

## HARMONIZING INDONESIA'S GEOGRAPHICAL INDICATION PROTECTION WITH EU LEGAL FRAMEWORK THROUGH REGULATORY REFORM

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**Abstrak.** Perlindungan IG Indonesia berdasarkan Undang-Undang Nomor 20 Tahun 2016 terintegrasi dengan merek dagang, sehingga menimbulkan ambiguitas kepemilikan yang merugikan produsen kecil dan membatasi pengakuan dari Uni Eropa. Dengan membandingkan sistem sui generis Uni Eropa, studi ini mengidentifikasi tiga tantangan: pencampuran konsep hak kolektif/privat, tumpang tindih administrasi, dan tata kelola yang memungkinkan kontrol oleh pemegang hak. Meskipun terdapat 209 IG terdaftar di 34 Provinsi, hanya empat yang mendapat pengakuan Uni Eropa, yang menunjukkan adanya hambatan sistemik. Model Uni Eropa memberlakukan IG sebagai hak komunitas yang terbuka bagi semua produsen yang memenuhi syarat dengan tata kelola yang representatif. Studi ini merekomendasikan reformasi yang ditargetkan: memperjelas hak IG sebagai hak kolektif yang tidak dapat dialihkan, memisahkan secara fungsional administrasi IG dari merek dagang dalam DJKI, dan menetapkan aturan konflik untuk nama geografis. Reformasi ini akan meningkatkan pembangunan pedesaan dan akses pasar internasional.

**Kata Kunci :** *indikasi geografis, sengketa merek, sui generis, Indonesia, Uni Eropa*

**Abstract.** *Indonesia's GI protection under Law Number 20 of 2016 integrates with trademarks, creating ownership ambiguity that disadvantages small producers and limits EU recognition. Employing a doctrinal legal method combined with a comparative approach, this study systematically analyses statutory texts, regulatory documents, and academic literature from both jurisdictions. Comparing with EU's sui generis system, this study identifies three challenges: conceptual conflation of collective/private rights, administrative overlap, and governance allowing holder control. Despite 209 registered GIs across 34 provinces, only four have EU recognition, revealing systemic barriers. The EU model treats GIs as community entitlements open to all qualifying producers with representative governance. The study recommends targeted reforms: clarifying GI rights as non-transferable collective entitlements, functionally separating GI from trademark administration within Directorate General of Intellectual Property (DGIP), and establishing conflict rules for geographical names. These reforms would enhance rural development and international market access.*

**Keywords:** *geographical indications, trademark conflict, sui generis, Indonesia, EU*

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## INTRODUCTION

The regulation of Geographical Indications (hereinafter referred to as GI) in Indonesia currently demonstrates strong ties to the trademark protection system, leading to significant implementation challenges. Although Indonesia enacted Law Number 20 of 2016 on Trademarks and Geographical Indications, these two distinct forms of intellectual property rights are often treated concurrently in practice, resulting in overlapping protection and conflicts of interest between trademark owners and local producers who rely on GI protection<sup>1</sup>. This conflation undermines the optimization of intellectual property protection for regional products that possess high cultural and economic value.

Previous studies affirm that without clear separation of regulatory functions and strengthened supervisory institutions, GI protection in Indonesia cannot operate effectively as stipulated in the European Union (hereinafter referred to as EU) legal framework, which maintains a distinct separation between GI and trademarks<sup>2</sup>. At the heart of this regulatory friction is a clash of paradigms: individual versus collective. In the Indonesian Intellectual Property landscape, trademarks are treated as private property assets that can be inherited, licensed, or sold at the owner's whim. GIs, however, are fundamentally different, they are territorial entitlements rooted in shared heritage. When the law tries to manage both through the same administrative lens, this communal essence gets lost. It creates a legal environment where regional names, which should belong to an entire community, risk being treated as tradeable commodities<sup>3</sup>.

Conversely, geographical indications embody communal or collective ownership, where rights to GI are vested in communities, producer groups, or specific regions that maintain close connections with the distinctive characteristics of products and their

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<sup>1</sup> Kurniaman Telaumbanua and Endang Pandamdari, "Diskursus Hak Eksklusif Indikasi Geografis Atas Penghapusan Merek Terdaftar Dalam Perlindungan Hukum Hak Kekayaan Intelektual," *Jurnal De Lege Ferenda Trisakti* 2 (2024): 18–30, <https://doi.org/10.25105/ferenda.v2i1.19698>.

<sup>2</sup> "Geographical Indications: What Do They Specify?," accessed November 23, 2025, <https://www.wipo.int/en/web/geographical-indications?>

<sup>3</sup> Prisca Oktaviani Samosir et al., "Legal Protection Implications on Trademark in Indonesia by Comparing the First to Use and First to File Principles" 121, no. 20 (2020): 143–46.

geographical origins<sup>4</sup>. GI regulation aims to protect regional names and product quality that result from local culture and traditions, thus these rights cannot be individually traded like trademarks<sup>5</sup>. This fundamental difference in ownership principles between private trademarks and collective GI creates significant challenges in regulatory harmonization within Indonesia, particularly in rights management and legal enforcement mechanisms<sup>6</sup>.

Recent developments highlight both the progress and persistent challenges in Indonesia's GI protection system. In March 2025, the European Commission approved the registration of Gula Kelapa Kulonprogo Jogja (Kulonprogo Coconut Sugar) as a Protected Designation of Origin (PDO) marks a milestone in EU-Indonesia GI cooperation<sup>7</sup>. This coconut sugar from Kulonprogo Regency, Yogyakarta, joins other Indonesian products already recognized in the EU, including Muntok White Pepper from Bangka Belitung, Gayo Arabica Coffee from Aceh<sup>8</sup>, and Amed Bali Salt<sup>9</sup>. The formal certificate presentation ceremony in Jakarta on October 28, 2024, celebrated this achievement as strengthening bilateral trade relations and preserving cultural heritage<sup>10</sup>.

However, despite these bilateral successes, systemic challenges persist in Indonesia's domestic GI framework. The United States Trade Representative's 2023 Special 301 Report maintained Indonesia on the Priority Watch List, citing concerns that Indonesia's GI law raises questions regarding the effect of new GI registrations on pre-existing

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<sup>4</sup> Fenny Wulandari et al., “Sui Generis System: GI Protection for the Herbal Product in Indonesia as Communal Property Right,” *Cogent Social Sciences* 9, no. 1 (2023), <https://doi.org/10.1080/23311886.2023.2176989>.

<sup>5</sup> Diana Harding et al., “Geographical Indication in Indonesia: A Review on the Spatial Distribution and Classification of Geographical Indication-Registered Products and -Related Publications,” *Journal of World Intellectual Property* 28, no. 1 (2025): 263–85, <https://doi.org/10.1111/jwip.12332>.

<sup>6</sup> Miranda Risang Ayu Palar et al., “Geographical Indication Protection for Non-Agricultural Products in Indonesia,” *Journal of Intellectual Property Law and Practice* 16, no. 4–5 (2021): 405–14, <https://doi.org/10.1093/jiplp/jpaa214>.

<sup>7</sup> “Commission Approves New Geographical Indication from Indonesia - EU Reporter,” accessed November 24, 2025, <https://www.eureporter.co/world/protected-geographical-indication-pgi/2025/03/31/commission-approves-new-geographical-indication-from-indonesia/>.

<sup>8</sup> “Support of the European Union to Geographical Indications in Indonesia and ASEAN | EEAS,” accessed April 28, 2026, [https://www.eeas.europa.eu/node/14242\\_en](https://www.eeas.europa.eu/node/14242_en).

<sup>9</sup> “Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. | Pengumuman,” accessed November 24, 2025, <https://www.dgip.go.id/index.php/artikel/detail-artikel-berita/tiga-produk-asal-indonesia-mendapatkan-sertifikat-indikasi-geografis-uni-eropa?kategori=pengumuman>.

<sup>10</sup> “Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. | Pengumuman.”

trademark rights and the ability to use common food names<sup>11</sup>. These international trade concerns underscore the practical implications of inadequate separation between GI and trademark systems, demonstrating how the absence of robust harmonization mechanisms can create uncertainty in international commerce and potentially disadvantage both foreign trademark holders and Indonesian GI producers.

The trademark registration by foreign entities of names that should be protected as GI creates a legal dilemma, as GI should be owned by communities in specific regions rather than privately registered. Academic studies emphasize that although Toraja Arabica Coffee was eventually registered as a GI on October 9, 2013, the existence of the pre-existing trademark caused GI legal protection to be suboptimal and triggered the need for regulatory reform and international coordination<sup>12</sup>. This case exemplifies the practical consequences of inadequate separation between GI and trademark systems, demonstrating how the absence of robust preventive mechanisms can result in the appropriation of collective cultural heritage by private commercial interests.

Despite growing scholarly attention to GI protection, a critical gap persists in the literature. While previous studies examine Indonesian GI regulation and the EU's *sui generis* system separately, no systematic comparative framework addresses the structural incompatibility arising from fundamentally different ownership paradigms—private individual rights versus communal collective rights. Although the Toraja Coffee case demonstrates the urgent need for resolving trademark-GI conflicts, research has not produced actionable institutional reforms adapted from the EU's successful PDO/PGI/TSG (Protected Designation of Origin / Protected Geographical Indication / Traditional Speciality Guaranteed) separation model. Existing comparative studies remain largely normative, overlooking practical implementation barriers such as institutional capacity constraints, cultural dimensions of collective rights management,

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<sup>11</sup> “Rouse - An Analysis of Trademark Oppositions in Indonesia and 2024 Predictions,” accessed November 24, 2025, <https://rouse.com/insights/news/2024/an-analysis-of-trademark-oppositions-in-indonesia-and-2024-predictions>.

<sup>12</sup> Nilla Deva Lusyana and Rianda Dirkareshza, “Locus Standi Indikasi Geografis Toraja Atas Merek Kopi Toraja Yang Didaftarkan Perusahaan Luar Negeri,” *Jurnal Interpretasi Hukum* 4, no. 3 (2023): 652–652, <https://ejournal.warmadewa.ac.id/index.php/juinhum/article/view/8213/5175>.

and the political economy of IP reform in developing countries. Consequently, a significant gap exists between theoretical harmonization proposals and implementable reform strategies that account for Indonesia's developmental stage and institutional realities.

This study is guided by the following research questions (1) What are the fundamental structural differences and institutional barriers between Indonesia's hybrid GI system and the EU's sui generis framework that impede effective GI protection? (2) What adaptive regulatory and institutional reforms are needed to harmonize Indonesia's GI system with EU standards while accounting for Indonesia's development and legal institutional context?

This study addresses the harmonization of GI protection in Indonesia with the European Union legal framework, focusing specifically on the challenges of overlapping protection between GI and trademarks. It also seeks to identify regulatory implementation barriers in Indonesia and provide adaptive reform recommendations that fit Indonesia's institutional and socio-cultural context. Additionally, this research intends to fill the gap in the literature by integrating substantive legal and institutional aspects of GI protection in a comparative framework with the EU system.

The study uses a qualitative approach combining normative legal analysis and comparative law methods. Data is collected through literature review, statutory documents, and academic sources related to GI and trademark systems in Indonesia and the EU. The analysis compares legal frameworks and protection practices in both regions to identify fundamental differences and regulatory challenges in Indonesia. The findings aim to provide policy recommendations to harmonize and strengthen the GI protection system in Indonesia.

## **RESEARCH METHOD**

This study is built upon a doctrinal legal method combined with comparative approach. As a fundamentally hermeneutic interpretation of legal doctrines essentially entails the critical interpretation, elaboration, and systematization of legal doctrines through

comprehensive textual and conceptual analysis, thereby contributing to the development of legal thought<sup>13</sup>. The study draws on primary legal sources, including Law Number 20 of 2016 on Trademarks and Geographical Indications, EU Regulation 1151/2012, and relevant Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) provisions, supplemented by secondary sources comprising academic literature, institutional reports, and policy documents from both jurisdictions. The comparative element is particularly vital, it allows for a side-by-side examination of the Indonesian and EU systems to pinpoint exactly where legal outcomes diverge. By identifying these substantive variations and looking at how international standards are forcing a convergence in GI regulation, the study aims to propose a framework that isn't just theoretically sound, but also practically transparent for Indonesian producers. Data analysis employs a qualitative interpretive technique, systematically identifying normative inconsistencies and institutional gaps through cross jurisdictional legal comparison. Our analysis relies on a qualitative synthesis of statutory documents, literature reviews, and academic discourse from both jurisdictions to expose the structural friction within Indonesia's current hybrid model<sup>14</sup>.

## RESEARCH FINDINGS AND DISCUSSION

### Distribution, Classification, and Regional Comparison of Indonesia's GI System

Indonesia has made significant progress in GI protection, with 209 registered products distributed across 34 provinces as of 2025. The distribution of GI registrations reveals an uneven concentration, with Central Java leading with 24 registrations, followed by East Nusa Tenggara and East Java. This spatial distribution reflects not only the diverse wealth of local products, but also the varying levels of awareness and institutional capacity in each region to utilize the GI protection system.

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<sup>13</sup> Mathias M. Siems and Daithí Mac Síthigh, "Mapping Legal Research," *Cambridge Law Journal* 71, no. 3 (2012): 651–76, <https://doi.org/10.1017/S0008197312000852>.

<sup>14</sup> Anthony Ogus, "Competition between National Legal Systems: A Contribution of Economic Analysis to Comparative Law," *International and Comparative Law Quarterly* 48, no. 2 (1999): 405–18, <https://doi.org/10.1017/S0020589300063259>.

To provide a clearer picture of this spatial distribution of Indonesia's 209 registered GI products, highlighting the geographical spread and featured products from each region

Table 1. Top 10 Distribution of GI Registrations by Province in Indonesia (2025)<sup>15</sup>

Rank	Province	GI Count	Featured Products
1	Central Java	24	Jepara Carved Furniture, Pekalongan Batik, Dieng Carica, Lasem Batik
2	East Nusa Tenggara	21	Flores Bajawa Coffee, Sikka Ikat Weaving, Alor Vanilla, Rote Palm Sugar
3	East Java	18	Java Ijen Raung Coffee, Sidoarjo Smoked Milkfish, Sumenep Shallots
4	West Java	15	Java Preanger Tea, Cianjur Pandanwangi Rice, Cilembu Sweet Potato
5	North Sumatra	14	Mandailing Coffee, Simalungun Coffee, Lintong Coffee, Samosir Andaliman
6	Bali	12	Kintamani Arabica Coffee, Amed Salt, Gringsing Weaving, Celuk Silver Craft
7	South Sulawesi	9	Toraja Coffee, Kalosi Enrekang Coffee, Sengkang Silk Weaving
8	South Sumatra	9	Komering Duku Fruit, Semendo Coffee, Pagar Alam Coffee
9	West Nusa Tenggara	8	Sumbawa Honey, Lombok Pearl, Sembalun Lombok Coffee
10	Yogyakarta	7	Sleman Salak Pondoh, Kulonprogo Palm Sugar, Nitik Batik
-	Other 24 Provinces	72	Various agricultural, craft, and marine products

<sup>15</sup> "Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. | Listing Indikasi Geografis Terdaftar," accessed December 23, 2025, <https://www.dgip.go.id/menu-utama/indikasi-geografis/listing>.

<b>Total</b>	<b>209</b>
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Beyond geographical distribution, an analysis of product typology reveals the sectoral categorization of Indonesia’s GI registrations<sup>16</sup>. A closer look at the sectoral breakdown in Table 2 reveals a heavy tilt toward agricultural commodities, specifically coffee and spices, which underscores Indonesia’s historical identity as a tropical producer<sup>17</sup>. Research confirms that agricultural products constitute the majority of Indonesia’s registered GIs, with coffee variants accounting for significant proportion due to the country’s diverse microclimates and traditional cultivation practices<sup>18</sup>. Meanwhile, the substantial representation of traditional handicrafts, particularly batik and weaving, reflects the cultural dimension of GI protection in Indonesia, where non-agricultural products play a crucial role in preserving intangible cultural heritage<sup>19</sup>. This categorization provides insights into which sectors have most effectively utilized the GI protection system and identifies potential areas for expansion particularly in the underrepresented fisheries and marine products sector<sup>20</sup>.

Table 2. Classification of Indonesian GI Products by Type

<b>Product Category</b>	<b>Number of Products</b>
Coffee	20
Textile and Handicrafts	17
Spices	13
Fruits and Vegetables	10
Other Products	9
Rice and Grains	8
Fisheries and Marine	6

<sup>16</sup> Harding et al., “Geographical Indication in Indonesia: A Review on the Spatial Distribution and Classification of Geographical Indication-Registered Products and -Related Publications.”

<sup>17</sup> Giovanni Belletti, Andrea Maescotti, and Jean Marc Touzard, “Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors’ Strategies and Public Policies,” *World Development* 98 (2017): 45–57, <https://doi.org/10.1016/j.worlddev.2015.05.004>.

<sup>18</sup> Harding et al., “Geographical Indication in Indonesia: A Review on the Spatial Distribution and Classification of Geographical Indication-Registered Products and -Related Publications.”

<sup>19</sup> Palar et al., “Geographical Indication Protection for Non-Agricultural Products in Indonesia.”

<sup>20</sup> Wulandari et al., “Sui Generis System: GI Protection for the Herbal Product in Indonesia as Communal Property Right.”

<b>Total</b>	<b>83</b>
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*Note: Classification is based on featured products listed in Table 1 and does not represent the full 209 registered GIs*

*Source: Authors own compilation based on Table 1*

While Indonesia has achieved substantial progress in GI registration with 209 products across diverse categories, a regional comparative perspective provides important context for understanding the challenges and opportunities in Indonesia's GI system. Table 3 compares Indonesia's GI landscape with other ASEAN member states, revealing both Indonesia's potential and the implementation gaps that warrant closer examination in the context of EU harmonization.

Table 3. Comparative Analysis of GI Systems in ASEAN Countries

<b>Country</b>	<b>Total GI Registered</b>	<b>GI Recognized by EU</b>	<b>Legal System</b>	<b>GI- Trademark Separation</b>
Indonesia	209 <sup>21</sup>	4 <sup>22</sup>	Hybrid (Trademark Law 2016) <sup>23</sup>	No-Combined with Trademark <sup>24</sup>
Vietnam	95+ <sup>25</sup>	3 <sup>26</sup>	Sui Generis (IP Law 2005) <sup>27</sup>	Yes-GI Department <sup>28</sup>

<sup>21</sup> "Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. | Listing Indikasi Geografis Terdaftar."

<sup>22</sup> "Direktorat Jenderal Kekayaan Intelektual - Kementerian Hukum R.I. | Listing Indikasi Geografis Terdaftar."

<sup>23</sup> Telaumbanua and Pandamdari, "Diskursus Hak Eksklusif Indikasi Geografis Atas Penghapusan Merek Terdaftar Dalam Perlindungan Hukum Hak Kekayaan Intelektual."

<sup>24</sup> Telaumbanua and Pandamdari.

<sup>25</sup> "HOME - INTELLECTUAL PROPERTY OFFICE OF VIETNAM," accessed December 24, 2025, <https://www.ipvietnam.gov.vn/en/web/english/home>.

<sup>26</sup> "EU Trade Relations with Viet Nam," accessed December 24, 2025, [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/viet-nam\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/viet-nam_en).

<sup>27</sup> Delphine Marie-Vivien, "The Role of the State in the Protection of Geographical Indications: From Disengagement in France/Europe to Significant Involvement in India," *The Journal of World Intellectual Property* 13, no. 2 (2010): 121–47, <https://doi.org/10.1111/j.1747-1796.2009.00375.x>.

<sup>28</sup> Delphine Marie-Vivien, "Protection of Geographical Indications in ASEAN Countries: Convergences and Challenges to Awakening Sleeping Geographical Indications," *Journal of World Intellectual Property* 23, no. 3–4 (2020): 328–49, <https://doi.org/10.1111/jwip.12155>.

Thailand	89 <sup>29</sup>	2 <sup>30</sup>	Sui Generis (GI Act 2003) <sup>31</sup>	Yes- Separate GI Department <sup>32</sup>
Philippines	14 <sup>33</sup>	0	GI Act 2004 <sup>34</sup>	No-Under trademark Division <sup>35</sup>
Malaysia	6 <sup>36</sup>	0	Trademark Based <sup>37</sup>	No-Under Trademark Section <sup>38</sup>
Cambodia	5 <sup>39</sup>	1 <sup>40</sup>	Sui Generis Elements <sup>41</sup>	Partial Separation <sup>42</sup>
Others*	<5 <sup>43</sup>	0	Limited/No GI Framework	No

\*Includes Singapore, Laos, Myanmar, Brunei

<sup>29</sup> "Thailand Leads the Way to GI Registration in ASEAN Countries," accessed April 28, 2026, <https://www.wipo.int/en/web/ip-advantage/w/stories/thailand-leads-the-way-to-gi-registration-in-asean-countries>.

<sup>30</sup> "EAmbrosia - Union Register of Geographical Indications," accessed December 24, 2025, <https://ec.europa.eu/agriculture/eambrosia/geographical-indications-register/>.

<sup>31</sup> Pawarit Lertdhamtewe, "The Protection of Geographical Indications in Thailand," *Journal of World Intellectual Property* 17, no. 3–4 (2014): 114–28, <https://doi.org/10.1002/jwip.12023>.

<sup>32</sup> WIPO, "Thailand Leads the Way to GI Registration in ASEAN Countries," n.d., <https://www.wipo.int/en/web/ip-advantage/w/stories/thailand-leads-the-way-to-gi-registration-in-asean-countries>.

<sup>33</sup> "Geographical Indication (GI) Notice of Publication | IPOPHL," accessed December 24, 2025, <https://www.ipophil.gov.ph/geographical-indication-gi-notice-of-publication/>.

<sup>34</sup> "Geographical Indication (GI) Notice of Publication | IPOPHL," accessed April 28, 2026, <https://www.ipophil.gov.ph/geographical-indication-gi-notice-of-publication/>.

<sup>35</sup> "Geographical Indication System in the Philippines - Federis & Associates Law," accessed April 28, 2026, <https://www.federislaw.com.ph/geographical-indication-system-in-the-philippines/>.

<sup>36</sup> "Geographical Indication Act – The Official Portal of Intellectual Property Corporation of Malaysia," accessed December 24, 2025, <https://www.myipo.gov.my/geographical-indication-act/>.

<sup>37</sup> Ida Madieha Bt Abdul Ghani Azmi, "Emerging Needs and Challenges Faced in the Teaching and Training of Intellectual Property in Malaysia," *Journal of Applied Sciences Research* 7, no. SPECIAL ISSUE (2011): 2432–40.

<sup>38</sup> Abdul Ghani Azmi.

<sup>39</sup> "- Department of Intellectual Property Rights," accessed December 24, 2025, <https://dip.cambodiaip.gov.kh/TemplateTwo.aspx?parentId=34&menuid=74&childMasterMenuId=74&lang=en>.

<sup>40</sup> "Implementing Regulation - 2021/2046 - EN - EUR-Lex," accessed April 28, 2026, [https://eur-lex.europa.eu/eli/reg\\_impl/2021/2046/oj/eng](https://eur-lex.europa.eu/eli/reg_impl/2021/2046/oj/eng).

<sup>41</sup> ASEAN Member States, "Guidelines on Protection of Geographical Indication in ASEAN Member States," no. December 2020 (2020): 1–74, <https://www.aseanip.org/>.

<sup>42</sup> ASEAN Member States.

<sup>43</sup> "Geographical Indications in the ASEAN Region | EEAS," accessed December 24, 2025, [https://www.eeas.europa.eu/eeas/geographical-indications-asean-region\\_en](https://www.eeas.europa.eu/eeas/geographical-indications-asean-region_en).

The success trajectories of Vietnam and Cambodia further illuminate the advantages of institutional separation. Vietnam's Phu Quoc Fish Sauce and Buon Ma Thuot Coffee gained EU recognition within relatively short timeframes following their domestic registration, facilitated by Vietnam's clear legal framework that distinguished GI as collective rights fundamentally different from individual trademark rights<sup>44</sup>. Similarly, Cambodia's Kampot Pepper, despite originating from a country with minimal IP infrastructure and only 5 total GI registrations achieved EU PDO status in 2016, demonstrating that system clarity and institutional coherence matter more than registration volume<sup>45</sup>. These cases suggest that Indonesia's challenges stem not from insufficient awareness of GI value or lack of distinctive products, but rather from systemic inefficiencies embedded in its hybrid institutional model<sup>46</sup>.

While both Vietnam and Indonesia include GI provisions within broader IP legislation, Vietnam's system qualifies as *sui generis* due to its structural independence, institutional separation, and mutually exclusive relationship with trademark rights, Indonesia's hybrid approach, conversely, maintains conceptual and administrative integration with trademark law, resulting in the persistent conflicts evidence by case such as Toraja Coffee. The nomenclature of legislation is less significant than the substantive treatment of GI as either a distinct IP category or a variant of trademark protection<sup>47</sup>.

### **Legal Framework Comparison Between Indonesia and EU**

At the heart of Indonesia's GI implementation challenges lies a fundamental conceptual confusion which is the treatment of GI's inherently collective rights rooted in community heritage and territorial linkage within a legal administrative framework

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<sup>44</sup> Giang Hoang et al., "The Impact of Geographical Indications on Sustainable Rural Development: A Case Study of the Vietnamese Cao Phong Orange," *Sustainability (Switzerland)* 12, no. 11 (2020): 1–13, <https://doi.org/10.3390/su12114711>.

<sup>45</sup> Hoang et al.

<sup>46</sup> "Geographical Indications in the ASEAN Region | EEAS."

<sup>47</sup> "Geographical Indications in the ASEAN Region | EEAS."

designed for individual property rights<sup>48</sup>. While Indonesia's Law Number 20 of 2016 on Trademarks and Geographical Indications formally acknowledges GI as distinct from trademarks, the legislation maintains critical ambiguities regarding the nature of GI ownership, employing terminology and procedural mechanisms that blur the boundary between collective community rights and individual proprietary interest.<sup>49</sup>

Article 53 paragraph (2) Indonesian Law Number 20 of 2016 states that GIs are protected for the benefit of the community, ostensibly recognizing their collective character, yet Article 53 Paragraph (3) vests rights in the "party who submits the registration application", introducing ambiguity about whether GI rights constitute collective community entitlements or quasi-private rights held by the registering entity. Drawing on Ostrom's commons theory<sup>50</sup>, geographical names function as shared community resources whose value derives precisely from their collective, territorial character resources that when subjected to private appropriation, risk what Ostrom termed institutional misfit, where governance structures fail to match the nature of the resource being managed. Indonesia's hybrid system exemplifies this misfit by applying individualistic trademark logic to an inherently communal resource<sup>51</sup>. This subsection examines how Indonesia's hybrid system creates practical contradictions between the collective essence of GI and the individualistic logic inherited from trademark law, contrasting this with the EUs clear institutional framework that preserves the communal character of GIs<sup>52</sup>.

The conceptual confusion manifest most clearly in the disconnect between Indonesia's stated recognition of GI as collective rights and the practical implementation of

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<sup>48</sup> Unctad Ictsd, "The Socio-Economics of Geographical Indications The Socio-Economics of Geographical Indications," no. 8 (2004).

<sup>49</sup> Rani Pajrin et al., "Legal Protection of Geographical Indications in Indonesia from the Perspective of UU Number 20, 2016 Concerning the Trademarks and Geographical Indications," no. 20 (2021), <https://doi.org/10.4108/eai.21-10-2020.2311867>.

<sup>50</sup> Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990).

<sup>51</sup> Belletti, Marescotti, and Touzard, "Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors' Strategies and Public Policies."

<sup>52</sup> Gangjee Dev, "QUIBBLING SIBLINGS : CONFLICTS BETWEEN TRADEMARKS AND GEOGRAPHICAL INDICATIONS," 2007, 1253–91.

registration and enforcement mechanism. In theory, law Number 20 of 2016 characterizes GI as a sign identifying products from specific geographical areas where quality, reputation, or characteristics are attributable to that origin, implicitly suggesting territorial and community-based rights<sup>53</sup>. However, the registration system requires a single applicant typically a producers' association, cooperative, local government agency, or even private company to file the GI application, creating a de facto holder whose legal relationship to the broader community of potential GI users remains undefined<sup>54</sup>. Unlike trademark law, which clearly establishes individual or corporate ownership with attendant rights to exclude others, transfer marks, and license usage, Indonesia's GI law provides no representative of community interests, or occupies some intermediate status. This ambiguity has produced divergent interpretations in practice, some registered GI holders behave as quasi-owners, controlling access to the GI and treating it as alienable property, while other communities struggle with internal disputes over who has legitimate authority to use and enforce GI rights<sup>55</sup>.

A stark illustration of this system vulnerability is the long-standing dispute over Toraja Coffee. The fact that a Japanese entity could successfully claim "Toarco Toraja" as a private trademark in 2006 highlights a glaring loophole that the law fails to treat regional names inherent community property<sup>56</sup>. When local producers later sought GI status in 2013, they found themselves in a legal defensive crouch, forced to navigate the shadow of a pre-existing private right<sup>57</sup>. The case revealed that Indonesia's hybrid system fails to address whether geographical names that should belong collectively to

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<sup>53</sup> Rohmat Rohmat and David Chuah Cee Wei, "The Necessity of Legal Protection for Geographical Indications within a Sui Generis Framework," *Batulis Civil Law Review* 6, no. 1 (2025): 19, <https://doi.org/10.47268/ballrev.v6i1.2449>.

<sup>54</sup> Harding et al., "Geographical Indication in Indonesia: A Review on the Spatial Distribution and Classification of Geographical Indication-Registered Products and -Related Publications."

<sup>55</sup> Pulung Widhi Hari Hananto and Rahandy Rizki Prananda, "The Urgency of Geographical Indication As a Legal Protection Instrument Toward Traditional Knowledge in Indonesia," *Law Reform: Jurnal Pembaharuan Hukum* 15, no. 1 (2019): 62–84, <https://doi.org/10.14710/lr.v15i1.23355>.

<sup>56</sup> Lusyana and Dirkareshza, "Locus Standi Indikasi Geografis Toraja Atas Merek Kopi Toraja Yang Didaftarkan Perusahaan Luar Negeri."

<sup>57</sup> Faradila Yulistari Sitepu, "The Potential of Geographical Indications and Its Legal Protection," *E3S Web of Conferences* 52 (2018), <https://doi.org/10.1051/e3sconf/20185200017>.

regional communities can be appropriated as individual trademark property<sup>58</sup>. This outcome is consistent with Watson's legal transplant theory, which posits that transplanting legal rules from one system to another without adequate contextual adaptation produces institutional dysfunction. Indonesia's incorporation of GI provisions into trademark-based framework represents precisely such a flawed transplant importing the formal architecture of international GI standards through TRIPS while retaining the individualistic ownership logic of trademark law, ultimately producing a hybrid system that serves neither objective effectively<sup>59</sup>. While the GI was eventually registered, the persistence of the conflicting trademark has created ongoing legal ambiguity, with producers uncertain about their rights to use the "Toraja" designation and potential liability for trademark infringement despite possessing GI protection<sup>60</sup>.

In contrast, the EU's sui generis system maintains institutional clarity regarding the collective nature of GI through both substantive legal provisions and procedural safeguards<sup>61</sup>. Regulation EU Number 1151/2012 on Quality Schemes of Agricultural Products and Foodstuffs explicitly defines Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) as quality schemes protecting names that belong to qualifying producers within the designated geographical area, rather than to any individual entity or registration applicant<sup>62</sup>. Article 5 stipulates that any group of producers may apply for registration, and critically, the regulation prohibits the transfer of GI rights independently of production in the specified territory -GIs cannot be sold, licensed to external parties, or treated as tradeable assets<sup>63</sup>.

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<sup>58</sup> Yoan Nursari Simanjuntak, "The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection," *Environmental Policy and Law* 51, no. 5 (2021): 297–308, <https://doi.org/10.3233/EPL-210001>.

<sup>59</sup> Alan Watson, *Legal Transplants: An Approach to Comparative Law*, Second Ed (Georgia: University of Georgia Press, 1993).

<sup>60</sup> Simanjuntak, "The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection."

<sup>61</sup> "Regulation - 1151/2012 - EN - EUR-Lex," accessed December 28, 2025, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R1151>.

<sup>62</sup> "Regulation - 1151/2012 - EN - EUR-Lex."

<sup>63</sup> "Regulation - 1151/2012 - EN - EUR-Lex."

This legal framework ensures that GI protection functions as a guarantee of origin and quality rather than as a proprietary monopoly. Producer groups that apply for GI registration serve as representatives facilitating the registration process, not as owners; the specifications establishing production standards and geographical boundaries remain publicly accessible, and any producer within the designated area who complies with these specifications has an equal right to use<sup>64</sup>. From a comparative law perspective, this model reflects what convergence theory identifies as the gradual alignment of national legal systems toward shared international standards driven by economic integration and trade interdependence<sup>65</sup>. The EU's sui generis framework has emerged as the dominant global benchmark for GI protection, creating normative pressure on trading partners including Indonesia, to align their domestic accordingly<sup>66</sup>. Indonesia's low EU recognition rate, despite 209 registered GIs, suggest that convergence remains incomplete precisely because structural reforms have not yet matched the pace of International normative expectations. For instance, the Protected Designation "Champagne" does not belong to Comité Interprofessionnel du Vin de Champagne (CIVC), the industry representative body that applied for registration, rather, it is available to all wine producers in the Champagne region of France who adhere to the established production methods and quality standards. The CIVC functions as a governance body enforcing compliance and protecting the designation from misuse, but it exercises no proprietary control over the GI itself<sup>67</sup>.

This fundamental difference in rights architecture produces divergent legal consequences across multiple dimensions, table 4 illustrates the systematic contrasts between Indonesia's ambiguous framework and the EU's clearly collective approach. In the EU system, the inalienability of GI rights prevents the concentration of control in single entities and ensures of supporting rural communities and preserving

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<sup>64</sup> European IP Helpdesk, *Geographical Indications in the European Union*, 2025, [www.ec.europa.eu/ip-helpdesk](http://www.ec.europa.eu/ip-helpdesk).

<sup>65</sup> William Twining, *Globalisation and Legal Theory*, ed. Christopher McCrudden (London: Butterworths, 2000).

<sup>66</sup> Ogus, "Competition between National Legal Systems: A Contribution of Economic Analysis to Comparative Law."

<sup>67</sup> "How Champagne Is Protected under the TRIPS Agreement - Ipleaders," accessed January 14, 2026, <https://blog.ipleaders.in/champagne-protected-trips-agreement/>.

traditional production methods<sup>68</sup>. Indonesia’s system, conversely, permits interpretations where registered holders exercise quasi-proprietary control, potentially excluding other legitimate producers from geographical area and creating tensions that undermine the collaborative basis essential for effective GI governance<sup>69</sup>. Furthermore, the EU’s clear collective framework facilitates international genuinely represent regional communities rather than commercial brands disguised as geographical names<sup>70</sup>. Indonesia’s ambiguity on this fundamental question contributes to the skepticism that has limited international acceptance of Indonesian GIs, as evidenced by the relatively low EU recognition rate discussed in the previous section.

Table 4. Legal Framework Comparison Between Indonesia and the European Union

Dimension	Indonesia (Hybrid System)	European Union (Sui Generis System)
<b>Legal Nature of Right</b>	Protected for community benefit but vested in applicant	Belongs to all qualifying producers in the area
<b>Registration Authority</b>	single entity (association, cooperative, government, or company)	Producer group acting as representative, not owner
<b>Ownership Model</b>	Registered “holder” (pemegang hak)	No individual ownership – territorial/community-based entitlement
<b>Transferability</b>	Not explicitly prohibited	Prohibited, GI cannot be sold or transferred

<sup>68</sup> Matteo Gragnani, “The EU Regulation 1151/2012 on Quality Schemes for Agricultural Products and Foodstuffs,” *European Food and Feed Law Review* 8, no. 6 (2013): 376–85.

<sup>69</sup> Palar et al., “Geographical Indication Protection for Non-Agricultural Products in Indonesia.”

<sup>70</sup> “Geographical Indications and Quality Schemes Explained - Agriculture and Rural Development,” accessed January 14, 2026, [https://agriculture.ec.europa.eu/farming/geographical-indications-and-quality-schemes/geographical-indications-and-quality-schemes-explained\\_en](https://agriculture.ec.europa.eu/farming/geographical-indications-and-quality-schemes/geographical-indications-and-quality-schemes-explained_en).

		independently of territory
<b>Right to Use</b>	Ambiguous, does holder have exclusive control?	Open access, all producers meeting specifications can use
<b>Standing to Enforce</b>	Registered holder only or any affected producers?	Any producer or representative body can take enforcement action
<b>Monopoly Risk</b>	Yes - single entity can potentially control GI	No - structural safeguards prevent monopolization
<b>Compatibility with Trademark Logic</b>	High - mirrors trademark registration/holder concepts	None - fundamentally different from trademark paradigm
<b>Example/Evidence</b>	Toraja Coffee: company trademark vs community GI rights	Champagne: CIVC as representative, not owner; open to qualifying producers

The practical implications of this conceptual confusion extend beyond doctrinal coherence to affect the economic interests of producers and the market viability of Indonesian GI products<sup>71</sup>. For small-scale producers within a designated geographical area, ambiguity about their entitlement to use registered GI creates barriers to market entry and reinforces existing power asymmetries<sup>72</sup>. If a well-resourced cooperative or

<sup>71</sup> Ria Wierma Putri, Yunita Maya Putri, and Dorothy R. H. Pandjaitan, *Challenges of Geographical Indication in Indonesia: A Study from Lampung Province*, vol. 1 (Atlantis Press SARL, 2023), [https://doi.org/10.2991/978-2-38476-046-6\\_84](https://doi.org/10.2991/978-2-38476-046-6_84).

<sup>72</sup> Putri, Putri, and Pandjaitan.

company registers a GI and interprets its “holder” status as conferring exclusive control, individual farmers may face exclusion from using a designation that should, by its nature, be available to all qualifying producers in the territory - contradicting the development rationale for GI protection, which aims to empower rural communities and small producers by leveraging collective reputation<sup>73</sup>.

Furthermore, the ownership ambiguity complicates international market access. European importers and regulatory authorities assessing Indonesian GI applications for recognition under bilateral agreements encounter uncertainty about governance structures. Does the registered holder truly represent community interests, or does it exercise private control? Can producers outside the registering organization access the GI? This institutional opacity contributes to the low rate of EU recognition for Indonesian GIs (only four products as of 2025) despite the large domestic registration volume, as European authorities prioritize systems where collective governance is transparent and participation is genuinely open<sup>74</sup>.

This fundamental confusion regarding the collective versus individual nature of GI rights does not exist in isolation but interacts with and exacerbates other structural problems in Indonesia’s hybrid system<sup>75</sup>. The administrative integration of GI with trademark registration, discussed in the following subsection, compounds these conceptual difficulties. When GI applications are processed using procedures designed for individual trademark rights, and when the same institutional apparatus administers both regimes, the distinction between collective territorial designations and private commercial marks becomes further obscured<sup>76</sup>. Understanding Indonesia’s ownership ambiguity is therefore essential context for examining the broader

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<sup>73</sup> Belletti, Marescotti, and Touzard, “Geographical Indications, Public Goods, and Sustainable Development: The Roles of Actors’ Strategies and Public Policies.”

<sup>74</sup> Helpdesk, *Geographical Indications in the European Union*.

<sup>75</sup> Abd Thalib, “Shortcomings of Geographical Indication in Indonesia: A Critical Appraisal,” *Journal of Hunan University Natural Sciences* 52, no. Volume 52, Issue 5 (2025): 63–75, <https://doi.org/10.55463/issn.1674-2974.52.5.6>.

<sup>76</sup> Thalib.

institutional architecture that fails to maintain clear boundaries between fundamentally different categories of intellectual property rights.

## CONCLUSION

This study set out to examine the structural differences between Indonesia's hybrid GI system and the EU's sui generis framework, and to identify adaptive reforms needed to bridge the gap. Three principal findings emerge. First, Indonesia's Law Number 20 of 2016 creates fundamental ownership ambiguity by treating GI rights through an individualistic trademark lens, contradicting the inherently collective nature of GI as common pool resources that require collective governance structures to function effectively. Second, the comparative analysis reveals that countries with institutionally separate GI system including Vietnam, Thailand, Cambodia achieve significantly highest rates of EU recognition, demonstrating that system clarity matters more than registration volume. Third, consistent with Watson's legal transplant theory, Indonesia's incorporation of GI provisions into trademark law represents a flawed transplant that has produced a hybrid system serving neither trademark nor GI objectives effectively, and convergence with EU standards as Twining and Ogus suggest, remains incomplete as long as structural reforms lag behind international normative expectations.

Indonesia's hybrid GI regime still does not fully delineate collective GI rights from individual trademark ownership, creating ownership ambiguity, administrative overlap, and governance arrangements where registered holders can exercise quasi-proprietary control that can disadvantage smaller producers. By comparison, the EU's sui generis system conceptualizes GIs as community-based entitlements available to all qualifying producers in the designated area, with representative groups entrusted with governance rather than ownership, thereby reducing risks of concentration of control and more effectively supporting rural development and international market confidence.

The findings of this study point toward a necessary evolution in Indonesia's intellectual property strategy. To bridge the gap with international standards like those in the EU, the reform must go beyond surface-level changes. Specifically, Law Number 20 of 2016 requires a surgical clarification. GI rights must be codified as non-transferable community entitlements, stripping away the quasi proprietary control currently held by individual applicants<sup>77</sup>. Furthermore, a functional divorce between GI and trademark administration within the DGIP is essential to ensure that regional identities are no longer processed through the lens of individual commercial gain. Only through such structural decoupling can Indonesia truly protect its small-scale producers and gain the international market confidence it currently lacks.

Future research should examine the micro-level economic impact of Indonesian GIs smallholder income and value-chain positioning through empirical case studies comparing successful and struggling GIs with EU counterparts, providing evidence for sector-specific reforms and Indonesia's path toward a coherent sui generis GI framework<sup>78</sup>

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<sup>77</sup> Putri, Putri, and Pandjaitan, *Challenges of Geographical Indication in Indonesia: A Study from Lampung Province*.

<sup>78</sup> Thalib, "Shortcomings of Geographical Indication in Indonesia: A Critical Appraisal."

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