice.<sup>58</sup>

The fifth stage is the development of IP integration in the GI-based product business strategy. This is a strategic matter which involves a threefold consideration. First, GIs are assets that have economic value and can generate economic benefits from their utilization, including as the ingredients in Indonesian traditional food. Second, GIs have functioned as product identity and identification instruments, which show the correlation between products with the region and the community.<sup>59</sup> Third, based on the data from the Directorate General of Intellectual Property (DGIP) database, there are 103 registered GIs (as of May 18, 2023) divided into 89 registered local GIs and 14 registered foreign GIs. Out of a total of 89 registered local GIs, 78 are food and food-related GIs (87.6 %) and only 11 (12.4 %) are non-food and/or non-food related.<sup>60</sup> This domination must be followed by product development; so that the benefits of GI protection are not only a matter of statistics, but can be implemented as a branding and marketing strategy. As a form of legal protection, GI supports the improvement of market efficiency by reducing misleading information. This is accomplished by providing information to consumers, and by preventing unfair competition and free-riding behaviors.

The sixth stage is the building of a control system, and organization for GI-based culinary products, through the institutional approach. The value attached to GIs and GI products can attract imitators, free riders, and usurpers. The organizational approach is important, considering the commonality attached to GI. The control system is essential, because GIs that have been registered can also be deleted. This may happen if the quality, reputation, and characteristics of products and/or goods are not maintained, and violate the laws and regulations

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<sup>58</sup> “Indonesian Database - 10 IGs involved inIGIS 2022”, (2022), online: *Indonesia's Geographical Indication Show* <<https://igis.id/indonesia-database/>>.

<sup>59</sup> Mayana & Santika, *supra* note 23.

<sup>60</sup> Direktorat Kerja Sama dan Pemberdayaan KI Direktorat Jenderal Kekayaan Intelektual, *supra* note 57.

related to geographical indications. The key element of the control system is to offer the expected quality to consumers, thus the quality must be strengthened because the economic impact relies upon the “reputation’s effect” of the GI.<sup>61</sup>

Related to the nation branding aspect, the integration of Geographical Indication into gastrodiplomacy strategy in narrative *per se* will be inadequate and less effective. The advantages of having a GI is that it can add value to the product, allowing the achievement of a competitive differential for the territory compared to the competitors.<sup>62</sup> However, it requires implementing measures, in a multifaceted strategy encompassing various elements. These include economic, political, legal, social, and cultural elements in gastrodiplomacy formulation, and GIs products through national cuisine. GI products here serve as the competitive identity and beneficial component within the gastrodiplomacy framework.

## V. CONCLUSION

Indonesia has a diverse range of local products, with special characteristics and qualities associated with geographical factors. Thus, gastrodiplomacy is a rational option for Indonesia’s strategic focus, as a pillar of its nation branding. Indonesia's gastrodiplomacy efforts have improved, from a government-centered model in the initial stage to a growing number of participants from non-government actors (such as businesses, NGOs, and individuals).

In the legal framework, gastrodiplomacy strongly relates to Geographical Indication (GI). Based on the data from the Republic of Indonesia’s Directorate General of Intellectual Property database information, 87.6% of nationally registered IGs are food and food-related GIs. However, although gastrodiplomacy has been widely utilized in Indonesia to introduce its food culture, the gastrodiplomacy strategy has not properly integrated GI protection. This is due to various normative, procedural, and practical challenges.

The procedural challenges—especially the preparation of GI description documents and GI registration—can be mitigated through infrastructure

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<sup>61</sup> Vandecandelaere et al, *supra* note 10.

<sup>62</sup> Virginia Aparecida Castro, Marina Lourenção & Janaina de Moura Engracia Giraldi, *Geographical Indication As a Strategic Brand Resource in the Wine Sector in Rio Grande Do Sul/Brazil*. (2021).

assistance and support, including digital infrastructure. In promotion and marketing, quality control and the exclusivity of GI products is a key tool for forming and strengthening Indonesia's national branding. These various initiatives can be further exposed through diverse initiatives utilizing digital media—which has advantages in terms of the effectiveness, broader reach, and interoperability of its implementation. These efforts must also be carried out synergistically and sustainably, through a vertical and horizontal collaborative approach.

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## COMPETING INTEREST

The authors declared that they have no competing interests.

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