

Efektivitas perlindungan hukum indikasi Geografis di Indonesia

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Abstrak

Peraturan perundang-undangan yang dirancang di luar kepentingan masyarakat akan mengalami kegagalan dalam pelaksanaannya. Perlindungan hukum Indikasi Geografis (IG) di Indonesia diatur dalam Undang-Undang Merek Nomor 15 Tahun 2001 tentang Merek, dan Peraturan Pemerintah Nomor 51 Tahun 2007 Tentang Indikasi-Geografis (PP 51/2007) sebagai peraturan pelaksanaannya. Meskipun pengaturan IG di Indonesia telah memenuhi standar internasional dan PP 51/2007 telah diberlakukan lebih dari 4 tahun, tetapi implementasinya belum efektif. Pertanyaannya adalah, mengapa tidak efektif? Hal tersebut disebabkan karena banyak faktor terkait efektivitas hukum yang belum terungkap. Penelitian ini menunjukkan bahwa faktor-faktor tersebut dapat diungkapkan dan dianalisis berdasarkan landasan rasional yang kritis dan dibermaksudkan pengalaman. Hasil analisis tersebut kemudian dapat digunakan sebagai landasan untuk merancang peraturan perundang-undangan yang "membumi" dan "meng-Indonesia" sehingga tidak mengalami kegagalan dalam mencapai tujuannya, dan dapat dilaksanakan secara efektif.

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Laws and regulations which are drafted beyond the interests of society are bound to fail in their implementation. The legal protection of Geographical Indications (GI) in Indonesia is provided for under Law Number 15 Year 2001 on Marks, and Government Regulation Number 51 Year 2007 on Geographical Indications (PP 51/2007) as the implementing regulation of the former. Although GI regulations in Indonesia comply with international standards and PP 51/2007 has been in force for over 4 years, their implementation is not yet effective. This raises the question, why has it not been effective? Ineffectiveness is caused by the fact that a great number of factors related to the effectiveness of law are yet to be identified. As this research indicates, it is possible for such factors to be identified and analyzed based on a critical ?reason informed by experience? approach. The result of such analysis can be subsequently used as a basis for drafting laws and regulations which are "firmly grounded" and truly reflect the "essence of Indonesian character", hence they do not fail in achieving their objectives and are capable of being implemented effectively.