Utilization of Geographical Indication Protection System for Traditional Handicrafts in Indonesia

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Abstract
Ministerial Decree 12/2019 do not elaborate the rules or indicators in examining handicraft Geographical Indication (GI). To gain further information regarding this issue, we elaborate the GI laws in India and Thailand in this work. These two countries are selected for the comparative analysis because they have registered more handicraft GIs than Indonesia. Hence, this article attempts to analyse the implementation of the GI law and regulations in the traditional handicraft industry in Indonesia. We particularly focus on the natural and human factors that are assessed when stakeholders apply for GI registration for their traditional handicraft products. The article also analyses the books of requirements of five handicrafts with registered GIs in Indonesia.

Keywords: intellectual property rights; geographical indication; trips agreement; traditional handicrafts

Abstrak

Kata kunci: hak kekayaan intelektual, indikasi geografis, perjanjian trips, kerajinan tangan tradisional

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I. INTRODUCTION

Geographical indication (GI) is an intellectual property protection system that was launched by developing countries after the establishment of the TRIPS Agreement. The concept of GI emerged from previous international conventions, such as the Lisbon Agreement, and has long been practiced by a number of developed countries in Europe, such as France. GI is used by most developed countries to protect the use of the geographical names embedded in products, such as wines and spirits and agricultural products. The quality of these products can be identified and linked to natural factors, including soil, climate, and others, that contribute to the uniqueness of these products' taste or characteristics. Another factor is the human factor, which includes the knowledge, technical skills, and methods of production that contribute to the development of the characteristics of the products.

The TRIPS Agreement extended the types of products that can be protected by GI. Apart from wines, spirits, and agricultural products, GI also covers industrial products and crafts. The relevant clause was regarded by many developing countries as an opportunity. Most developing countries, such as India, Indonesia, and Thailand, saw that the GI system could be used to benefit local artisans and handicraft producers. However, the current concept of GI that is adopted in most countries is most suitable for protecting agricultural products. In particular, GI protection requires natural factors to be linked to the characteristics of products. For handicrafts, natural factors could be satisfied by the uniqueness of their raw materials resulting from the specific conditions of the environment (nature). However, with regard to handicraft production, raw materials as main contributors to the unique characteristics of products could be relatively low. Hence, human factors should be the main factors that should be assessed by authorities as a requirement for GI protection. As an academic mentioned: “The insufficiency of physical elements that connect non-agricultural goods to land is related to agricultural and non-agricultural commodities. On the other hand, natural factors other than land, the origin of crude components, or natural substances such as water can affect goods value, geographical relations to non-agricultural products or handicrafts based on human influence are producer’s knowledge, challenges, and practices.”

2 GI may indicate a country, region, locality, city, or even an address from which a product or service emanates. Like trademark, a GI is assign whose function is to provide information and protect its owner. GIs indicate the precise geographical origin, and denote a quality or reputation that results from that place of origin of a product. The definition of what exactly constitutes a GI is not uniform. Anselm Kamperman Sanders. “Future Solutions for Protecting Geographical Indication Worldwide”, p.133, in Christopher Heath and Anselm Kamperman Sanders (eds). New Frontiers of Intellectual Property Law: IP and Cultural Heritage, Geographical Indications, Enforcement and Overprotection. (Hart Publishing, Oregon 2005).

3 “Traditionally, the use of GIs is linked to agricultural products due to specific geographical climatic and geological condition. However, GIs may also highlight the specific qualities of a product due to human factors that can only be found in the place of origin of the products such as specific manufacturing skills and traditions. Therefore, inclusion of handicraft and industrial products within the scope of protection of geographical names is also justified and can be found in the legislation of a number of countries.” Dev Gangjee. Relocating the Law of Geographical Indications. (Cambridge University Press, Cambridge 2012), p. 216.

4 “for countries such as India, crafts and textiles are important and constitute around 62 percent of applications at the times of writings”, Dev Gangjee. (n 2) p. 217.

5 The TRIPS Agreement does not, however provide any guidelines for evaluating the existence of a link between the product and its geographical origin. The TRIPS GI definition uses the terminology of geographical origin ‘per se geographical origin’ is open to many interpretations since it does require the mandatory combination of human and natural factors. Delphine Marie-Vivien. “ A comparative analysis of GIs for handicrafts: the link to origin in culture as well as Nature”, in Dev Gangjee. Research Handbook on Intellectual Property and Geographical Indications, (Edward Elgar Publishing, Massachusetts 2016). P. 302

6 Delphine Marie-Vivien. (n 4). P. 295
In Indonesia, the GI law and regulations were first stipulated in the Indonesia Trademark Law 1997 and then revised twice until the government of Indonesia enacted the Law of Trademark and Geographical Indication 2016. Under this law, the Indonesian government adopts a sui generis system of GI registration that mandates communities and stakeholders to register their GIs under certain procedures. One of the crucial articles under the law obliges GI examiners to conduct examinations on the relevance of the “natural and human factors” of the GI application. Hence, the law and regulations under this scheme (e.g., ministerial decree 12/2019) do not elaborate the rules or indicators in examining handicraft GIs. To gain further information regarding this issue, we elaborate the GI laws in India and Thailand in this work. These two countries are selected for the comparative analysis because they have registered more handicraft GIs than Indonesia.

This work attempts to analyze the implementation of the GI law and regulations in the traditional handicraft industry in Indonesia. We particularly focus on the natural and human factors that are assessed when stakeholders apply for GI registration for their traditional handicraft products. This work also analyzes the books of requirements of five handicrafts with registered GIs in Indonesia. Indonesia’s GI regulations and policies, especially with regard to handicrafts, are compared with those of India and Thailand. The article comprises four chapters. Chapter 1 introduces the topic of this work. Chapter 2 explores the protection of traditional handicrafts through GI systems. Chapter 3 details the GI law and regulations in Indonesia and the traditional handicrafts protected by GI. Chapter 4 analyzes the issue of GI registration for traditional handicrafts in Indonesia, especially the issue of the assessment of natural and human factors. The chapter also covers the comparative analysis of the GI systems implemented in Indonesia, India, and Thailand to protect traditional handicrafts. Chapter 5 summarizes our conclusions and recommendations.

II. PROTECTION OF TRADITIONAL HANDICRAFTS THROUGH GI SYSTEM

A. GI Systems and Their Benefits

GIs are the marks used on goods of specific geographical origins, and they reflect the quality or characterize the places of origin in question. These products are usually the result of traditional processes and knowledge, which are passed down in communities for generations.

GIs have three basic functions that provide information about product names, geographical value, excellence, or characteristics related to geographical areas.7

The fundamental element of GIs is that every producer in the area covered by a specific GI can use the GI of the products originating from their area while generally adhering to certain qualities and other requirements.8

The GIs of products in the market become the assets of the producers and may be used with good intention. The absence of such preservations hinders producers from benefitting from managing the quality or attributes associated with their products. They will have almost no incentive in planning to obtain their goal. Possible marketing niches, brands, and values based on GIs have made much progress.9

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9 Ibid.
Economic research shows that GI protection can be implemented to support community policies for the development of competent and competitive production techniques in the world market\(^\text{10}\). In the economic research of GI protection in the tequila market, Hardwick and Kretschner concluded that GI protection may constitute a “virtual” state or regional monopoly for certain recruits, provides different levels of market assistance to those that support superior GIs in one part of the market, and “adds lower” at a lower price in another; they also found that GI protection could encourage the establishment of a competitive market involving many brands, each of which acknowledges the GI agreement and protection and competes to gain a place in the world market.

GIs may not only indicate a product’s origin but also highlight the “quality, reputation, or other characteristics” of commodities. Products’ “quality, reputation, or other characteristics” are included in the GI protection of the relationship between products and the main quality associated with these products. These factors are referred to as *terroir* in French. In its *Guide to Geographical Indications*, the Food and Agricultural Organization defines *terroir* as “a limited geographical space which is composed of human communities and has built up over the history of cumulative knowledge or production understanding secretly based on the system of interaction between the physical and biological environment, and a set of human factors, where social-technical trajectories play, express originality, give characteristics and can lead to reputation, for products derived from the *terroir*.”\(^\text{11}\).

**B. Handicrafts, Traditional Handicrafts, and the Utilization of the GI System in Protecting Traditional Handicrafts**

1. **Definition of Handicrafts and Traditional Handicrafts**

Handicrafts are sometimes referred to as artisanal products, craft products, traditional creative crafts, or works of artistic or traditional craftsmanship\(^\text{12}\). No consensus has been reached with regard to the definitive explanation of handicrafts, but they are generally known to have the following characteristics:\(^\text{13}\)

a) products made by artisans by using hand tools or machines, with the direct manual contribution of the artisans remaining the most important component in their production;

b) expressions or representations of artisans’ culture;

c) various goods made from raw materials;

d) products that are utilitarian, aesthetic, artistic, creative, bound by culture, decorative, functional, traditional, or symbolic and religiously and socially significant;

e) products without specific restrictions with regard to production quantity and those without two identical parts.

According to the UNESCO/CCI Symposium “Crafts and International Markets: Codification of Trade and Customs” (Manila, 1997), “handicrafts are the ones produced by artisans, either completely handmade or with the help of manual or

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\(^{10}\) Anselm Kamperman Sanders. (n1) p.141.


\(^{12}\) WIPO Publication No. 5-2016.Intellectual Property and Traditional Handicraft

\(^{13}\) Ibid.
mechanical tools, as long as the direct manual contribution of the artisan remains the most substantial component of the finished product. Handicrafts are made without restriction in terms of quantity and using raw materials from sustainable resources. The special nature of artisanal products derives from their distinctive features, which can be utilitarian, aesthetic, artistic, creative, culturally significant, decorative, functional, traditional, religiously and socially symbolic and significant.\[^{14}\]

Traditional crafts are also products that have been passed down from one generation to another and are tied to indigenous peoples or local communities. We can conclude that traditional handicrafts/crafts are products made by artisans in local and traditional communities made by using their hands (fully or partially) and/or using traditional apparatus and tools. These products are utilitarian, artistic, aesthetic, and indicative of the creativity of the community that possesses the skills and knowledge needed to make such products. Moreover, they are passed down from one generation to the next within artisans’ communities and thus serve as cultural and traditional references for these communities.

2. Protecting Traditional Handicrafts Through the GI System

The special and traditional techniques, skills, and knowledge used to produce handicrafts can usually be traced back to ancient times, and they are typically passed down from one generation to another. Traditional cultural expressions (TCEs), as an intangible handicraft in their design, presence, and form, can also be classified as traditional knowledge (TK) in the form of skills and knowledge in production.

TK and TCEs are classified as handicrafts, which are important cultural, social, and historical assets of the people who control, implement, and build them; they are also considered an economic resource that can be utilized, exchanged, or licensed to generate income and promote economic development. However, traditional techniques and designs, reputations, and styles related to handicrafts are also susceptible to imitation and misappropriation. Many cheap imitations tarnish the sale of traditional crafts and the reputation of the quality of original products.

Crafts made from natural resources and whose qualities are derived from their geographical origin can be registered under GIs. For instance, the designation of Olinalá as a product’s origin means that the product in question is made by the Olinalá people from Mexico. It also reflects this group’s special techniques and skills, particularly in using wood from aloe vera trees, which are native to their area.

GIs indirectly protect crafts that are produced using people’s unique know-how and skills. Meanwhile, knowledge often remains in the public domain under conventional IP systems\[^{15}\] and is open to misappropriation by third parties. GIs can contribute to indirect preservations in several ways. They can protect handicrafts from unreliable and deceptive trading practices, guard the notoriety or good intentions that have accumulated over time, and help maintain niche markets. Moreover, they can prevent others from using the protected GIs of goods that do not originate from specified areas or do not have the required values or features.


\[^{15}\]From an IP perspective, handicrafts can have three distinct components: 1) reputation - derived from their style, origin or quality; 2) external appearance - their shape and design; and 3) know-how - the skills and knowledge used to create and make them. Each component can potentially be protected by a distinct form of IP. Know-how, for example, could be protected by patents or as a trade secret, external appearance could be protected by copyright or industrial designs, while reputation could be protected by trademarks, collective or certification marks, geographical indications or unfair competition law.
GIs are regarded as “especially suitable for use by indigenous and local communities” because of several reasons.

1) One feature of the regimes used to protect GIs is that they reward traditional and cultural values and knowledge rather than promoting innovation per se, as in the case with most of the other forms of IP.

2) Another reason for the growing interest in GIs as a means of protecting TK is that they symbolize quality and guarantee authenticity (and all the problems that accompany them).

3) GIs are thought to be particularly well suited to indigenous knowledge because they have no limitations with regard to the period of protection. The fact that the legal rights remain in force as long as collective tradition is maintained has obvious benefits for TK.

4) Another argument in favor of using GIs to protect TK is that unlike most other IP rights, GIs of origin are not freely transferable. The rights remain connected to the group of collectives that initiated the rights in the first place. Hence, GIs help guarantee such TK. Practices and rituals remain with and under the control of the community.

5) GIs are thought to be particularly well suited to protecting TK because they are able to accommodate group rights. GIs tend to prioritize collective interest over the interest of the individual.

GIs may also highlight the specific qualities of a product that are attributable to human factors found in the product’s place of origin, such as specific manufacturing skills and traditional techniques. Such is the case for handicrafts, which are generally handmade using local natural resources and are usually embedded in the traditions of local communities.

GIs can protect TK and TCEs against misleading and deceptive trading practices. They can also benefit indigenous communities by facilitating the commercial exploitation of TK and TCEs and encouraging TK-based economic development. GIs provide indigenous communities with a means to differentiate their products and benefit from their commercialization, thereby improving their economic position.

III. INDONESIA’S GI LAW AND REGULATIONS AND THE TRADITIONAL HANDICRAFTS PROTECTED BY GIS IN INDONESIA

A. Indonesia’s GI Law, Regulations, and Procedures

GIs as a form of IP rights represent a relatively new concept in the Indonesian legal system. Unlike other traditional forms of IP rights, particularly trademark and copyright laws that were introduced to the Indonesian legal system during the pre-independence era, the legal protection of GIs was adopted in the Indonesian national law after the ratification of the Agreement Establishing the World Trade Organization.


18 Ibid. p. 19

19 Indonesia, Undang-Undang tentang Persetujuan Pembentukan Organisasi Perdagangan Dunia (Law regarding the Agreement on the Establishment of the World Trade Organization), UU No. 7 Tahun 1994, LN.
To fulfill its obligations under the TRIPS Agreement, the Indonesian government amended several existing IP laws established from 1997 onwards. The provisions for the protection of GIs were first inserted in the Trademark Law Number 14 Year 1997 as an amendment of the previously applicable Trademark Law Number 19 Year 1992 (State Gazette of the Republic of Indonesia Year 1997 Number 31, Supplement to the State Gazette of the Republic of Indonesia Number 3681). The same GI provisions were carried forward to the subsequent amendment of the 1997 Trademark Law, that is, Trademark Law Number 15 Year 2001 (State Gazette Year 2001 Number 110, Supplement to State Gazette Number 4131) (hereinafter referred to as Law No. 15/2001). The 2001 Trademark Law, similar to its predecessors, adopts the constitutive approach requiring GI registration and mandates the issuance of a government regulation for registration procedures and mechanisms.

Seven years later, on September 4, 2007, Government Regulation Number 51 concerning GIs (hereinafter referred to as GR 51/2007) was issued after a lengthy drafting process that began in 2003. Parallel to the issuance of GR 51/2007, Arabica coffee Kintamani Bali became the first recipient of a GI certificate issued in Indonesia.

Most of the substantive provisions of GR 51/2007 were adopted in the law concerning trademarks and GIs issued on November 25, 2016 (hereinafter referred to as Law No. 20/2016) as an amendment of Law No.15/2001. The detailed provisions of GR 51/2007 concerning two important aspects, namely, GI registration procedure and substantive review, are described below; such provisions remain applicable pending the issuance of a ministerial regulation mandated in the new Law No. 20/2016.

The definition of GI in Law No. 20/2016 is as follows:

**Geographical indication shall be a sign that indicates the region of origin of a good and/or product based on geographical environment factors, including natural and human factors or a combination of the two factors, and attributes specific reputation, quality, and characteristics to the good and/or product produced.**

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57 Tahun 1994 (Law Number 7 Year 1994, SG No. 57 Year 1994).
20 Indonesia, Undang-Undang tentang Merek (Law regarding Trademark), UU No. 15 Tahun 2001, LN. 110 Tahun 2001 (Law Number 15 Year 2001, SG No. 110 Year 2001).
21 Ibid., art. 56 par (2).
22 Ibid., art. 56 par (9).
23 Indonesia, Peraturan Pemerintah tentang Indikasi Geografis (Government Regulation regarding Geographical Indication), PP No. 51 Tahun 2007, LN. 115 Tahun 2007 (Government Regulation Number 51 Year 2007, SG No. 115 Year 2007).
24 GI Certificate No. IDIB 000000001 for KOPI ARABIKA KINTAMANI BALI (KINTAMANI BALI ARABICA COFFEE) was issued to MPIG KOPI KINTAMANI BALI (Community for the Protection of Kintamani Bali Coffee IG) on December 5, 2008.
25 Indonesia, Undang-Undang tentang Merek dan Indikasi Geografis (Law regarding Trademark and Geographical Indication), UU No. 20 Tahun 2016, LN. 252 Tahun 2016 (Law Number 16 Year 2016, SG No. 252 Year 2016).
27 Indonesia, Undang-Undang tentang Merek dan Indikasi Geografis (Law regarding Trademark and Geographical Indication), UU No. 20 Tahun 2016, LN. 252 Tahun 2016 (Law Number 16 Year 2016, SG No. 252 Year 2016), art. 1 no. 6.
GI protection under Law No. 20/2016 is based on registration. As stated in Article 53 paragraph (1), a GI “shall be protected after it is registered by the Ministry of Law and Human Rights, Directorate General of Intellectual Property (DGIP)”\(^{28}\) based on an application filed to the DGIP\(^{29}\). Applications can be submitted by the following parties:\(^{30}\)

a. Institutions representing a community in a certain geographical area that produces certain goods and/or products in the form of the following:
   1. natural resources;
   2. **handicraft good**; or
   3. industrial products.

b. Provincial or regency/municipality regional government units.

The examination of GI applications by the DGIP is processed in two stages, namely, administrative examination and substantive examination. The details of such procedures are detailed in GR 51/2007, which remains applicable pending the issuance of a ministerial regulation mandated in the new Law No. 20/2016.

The procedures of GI application are as follows:

1) The application shall contain the following administrative requirements:
   a. day, month, year;
   b. complete name, nationality, and address of applicant;
   c. complete name and address of proxy if the application is filed through a proxy;
   d. a special power of attorney if the application is filed through a proxy;
   e. receipt of payment of fee; and
   f. submission of Book of Requirements.

2) The Book of Requirements shall consist of the following:
   a. name of the GI being filed for registration;
   b. name of good covered by the GI;
   c. **description of the specific characteristics and quality differentiating the particular good from other goods of the same category and explaining the relation with the place of origin where the good is produced**;
   d. **description of the geographical environment and the natural and human factors that jointly affect the quality or characteristics of the good produced**;
   e. description of the boundaries of the region and/or map of the area that is covered by the GI, as recommended by the relevant authority;
   f. description of the history and tradition in relation to the use of the GI to designate the good in that area, including a description of the recognition by the relevant community;
   g. description of the production process that is used to allow any producer within the region to produce the relevant good;

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\(^{28}\) Chapter VIII, Geographical Indication, *Ibid.*, art. 53 par (1). In accordance with Article 1, Item 20 of Law No.20/2016 concerning definitions, “Minister” is defined as the Minister in charge of the area of law, which is currently the Minister of Law and Human Rights of the Republic of Indonesia.

\(^{29}\) *Ibid.*, art. 53 par (2).

\(^{30}\) *Ibid.*, art. 53 par (3).
h. description of the method used to examine the quality of the good produced; and
i. the label used on the good that contains the GI.

Flow Chart of Geographical Indication Application Procedure
(Source: www.dgip.go.id)

APPLICATION

ADMINISTRATIVE EXAMINATION (30 DAYS)

PREPARING

PUBLICATION (2 MONTHS)

APPLICATION

EXAMINATION NOTICE

DISMISSAL

COUNTER APPEAL

DISMISSAL

COUNTER APPEAL

DISMISSAL

COURT

DISMISSAL

CERTIFICATE

NOT APPEAL

OBJECTION

APPLICANT GIVE REFUTAL

OBJECTION ACCEPTED BY APPLICANT

WITHDRAWN

DISMISSAL

NOT APPEAL

NOT APPEAL

NOT APPEAL

PERMANENT REJECTION

REGISTER

DISMISSAL

NOT APPEAL

NOT APPEAL

NOT APPEAL

REJECTION
The latest regulations governing the terms and procedures for registering GIs fall within the Ministerial Law and Human Rights Rules No. 12/2019, which explains that the registration must go through several stages, as described below.

1) The application requirements include the following:
   a. Filled out form in Indonesian language and payment of the necessary fee;
   b. The application form and description document of GIs in the format stipulated in Attachment I of Ministerial Regulation Law No. 20/2016;
   c. The format of the application form for the registration of GIs and the systematic writing of the Document Description are set out in Attachment I of the Ministerial Regulation.

2) The application is submitted electronically or non-electronically. Electronic submissions are made in the official website of the DGIP following the prescribed format. Non-electronic submissions are made by filling out the application form and producing two copies.

3) The inspection stage is carried out for a maximum period of 30 days from the date of the submission of the application. After being declared complete, the application is given a date of acceptance. The Minister then announces the application in the Official Gazette of Geographical Indications within 15 days from the filing date.

4) The substantive examination is described as follows:
   a. Two duplicates of the filled out application form in Indonesian are submitted within a maximum period of 10 days from the end of the announcement;
   b. Requirements are submitted no later than 60 days from the date of the submission of the notification of substantive examination by the Minister;
   c. The substantive examination is carried out by the Geographical Indication Experts Team within a maximum period of 150 days from the date of the application.

B. Economic Potential of Indonesian Handicrafts

Handicrafts belong in the top 10 primary export commodities of Indonesia. Indonesian handicrafts are primarily exported to the United States, Japan, Hong Kong, Great Britain, Germany, the Netherlands, South Korea, Australia, France, and Singapore31. The other potential markets of Indonesia handicrafts are Vietnam, Hongkong, Mexico, Nigeria, and Saudi Arabia32. In 2010, the handicraft sector earned 614 million USD; this value increased to 659 million USD in 2011 and then reached 696 million USD in 201233. In 2015, the total export value of Indonesian crafts was 406 million USD34. In 2016, the export value of Indonesian crafts reached 615.7 million USD35. In 2016, the total export value of batik and handwoven crafts reached 151.7

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32 Produk Kerajinan Indonesia di Mancanegara http://asephi.com/enproduk-kerajinan-indonesia-dimancanegara/
33 Produk Kerajinan Indonesia di Mancanegara http://asephi.com/enproduk-kerajinan-indonesia-dimancanegara/
Comprising 17,000 islands, Indonesia has rich natural resources and is home to various ethnicities. The country’s geographical location and biodiversity have resulted in many traditional heritages, such as the “knowledge” for crafts. Thus, each region has a special expertise that is different from those of other ethnicities. The crafts consumed in association with “cultural consumption capital” are the exoticism of handicraft products reflecting “cultural representation.” Throughout the era of globalization, access to information about global goods has expanded, and the demand for “world” products in the world market has consequently increased. The growth of the domestic market has been particularly obvious in the middle class, which makes up 250 million of the Indonesian population. Traditional crafts have become an icon of tourism in the form of souvenirs and gifts. Although GI products still need time to reach a niche at the domestic level, their entry to a broad market is expected to increase these products’ competitiveness and bring many benefits to their craftsmen. For example, Sikka ikat is known as a special craft from East Nusa Tenggara, and the target market includes consumers of fabric and tourists.

C. Traditional Handicrafts Protected by GIs in Indonesia

Starting from 2007 when the Indonesian government released the GI regulations toward the end of December 2017, the country’s IP office granted a total of 63 GI applications. From the 63 registered GIs, 6 are traditional handicrafts. These handicrafts are Jepara wood carving furniture (registered on April 28, 2010), Lamphun brocade Thai silk (registered on February 22, 2016), Tenun gringsing Bali (registered on July 18, 2016), Mandar silk woven textile (registered on September 9, 2016), Sikka ikat woven textile (registered on March 8, 2017), and Tanimbar ikat woven textile (registered on July 3, 2017).

The Indonesian traditional handicrafts registered/protected by the Indonesia GI system are described below. Their characteristics are elaborated on the basis of the books of requirements filed by the stakeholders.

1. Jepara Wood Carving Furniture

Jepara is a town in the province of Central Java, Indonesia. Jepara is known for its Javanese teak woodcarving art. It is also popular for its furniture industry, notably teak furniture. The industry employs approximately 80,000 people working mainly in small workshops. Jepara wood carving furniture maintains an international reputation. The export value of Jepara wood carving furniture increases annually. In particular, its export value reached 12.997.554.49 USD in 1991, 23.593.625.45 USD in 1992, 48.627.888.36 USD in 1993, 54.355.023 USD in 1994, and 59.275.500.00 USD in 1995. In 2006, the total volume of Jepara carving furniture exported to 68 countries reached 55.765.736,12 kg, which amounted to 111.842.200,42 USD. Jepara wood carving furniture is one of the most prominent Indonesian handicrafts.

The quality of Jepara furniture is the result of the craftsmanship of its carpenters and carvers. The skills and techniques of the carvers of Jepara furniture are popular because they are reflected clearly in the subtle and delicate carved products made in

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Jepara. These skills and techniques were handed down from previous generations. According to historians, the skills of Jepara wood carvers were handed down from the 7th century and then flourished in the 16th–19th century.

Teak wood is mainly used as the raw material of most Jepara wood carving furniture. Customers are also interested in other materials, such as sandal wood, mahogany, and ebony. Teak wood is dried until its humidity reaches a maximum of 14% wetness. Teak wood is sourced mainly from Jepara, but it is also available in other regions. Teak wood from Jepara has no specific natural characteristics.

Around 30%–80% of the surface of Jepara furniture is typically carved. The design, motifs, and patterns of Jepara carved wood are unique relative to those of carved furniture from other regions.

![Figure 1. Jepara Wood Carving - “Gebyok”/Room Separator](image)

**Figure 1. Jepara Wood Carving - “Gebyok”/Room Separator**

2. Tenun Gringsing Bali

Tenun gringsing Bali or gringsing ikat woven textile is produced by the community of weavers living in Tenganan village, which is located east of Bali. The ikat woven textile is characterized as follows: 1) the raw material is natural cotton yarn spun by hand; 2) it has three main colors, namely, broken white, black/blue-black, and red; 3) the color pastes are derived from local natural sources, including *minyak kemir* (oil from *Aleurites mollucanus*) for the broken white color paste, *tarum* leaves (*Indigofera*) for the blue-black color, and the root bark of mengkudu tree (*Morinda citrifolia*) mixed with *kepundung* (*Baccaurea racemosa*) bark for the red color; 4) ikat weaving involves the use of the double ikat weaving technique, in which the warp and weft threads are tied and dyed before the pattern is woven on a continuous warp on

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a backstrap loom; 5) the dyed cotton yarn is dried in storage for two to three years; 5) one sheet of gringsing ikat utilizes at least one of the 27 motifs. The 27 motifs identified by Tenganan people comprise 17 traditional motifs or ancient motifs and 10 new motifs.

The three colors of Tenun gringsing represent the tri-datu concept, which indicates the worship of three Hindu gods, namely, Brahma, Vishnu, and Shiva. It also means that in life, the three important things that support human life and should thus be managed carefully to reach harmony are 1) fire, represented by the red color; 2) air, represented by the white color; and 3) water, represented by the black color.

The skills and knowledge involved in weaving gringsing ikat were also handed down from Tenganan ancestors. Some historians say that the techniques spread in the Indonesian archipelago in around 500 BC, especially for the Tenganan and Bali people, following the spread of Hinduism. The double ikat weaving technique might have been influenced by the Indian double ikat called patola. The dyeing of the threads before weaving was never done in Tenganan as dyeing two different threads in different colors in the same place is believed to be dangerous. Hence, dyeing is done by men in the village of Bugbug, and the weaving is done by women in Tenganan.

Many of the designs woven into the gringsing are floral or geometric and appear to have been inspired by the patola. They include, for example, the motif called gringsing cemplong, which comprises a reddish and white geometric design and gringsing cicempaka (champaka flower).

The gringsing ikat woven textile is considered as a sacred textile by the people of Bali. This ikat is used mainly for rituals, sacred ceremonies, and sacred dances. It also most often used in ceremonies celebrating rites of passage. These ceremonial periods are generally regarded as periods of spiritual danger due to the luminal nature of the individuals. Hence, the cloths are used to protect the participants from attacks by malevolent forces.

Figure 2. Tenun Gringsing Bali - Petang Dasa Motifs
3. Sikka Ikat

Sikka ikat is woven ikat produced by weavers in the regency of Sikka, Flores Island. The dominant form of this weave is continuous warp ikat, most of which is reserved for ceremonial use and gift exchange. Red-brown or blue-black backgrounds have light hues for the patterns. Others consist of two identical bands at the top and bottom of the cloth and show basic motifs, as well as a central pattern of narrow ikat bands of smaller motifs.

Clan patterns (motifs) are woven into the cloth. When a woman joins her husband’s clan, she is expected to wear a sarong with the clan’s motifs. Once she becomes pregnant, her mother-in-law teaches her the weave showing the appropriate pattern of her husband’s clan. Nonetheless, she could continue weaving her natal clan’s motifs into the narrower, subordinate bands of the ikat separating two wider fields.

Sikka came under the influence of the Portuguese in the 16th century. The influence was particularly prominent in Maumere, where large numbers of people converted to Roman Catholicism. As a result of this contact and the later contact with the Dutch, many Western-inspired motifs, such as flowers, bouquets, deer, lions, and even winged cherubs, came into use. Older pre-Christian and patola motifs may be seen, often side by side with new ones. Weavers do not distinguish between traditional and modern motifs.

The GI book of requirements for Sikka ikat describes the characteristics and motifs of Sikka ikat. It identifies more than 45 motifs. Each motif has its own meaning and symbolizes the beliefs of the Sikka people and social values, such as prosperity, discipline, compassion, beauty, harmony, success, fertility, and welfare. The raw materials of Sikka ikat specified in the book of requirements include local cotton yarn, hand spun yarn such as gringsing ikat, and even fabricated yarn. Sikka ikat can also be produced using chemical dyes/color pastes other than the natural color pastes used traditionally. The Sikka ikat is used by the Sikka community for traditional ceremonies or as gifts from brides to their grooms’ families. It is also utilized as daily clothing.

Figure 3. Sikka Ikat - Rembing Motifs

3. Tanimbar Ikat

In Tanimbar, an island in the southern part of Maluku, warp ikat and supplementary weave are also practiced. Tanimbar was formerly the center of weaving in the south, where cotton and lontar fibers were traditionally used. The weavers of Tanimbar produced cloth for trade with Makassar and banda, and then in the 17th century, they traded their cloths for cotton thread with the Dutch.

Tanimbar weavers use a backstrap loom to make sarongs with wide warp ikat stripes bordered by narrower ones interspersed with plain stripes. A common ikat pattern is the snakeskin, which is said to represent the ancestors. Tanimbar men prefer to wear plain sarongs embellished with shells, whereas the women favor warp ikat stripes with lozenge and hook designs.

The book of requirements of Tanimbar ikat describe the unique motifs used by Tanimbar weavers. It identifies not less than 22 traditional motifs. Similar to Sikka ikat, each motif of Tanimbar ikat carries its own meaning and sociocultural symbol. Most Tanimbar ikat is used as a ceremonial attire and cloth. The human factor, especially the process of making Tanimbar ikat that is distinct from that used for other ikat textiles in Indonesia, was not described and defined in the book of requirements. Moreover, the use of local raw materials is not required in the production of Tanimbar ikat, but most Tanimbar weavers use hand spun cotton yarn and natural dyes/color pastes derived from Morinda citrifolia, Indigofera, and turmeric.

Figure 4. Tanimbar Ikat - Sair Motifs

4. Mandar Silk Woven Textile

The Mandar people reside in the west Celebes island at the center of the Polewali-Mandar regency. The most famous traditional craft of the Mandar people is the silk
woven sarong. This sarong is used by the Mandar people in traditional ceremonies. Mandar silk woven sarong has motifs that represent the social status of its users. Its book of requirements identifies 11 traditional motifs. Mandar silk woven textile is characterized as follows: 1) local silk yarn or a mix of at least 25% local silk yarn and synthetic yarn/other fabric is used; 2) natural dyes/color pastes are typically used, but chemical dyes are also acceptable; 3) the product is subtle, soft, and delicate, that is, the silk sheet does not become rumpled when folded; 4) it is woven with a traditional loom called *panetteang*. The density of Mandar silk woven textile is also regarded as superior to those of other silk woven textiles in Indonesia.

![Mandar Silk Woven Sarong](image)

**Figure 5. Mandar Silk Woven Sarong**

IV. ANALYSIS OF GI-REGISTERED TRADITIONAL HANDICRAFTS: THE ISSUE OF ASSESSMENT OF NATURAL AND HUMAN FACTORS

A. Issue of Indonesia’s GI System for Protecting Traditional Handicrafts

Starting from 2007 when the Indonesian government released the GI regulations toward the end of December 2017, the country’s IP office granted a total of 63 GI applications. Most of the registered GIs (50 out of the 63 GI registrations) are agricultural products. The others are wines and spirits (3 registrations), industrial products (4 registrations), and handicrafts (6 registrations).

The number of handicraft registrations in Indonesia is relatively low. From the 63 registered GIs, only 6 cover handicraft products. These handicrafts are Jepara wood carving furniture (registered on April 28, 2010), Lamphun brocade Thai silk (registered on February 22, 2016), Tenun gringsing Bali (registered on July 18, 2016), Mandar silk woven textile (registered on September 9, 2016), Sikka ikat woven textile
(registered on March 8, 2017), and Tanimbar ikat woven textile (registered on July 3, 2017). This low number of GI registrations for traditional handicrafts is ironic because Indonesia is known for its rich culture and diversity. Take traditional textiles and weaving as an example; Indonesia has at least 39 regions producing unique ikat and woven textiles with national and international reputation.

According to experts, this low number of GI registrations for handicrafts is due to the lack of understanding of producers. Moreover, local governments see the GI protection system as mainly suitable for agricultural products. Interviewed officers of the DGIP subdirectorate handling GI applications said that the number of GI registrations for handicrafts is low not because of the rejection of many GI applications for handicrafts but because only six applications were filed in 2007.

This observation indicates that handicraft producers and local governments in Indonesia still lack a comprehensive understanding of the GI protection system. Most of them regard the GI protection system as more suitable for agricultural products than for non-agricultural products such as handicrafts.

We argue that even with an increase in the number of GI applications for handicraft products in the near future, applicants will still be burdened in fulfilling the GI requirements before being granted GI registrations. Article 6.3d of GR51/2007 mentions that: “the GI application shall be furnished with a Book of requirements consisting of...description of the geographical environment and the natural and human factors which as a unity give effect on the quality or characteristics of the good produced.”

As mandated by this clause, the assessment of GI applications should jointly fulfill or consider the natural and human factors that affect the quality of the characteristics of the goods produced. In the case of agricultural products, the fulfillment of natural factors can be easily demonstrated or analyzed. In the case of handicraft products, satisfying the “natural factor” is relatively difficult. The natural factor criteria of handicraft products, as argued by academics, could sometimes be satisfied by the raw materials used to produce handicraft products; for instance, are the raw materials in the handicraft GI application distinct and unique to its region of origin?

However, not all handicraft products with GI potential use raw materials that are distinct or unique to their regions of origin. Most handicraft producers should decide to use other materials outsourced from other regions when the supply of raw materials in their region is limited. As long as the selected raw materials are processed and used to produce the handicrafts under the controlled process of producers (artisans) or by using specific skills and knowledge, the products can still satisfy the requirements for GI protection.

Table 1 shows the comparison of the characteristics of traditional handicraft GIs in Indonesia according to the books of requirements.

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42 Cita Tenun Indonesia, *Tenun: Handwoven Textiles of Indonesia* (Jakarta: Cita Tenun Indonesia, 2010).
43 Interview with Mrs. Stephanie, Head of Sub Directorate of Geographical Indication Application, Directorate General of Intellectual Property Ministry of Law and Human Rights of Republic of Indonesia, April 10, 2018.
Table 1. Comparison of GI-Registered Traditional Handicrafts in Indonesia

<table>
<thead>
<tr>
<th>Factors</th>
<th>Tenun Gringsing (Handwoven Ikat)</th>
<th>Jepara Wood Carving Furniture</th>
<th>Sikka Ikat (Handwoven Ikat)</th>
<th>Mandar Silk Woven Sarong</th>
<th>Tanimbar Ikat (Handwoven Ikat)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Raw Material</strong></td>
<td>Local cotton yarn Natural dye</td>
<td>Teak wood (primary) Sandalwood Mahogany Ebony Others</td>
<td>Local cotton yarn Fabricated yarn Natural dye Chemical dye</td>
<td>Local silkworm fed with local mulberry leaves</td>
<td>Local cotton yarn Fabricated yarn Natural dye Chemical dye</td>
</tr>
<tr>
<td><strong>Process</strong></td>
<td>Hand weaving Dyeing process (minimum of 4 years) Double Ikat techniques</td>
<td>Carving technique</td>
<td>Hand weaving process and techniques</td>
<td>Silk weaving techniques and process</td>
<td>Hand weaving process and techniques</td>
</tr>
<tr>
<td><strong>Pattern/Motifs</strong>*</td>
<td>Traditional (ancient) motifs 17 motifs 10 new motifs</td>
<td>Unique leaf pattern relative to those in other regions</td>
<td>Traditional pattern 45 traditional motifs</td>
<td>Traditional pattern 11 traditional motifs</td>
<td>Traditional pattern 22 traditional motifs</td>
</tr>
<tr>
<td><strong>Color</strong>*</td>
<td>Broken white, Black/dark blue Red (dominant color)</td>
<td>Teak wood (brown or by order)</td>
<td>Black, blue, red-brown (dark brown)</td>
<td>Varied</td>
<td>Varied</td>
</tr>
<tr>
<td><strong>Product Categories</strong>*</td>
<td>Sarong Shawl</td>
<td>Furniture: Cupboard Desk Table Chair Bed Couch Room separator Decoration</td>
<td>Sarong Shawl Head band</td>
<td>Sarong</td>
<td>Sarong</td>
</tr>
<tr>
<td><strong>Others</strong>*</td>
<td>Usage: Religious/rituals/ceremonies, sacred dances, healing, daily clothing</td>
<td>Usage: Furniture Home décor</td>
<td>Usage: Daily clothing, traditional ceremonies, clothing</td>
<td>Usage: Daily clothing, traditional ceremonies, clothing</td>
<td>Usage: Daily clothing, traditional ceremonies, clothing</td>
</tr>
</tbody>
</table>

*Natural Factor, **Human Factor, ***Other factors/characteristics

On the basis of the books of requirements of five traditional handicrafts with registered GIs (Chapter 3), we make the following conclusions:

1) Most handicrafts are characterized by human factors and their unique quality and reputation rather than by natural factors, such as the use of local raw materials.
that are unique to a region’s environment, soil, climate, etc.

2) The books of requirements do not delve into the human factors, especially the knowledge and skills needed to produce the handicraft products. Most of them only mention that the artisans gained their skills from their ancestors (i.e., in Jepara, the apprenticeship of students under master carvers ensures the quality of the carved wood furniture produced in the city of Jepara).

3) For woven products, most traditional handicraft GIs describe the designs, motifs, and patterns, especially the traditional motifs used by weavers in producing the ikat woven textile.

4) Most books of requirements mention the usage of traditional handicrafts in rituals, in sacred or traditional ceremonies, as a status symbol, and for other sociocultural functions other than as market commodities (except Jepara wood carving furniture).

From those examples above, we propose the revision of the regulation of GI applications, which requires applicants to prove (describe) the link between product quality and characteristics and the geographical environment. The joint consideration of natural and human factors also requires attention. Scientifically verifying the natural factors for handicraft products is difficult but possible\textsuperscript{44}. GI applicants seeking protection for traditional handicrafts may be discouraged should the handicraft products fail to satisfy the natural factor criteria (when the characteristics of products depend solely on human factors). As for the criteria of human factors, the interpretation should not solely be based on the knowledge and skills or techniques used to make the products\textsuperscript{45}; the process should also cover the sociocultural factors related to traditions and beliefs regarding the usage and production of the products in question, as viewed from consumer perspectives (reputation among consumers)\textsuperscript{46}.

To further understand the issues of human and natural factors and the need to prove the link between the characteristics of goods and their geographical origins, we analyze the relevant GI laws and regulations of India and Thailand.

B. India’s GI Law and Regulations Related to Traditional Handicrafts

An important sector of the Indian economy is the handicraft industry, which contributes significantly to the income of the manufacturing sector. It also contributes to employment and exports, and the scale of the contribution continues to improve. Some rural characteristics, such as managing time in many craft activities, complement existing lifestyles, aid agricultural workers, and collect time funds for

\textsuperscript{44} The causal link between the place of origin and the quality of the product may be a matter of reputation rather than verifiable fact. (Lord Hoffman), Dev Gangjee.\textsuperscript{\textit{n2}}, p. 226.

\textsuperscript{45} Type of problem that sometimes arises with terroir: namely, the problem of how to prove the link between product and place. In part this arises because of the belief that ‘finding a link between a product and a terroir should in principle be scientifically demonstrable. This scientific model of geographical indications of origins leads to the argument that as there is no exact knowledge of how geographical factors affect the product, it is very difficult, if not impossible, to show scientifically that a particular product was shaped by the place where it originates. Brad Sherman and Leanne Wiseman. (n 15) p. 493.

\textsuperscript{46} Handicraft goods are usually characterized by sophisticated know-how, skills and practices, with different kinds of know-how contributing to their uniqueness and anchorage in a given place. Delphine Marie-Vivien.\textsuperscript{\textit{n4}} p. 303.

\textsuperscript{46} GIs are associated with the unique products that embody rich cultures and history and a GI confirms a link not only between a product and a specific geographic region, but usually also with unique production methods, characteristics or qualities that are known to exist in the region. Dev Gangjee.\textsuperscript{\textit{n2}}, p. 234.
women, and cater means for craftsmen to remain in their villages. Craftsmen have a firm willingness to remain in their traditional profession. This is also supported by most of the very talented and evidenced in the complexity of the form of their craft and they are also well educated and from lower social status castes. Assistance through retraining is not appropriate in many cases; hence, the most suitable way is to improve their standards of living and increase the skill base they already have\(^47\).

The 1999 Geographical Indications for Goods (Registration and Protection) Act in India provides an understanding of GIs and defines them in the same way as that provided in the TRIPS Agreement. In the 1999 Indian GI Act, the GI resolution is stated as follows\(^48\):

> "geographical indication, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be".\(^49\)

The Indian GI Act defines “goods” as any agricultural, natural, or manufactured goods or handicrafts or industry goods, including foodstuff. This definition thus formalizes the validity of GIs for handicraft goods in India.\(^50\) To obtain GI protection in India, the applicant should apply in writing by filling out the application for GI registration and forwarding it to the registrar (India IP Office)\(^51\). This application should contain: “a statement as to how the geographical indication serves to designate the goods as originating from the concerned territory of the country or region or locality in the country, as the case may be, in respect of specific quality, reputation or other characteristic of which are due exclusively or essentially to the geographical environment, with its inherent natural and human factors, and the production, processing or preparation of which takes place in such territory, region or locality, as the case may be.” This requirement is restated in the India Ministry of Commerce and Industry Rules on Geographical Indication 2002\(^52\).

From 2004–2016, at least 272 GI applications were filed in India. From these 272 applications, 162 applications were for handicrafts\(^53\). This number is considerably higher than that recorded in Indonesia. As indicated in the previous discussion, India’s GI law requires the GI applicant to state how the GI serves to designate the goods originating from concerned territories based on specific quality and characteristics inherent of natural and human factor; this clause does not hinder the application for GIs on goods such as handicrafts. In our interview with an Indian GI academic in March 2020, we asked whether the India IP Office assesses the natural factors in determining the link between geographical origins and the specific quality and


\(^{48}\) WIPO, CLEA, India The Geographical Indications of Goods (Registration and Protection) Act, 1999, Chaper 1 article 2.

\(^{49}\) Delphine Marie-Vivien. (n 4) p. 303

\(^{50}\) Ibid., Chapter 1 Article 1.1.

\(^{51}\) WIPO, CLEA, India The Geographical Indications of Goods (Registration and Protection) Rules, 2002, article 32.1

characteristics of the handicrafts for GI applications; according to the representative, the Indian IP office only assesses human factors in most Indian GI handicap applications.53

C. Thailand’s GI Law and Regulations Related to Traditional Handicrafts

Thailand established its GI law in 2003 through the enactment of the “Act on Protection of Geographical Indication B.E.2546(2003).” The objectives of Thailand’s GI law are (a) to protect consumers from misleading information about products and producers from unfair competition, (b) to add value to products and serve as a marketing tool for producers, (c) to maintain product standards, (d) to distribute GI income to rural areas and support the industries in rural communities, and (e) to protect TK and strengthen indigenous communities (Thailand, Department of Intellectual Property, 2004).54

According to the Thai Act on GI Protection, GIs are defined as “a name, symbol or any other thing used for calling or representing a geographical origin and capable of identifying that the goods originating in that geographical origin are the goods, the particular quality, reputation or characteristic of which is attributable to such geographical origin.”55 The goods defined in this law are articles that can be traded, exchanged, or transferred and may be naturally or agriculturally produced; these goods include handicrafts and industrial products.56

In registering a GI in Thailand, an applicant needs to submit the application to the IP office. The request should detail the attributes of geographical origin, as well as the quality, reputation, or characteristics of the goods. According to the Thai IP office, the GI application process comprises several stages. The network needs to be established by gathering all business operators in the production line, starting from the upstream producers to the downstream process operators of certain potential GI products. The production history of the commodities produced in their geographical origins is documented, along with the origin, quality, reputation, or other characteristics of the goods. Evidence of consumer perception of the goods must exist. Finally, a cost-benefit analysis that considers monitoring and marketing costs is carried out to understand the effectiveness of GI applications for the participating stakeholders.58

From 2004 to 2013, the Thai IP office received 93 applications for GI products.59 From these applications, 46 were granted with GIs. From the 46 registered Gls, 10 Gls are crafts or handicrafts: 1) Mae Jaem Teen Jok fabric, 2) Lamphun brocade Thai silk, 3) Praewa Kalasin Thai silk, 4) Bor Sang umbrella, 5) Ban Chiang pottery, 6) Chiangmai celadon (pottery), 7) Phanat Nikhom basketry, 8) Chonnabot Mudmee Thai silk, 9) Kohkret pottery, and 10) Yok Mlabri Nan.

53 Interview with Dr Gargi Chakrabarti, Associate Professor of National Law University Jodhpur, March 1, 2018.
58 Ibid.
59 Ibid (n.56)
As mentioned previously, Thailand’s GI registration system does not require the Thailand IP office to assess the natural and human factors in identifying the link between the quality or characteristics of products and their geographical origins. Hence, traditional handicraft producers may easily apply for GIs under the Thailand GI registration system as long they include any evidence of consumer perception concerning the goods (i.e., traditional handicrafts).

V. CONCLUSION AND RECOMMENDATION

A. Conclusion

Traditional handicraft producers could use GI systems to gain exclusivity in the use of GIs for their traditional handicraft products and to protect and preserve their production as a means to gain economic benefits while preserving their cultural identity and tradition. Most traditional handicrafts are characterized by human factors, particularly their unique quality and reputation, rather than by natural factors (such as the use of local raw materials that are unique to a region’s environment, soil, climate, etc.). In comparing GI laws, regulations, and procedures in Indonesia, India, and Thailand, we conclude that the GI registration procedures of Thailand are the most conducive to protecting traditional handicrafts. Applicants are only required to provide evidence of consumer perception regarding the goods (i.e., traditional handicrafts) and are not obliged to prove the link between their products’ reputation and characteristics and human and natural factors.

B. Recommendation

The GI system (especially the GI registration procedures) should be implemented by the government, especially the IP office, to protect traditional handicrafts. The registration system should be adjusted to enable traditional handicrafts to be assessed on the basis of human factors (or human-related factors) instead of natural factors and thereby link the products’ reputation and characteristics to their geographical origins. The references and indicators for assessing the human factors of handicrafts or traditional handicrafts should be developed by the IP office and be disseminated to stakeholders of GIs. In this way, GI applicants, especially the communities and artisans of traditional handicrafts, could identify and describe clearly the “human-related factors” in their GI description documents as they process their GI applications.
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