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LEGAL ANALYSIS OF EXCLUSIVE RIGHTS GEOGRAPHICAL INDICATIONS OF ENREKANG COFFEE PROTECTION SOCIETY

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Abstract - This research aims to find out the reputation of Kalosi Enrekang Arabica Coffee, which has been known since the 16th century on the world market, with a very strong but soft taste and aroma of the coffee, which is a mixture of flowers, fruit, and spices with a strong viscosity (body). Based on this reputation, the Enrekang Coffee Farming Community on February 1 2012 registered the Geographical Indication of Kalosi Enrekang Arabica Coffee with the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights with No. IG.00.2012.00000 to obtain legal protection with exclusive Geographical Indication rights for the reputation of Kalosi arabica coffee. On February 15, 2013, a Geographical Indication Certificate for Kalosi Enrekang Arabica Coffee was issued with No. ID G 000 000 018. Geographical Indication is a sign used on reputable products, with certain characteristics and characteristics in the form of agricultural products, food ingredients, handicraft products, raw materials, processed products, and mining products. This research aims to determine the contribution of the exclusive rights of the Kalosi Arabica Coffee IG in improving the economy of members of the Enrekang Coffee Farmers Community. The research method used is juridical-empirical with emphasis on primary data from the field. The results of the research show that: the exclusive GI rights for Kalosi Arabica coffee have not contributed to improving the economy of members of the Enrekang Coffee Farmers Community, because the production and marketing processes have not been carried out in accordance with the requirements specified in the Geographical Indication Requirements Book for Enrekang Kalosi Arabica Coffee.

Keywords: law-exclusive; right-MPKE protection

INTRODUCTION

Indonesia is one of the countries with the most coffee varieties in the world, with the number reaching 300 varieties, consisting of Arabica and Robusta coffee. These plantation commodities are in great demand by local and foreign people (Hasniati et al., 2023). Coffee is an agricultural product that is made into a drink through the process of processing coffee beans into ground coffee. Etymologically, the word coffee comes from Arabic, namely: Qahwah which is used to refer to wine products, and Bunn to refer to products derived from beans (Karim et al., 2023). The word Qahwah al-bunn means a drink that is similar to wine and comes from grains such as nuts. In its development, Qahwah was used to refer to coffee drinks, and Bunn to refer to coffee beans. Qahwah in Turkish is kahveh, Dutch is Coffee and English is Coffee. Data from the Indonesian Central Statistics Agency for 2023 shows that Indonesia's coffee production will reach 794.8 thousand tons in 2022, an increase of around 1.1% compared to the previous year (year-on-year/yoy). The complete data in Diagram 1 is as follows:

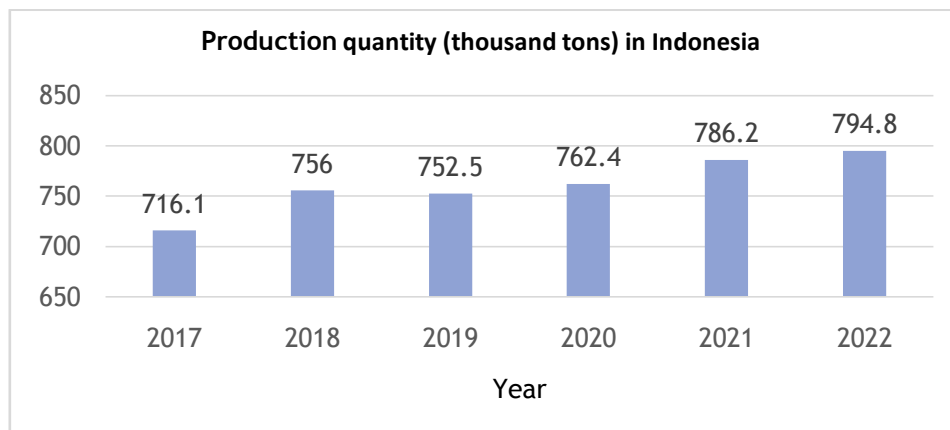


Figure 1: Production quantity

Source: Secondary data, 2023.

Furthermore, the 2023 BPS Indonesia data shows the highest and lowest coffee-producing provinces in Indonesia, as follows: South Sumatra Province, the highest coffee-producing region in Indonesia in 2022, with a total of 212.4 thousand tons or 26.72% of the total national coffee production, followed by other provinces, namely: Lampung with coffee production of 124.5 thousand tons, North Sumatra 87 thousand tons, and Aceh 75.3 thousand tons. Meanwhile, the Bangka Belitung Islands, Gorontalo, and West Papua are provinces with coffee production of 0.1 tons or 100 kg. The following is a diagram of the highest coffee-producing provinces in Indonesia:

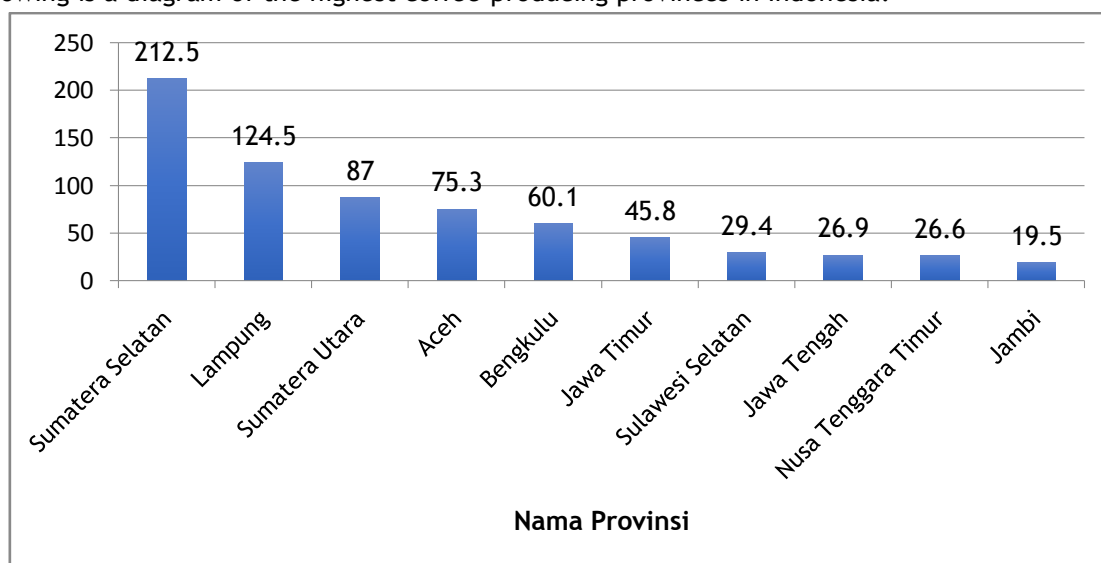


Figure 2: Largest Coffee Producing Province in Indonesia

Source: Secondary data, 2023.

Figure 2 shows the coffee-producing regions in Indonesia, and several regions produce Arabica coffee with certain characteristics, due to the influence of the geographical environment, humans, or a combination of these two elements as a natural process or with traditional knowledge obtained from generation to generation (Karim et al., 2022). generations to produce specific products that can be maintained for a certain period, and have a reputation (fame) and high value, known as Geographical Indication (GI) products. Geographical Indications were first introduced internationally in the Paris Convention for the Protection of Industrial Property in 1883, for Roquefort and Champagne cheese products under the name Appellation d'Origine Controlee. Furthermore, IG is regulated in the Madrid Protocol of 1891, the Lisbon Agreement of 1958 for the Protection of Appellation of Origin and Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) 1994, and has been ratified by Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization (Kurniati et al., 2021).

In Indonesia, Geographical Indications (GI) are regulated in Law Number 20 of 2016 concerning Marks and Geographical Indications in Chapters VIII to XI, with 16 articles. In these provisions, GI is defined as a sign used for products originating from a certain region or region with quality, reputation, and characteristics, with unique characteristics that differentiate similar products from other regions (Oner et al., 2022). GI was initially used for agricultural products, but in its development, it includes non-agricultural products, namely products produced by the community using traditional methods based on knowledge obtained from generation to generation in a particular area, which can be: natural resources, handicraft goods, and industrial products (Shadiq, 2022). Natural resources are anything that comes from nature that can be used to fulfill human needs which includes biotic components, such as animals, plants, and microorganisms, and abiotic components, such as petroleum, natural gas, various types of metals, water, and soil (Shadiq& Karim, 2023). Industrial products consist of products processed by humans, in the form of raw goods into finished goods, including GringsingTunun, Sikka weaving, Mandar silk weaving, and Wajo silk weaving. Objects that can be protected with geographical indications include all products produced by nature with certain tastes, shapes, and characteristics that are different from similar or dissimilar products from other regions (Shadiq et al., 2023).

GI in Indonesian civil law includes a class of intangible objects in the form of signs, logos, or labels, with exclusive and communally owned rights granted by the state to interested parties seeking legal protection of GI, namely community groups and the government (Zubaidah et al., 2022). Interest in the concept of communal property rights is a demand from certain community groups and is exclusive, which is expected to fulfill its "purpose" and its "benefit" can be felt (socially profitable or for public use, or actual use by the public), which is guaranteed and protected by law in its implementation (Zubaedah et al., 2023). Legal protection of Geographical Indications (GI) refers to communal ownership rights over regional products of origin through their uniqueness with different tastes from similar products in other regions, and to prevent other parties from using the GI's reputation without rights to specific products of the same type (Hans et al., 2023). The GI legal protection system is constitutive of a first-to-files system, that is, a form of legal protection will be given to the party who first registers the GI.

From an economic perspective, the legal protection of GI which has economic value in the market will increase given that most of the economic benefits of international trade regarding indigenous (traditional), because it carries the uniqueness, characteristics, and taste of the region of origin of the product which cannot be replaced by other products similar to other areas (Almusawir et al., 2018). This will increase people's income and welfare as well as the competitiveness of superior products from the region of origin. In several countries, products based on geographic environment and traditional knowledge have succeeded in providing economic benefits to their people, for example, basmati rice which is cultivated by the people of India, Pakistan, and Nepal.

Communal rights to GI are based on the communal culture that lives and develops in Indonesian society (Almusawir, 2021). This is different from the concept of ownership rights to intellectual property in the Trademark and Geographical Indications Law which are individual and collective, granted by the state through registration, and the implementation is carried out by institutions that represent the community in certain geographical areas, which cultivate goods and/or products in the form of resources, natural resources, handicraft goods and industrial products, and provincial or district/city government (Neilson et al., 2018).

The application for GI registration is submitted to the Directorate General of Intellectual Property or through the Regional Office of the Ministry of Law and Human Rights where the GI product is produced (Ardi&Paserangi, 2022). The criteria for a product to be registered with GI must meet objective and subjective requirements, accompanied by the name of the region of origin of the item, characteristics, characteristics and taste to differentiate similar goods from other regions (Nurasiah et al., 2022). The application for GI registration is accompanied by a Geographical Indication Requirements Book, namely a book containing information on the influence of the geographical environment, natural factors, human factors that influence the quality or

characteristics of the products produced, regional maps, history, traditions, processing processes, methods of testing the quality of goods, as well as labels that used (Tamma et al., 2020).

In Indonesia, 111 IGs have been registered with the Directorate General of Intellectual Property Rights for various products as trading assets. Specifically for Arabica coffee, 13 IG certificates have been issued for around 300 (three hundred) types of Indonesian coffee. However, the potential for exclusive GI rights has not been able to be utilized properly by the community (Mehrez et al., 2023). An example of the exclusive rights of IG Kalosi Arabica Coffee, which is expected to increase the income and welfare of MPKE members with the reputation of Kalosi Arabica coffee which will be produced and marketed based on the Geographical Indication Requirements Book.

METHOD

This research uses normative legal research, which examines legislation, regulations, and theoretical concepts related to the issues to be discussed. In this research, legal rules, legal principles, and legal doctrines are analyzed to deal with the legal issues at hand (Czarny-Drożdziejko, 2021). There are problem formulations in writing this article. First, using primary legal materials consisting of Law No.20/2016 Law on Trademarks and Geographical Indications and Book of Geographical Indication Requirements for KalosiEnrekang Arabica Coffee. Meanwhile, secondary legal materials include publications on law such as textbooks, legal journals, and related news.

The process of collecting legal materials was carried out through literature studies, collecting relevant laws and regulations, hardcopy and softcopy literature, as well as articles or talk show results from print media and the internet that are relevant to the topic of writing. The data is then analyzed and described regularly in relevance to the problem. The approach used in this research is the deductive method, which examines the relationship and consistency of laws and regulations in general. The legal materials are reviewed, compiled, and described to identify the issues raised, then analyzed to conclude with the formulation of the problem.

RESULT AND DISCUSSION

1. Exclusive Rights to Geographical Indication of KalosiEnrekang Arabica Coffee

The exclusive Geographical Indication (IG) right for KalosiEnrekang Arabica Coffee (Kalosi coffee) is a communal economic right of the Masyarakat Perlindungan Kopi KalosiEnrekang(MPKE) with IG Certificate No. ID G 000 000 018, issued on February 1 2012 by the Directorate General of IPR, Ministry of Law and Human Rights. MPKE was formed in 2012 with members consisting of 186 farmer groups and 4,766 farmer families, cultivating Arabica coffee in an area of 7,149 ha, with production potential reaching 2 tons per ha every year or 700 - 800 kg per ha. However, annual production has not yet reached 50% of the existing Kalosi Arabica coffee potential. This happens because the cultivation of Kalosi Arabica coffee by MPKE members is still carried out traditionally with limited plantation area. More details about MPKE members can be seen in the following table.

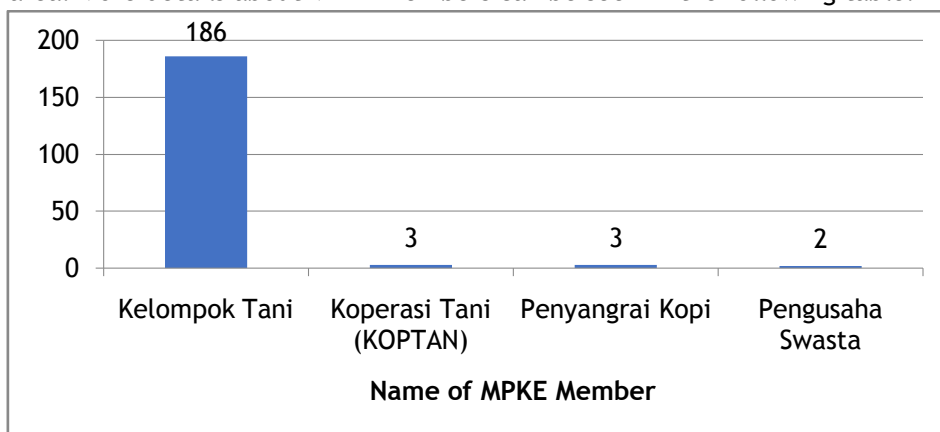


Figure 3. Masyarakat Perlindungan Kopi KalosiEnrekang (MPKE) Community
Source: Author's finding, 2023.



The diagram above shows the number of members of the MPKE when it was formed in 2012, but over time the number of members has continued to decrease and they have shifted to cultivating other agricultural commodities because the Arabica coffee plant that is cultivated as is an seasonal crop and has not been able to support the farmers' economy sustainably. The Kalosi Arabica coffee cultivation area is located at an altitude of 1,000-2,000 m above sea level on the slopes of the Latimojong Mountains, which includes five sub-districts, namely: Bungin, Baraka, Alla, Buntu Batu, Curio, Masalle, Baroko and a small part in the Enrekang District area, Malua and Anggeraja. The types of Arabica coffee grown in Enrekang consist of Lini S-288, Lini S-795, Arabusta, Hibrido de Timor, Catimmor (Kartika I & II), Tipika varieties as well as local varieties resulting from crosses from coffee varieties found in Enrekang.

Meanwhile, the type of Arabica Typica coffee (*Coffea arabica* Linn. var. Typica) is a super-premium specialty coffee product with a very distinctive taste, developed on the slopes of the Latimojong mountains in the villages of Pojappong and Nating, BunginSub-district using coffee cultivation and processing methods at an altitude of 1000 m above sea level to 2000 m above sea level with cold, dry air temperatures that can reach 4 °C, and average rainfall of around 1,410 mm per year for 137 days/year. In this area, there is a former coffee plantation area left by the Dutch East Indies government with a population of Tipika arabica coffee trees (*Coffea arabica* Linn. var. Typica) which are 300 years old and were cultivated around the 17th century. In the specialty coffee contest held by the Jember Coffee and Cocoa Research Center, Excelso Coffee, KapalApi Coffee, and AEKI, Arabica coffee from Enrekang was declared the 1st and 2nd best coffee, based on the results of physical tests and coffee tastes throughout Indonesia conducted by the Coffee Research Center and Indonesian Cocoa Number 1099.A/XII/2008 Dated December 17, 2008. The boundaries of the Kalosi Arabica Coffee Geographical Indication area can be seen in the following map image:

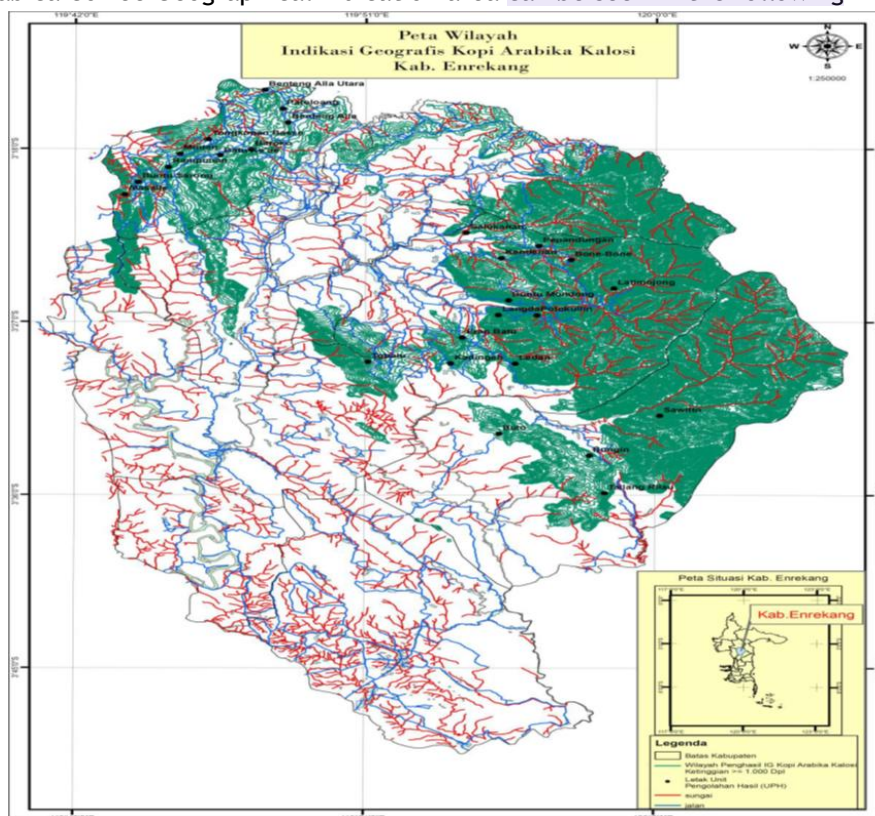


Figure 4. Map of Enrekang Regency

From the green map image above, these are the boundaries of the potential area for the development of Kalosi Arabica coffee cultivation, which administratively covers 5 Sub-districts, namely: MasalleSub-district, BarakaSub-district, BarokoSub-district, Buntu BatuSub-district, and



Bungin Sub-district. Within the boundaries of the GI area, it is divided into several areas, namely: red spindle production area, wet grain processing area, drying area, processing area, and roasting and powdering area.

2. KalosiEnrekang Arabica Coffee Geographical Indication Product

The KalosiEnrekang Arabica Coffee Geographical Indication product (Kalosi coffee) consists of 3 types of products, namely: Green Bean Coffee, Roasted Coffee, and Ground Coffee. Rice coffee beans (green beans) are a type of Kalosi Quality 1 Arabica coffee product with a physical defect value of less than 8 per 100 grams according to the Indonesian National Standard (SNI) and Specialty Coffee Association of America (SCAA) standards, with the maximum water content of the coffee beans 12% and has grayish green seeds with a diameter greater than or equal to 6.5 mm or 16 according to SCAA standards. Rice coffee beans are the result of processing horn-skinned coffee or wet grain coffee into half-dry grain coffee which is boiled into rice coffee or half-dry green beans. Roasted coffee beans are a quality 1 green bean product, which is obtained from a sorting process to obtain a uniform coffee size with a level of roasting maturity that is tailored to the needs of the roaster and market demand in the form of light roast, medium or medium roast, and dark roast (Ibrahim et al., 2018). The roasting process can be carried out outside the IG area by MPKE members or other parties with MPKE permission. Roasting aims to obtain coffee beans with a physical defect value of less than 8 per 100 grams, with a size greater than or equal to 16/64 inches. Ground coffee is processed coffee that comes from quality 1 roasted coffee.

Table 1. Kalosi Arabica Coffee Processing Process and Limits

No.	Processing	Area limitations
1.	Production of red spindles	Within the boundaries of the GI area
2.	Red spindle processing arrivesdrying semi-dry coffee grains	Within the boundaries of the GI area
3.	Boiling semi-dry coffee grains	Within the boundaries of the GI area
4.	Drying of rice/green bean coffee beans	Within the boundaries of the GI area
5.	Sorting, packaging, quality testing and provision of labels, logos, and traceability codes	Within the boundaries of the GI area
6.	Rice/green bean coffee storage	Within the boundaries of the GI area
7.	Roasting rice/green bean coffee and Labeling Everywhere	Within the boundaries of the GI area
8.	Grounding roasted coffee and labeling	Within the boundaries of the GI area

Source: Authors finding, 2023.

To meet market demand in addition to these three types of products, Kalosi Arabica coffee can also be produced based on location with certain standards, namely: Coffee that has certificates other than Geographical Indication, for example: Organic, Rain Forest certificates, etc., coffee from special areas, for example: coffee from certain locations which have a distinctive taste according to the results of quality testing carried out by the Coffee Research Center and KakoJembe, coffee from special varieties. Examples: Tipika varieties, Line S.795 and Line S-288, and coffee with special processing. Example: coffee products with a fermentation process for a certain time(Rokhman, 2022). The level of knowledge of MPKE members regarding the Geographical Indication Requirements Book for KalosiEnrekang Arabica Coffee is as shown in the diagram below:

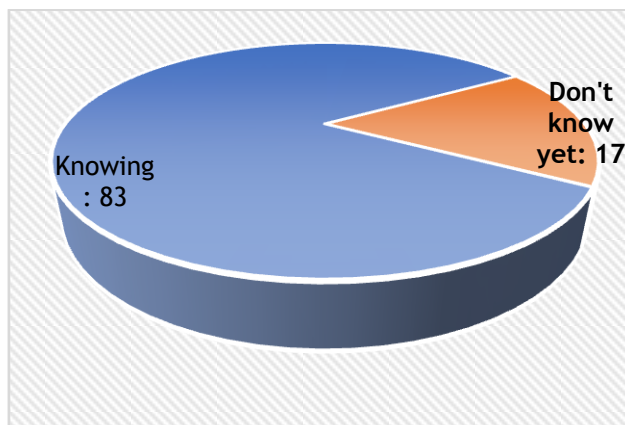


Figure 5. MPKE member's knowledge of the GI requirements book

Source: Authors finding, 2023.

Figure 4 above shows that 83 (83%) of the 100 respondents were aware of the Geographical Indications Book for Kalosi Arabica Coffee, and 17% answered that they did not know. However, this high level of understanding does not correlate with Arabica coffee products marketed by MPKE members, which have not been processed based on the standards of the Kalosi Enrekang Arabica Coffee Geographical Indication Requirements Book. This happens because in general MPKE members are traditional Arabica coffee farmers with limited land area and economy, who have not been able to meet production standards according to the Kalosi Arabica Coffee Geographical Indication Requirements Book independently. Apart from that, the harvest yield and selling price of Arabica coffee as a seasonal crop do not always benefit farmers (Sulistiani&Sewu, 2023). In this regard, MPKE and the Enrekang Regency agriculture and plantation service guide farmers through counseling and training in coffee seeding and cultivation techniques (organic management), harvesting and post-harvest handling as well as product processing to improve the quality of Arabica coffee. To increase the production of Typica Arabica coffee, collaboration was carried out with Hasanuddin University through the revitalization of the procurement of shoot grafting seeds on 20 ha of land in Nating village, Bungin Sub-district at an altitude of 1500 m above sea level. The results of field observations showed that the program was not running as expected, namely that revitalization to increase the productivity of premium type Arabica Arabica coffee was no longer being continued by MPKE and Hasanuddin University.

CONCLUSION

Kalosi Arabica coffee marketed by MPKE members does not meet the standards of the Geographical Indication Requirements Book, and the marketing pattern remains the same before and after the issuance of the GI certificate, namely directly carried out by farmers, farmer groups, and cooperatives to intermediary traders or companies from Toraja, Makassar, Jakarta, and Bandung, with a standard price determined by the buyer. The direct marketing pattern is carried out by involving level I collecting traders (PP I), sub-district level collecting traders (PP II), wholesalers (PB), and exporters, and without involving village level collecting traders (PP I).

The exclusive rights to the Kalosi Arabica Coffee Geographical Indication have not contributed to improving the economy and welfare of members of the Masyarakat Perlindungan Kopi Arabika Kalosi Enrekang (MPKE), because First: MPKE members are generally small farmers with limited coffee plantation areas with low productivity. Both coffee harvests have not been able to support the economy of MPKE members. The three MPKE institutions as interested parties who registered Geographical Indications with the Directorate General of Intellectual Property Rights of the Ministry of Law and Human Rights and the Agriculture and Plantation Service of Enrekang Regency have not been able to provide infrastructure to support the Kalosi Arabica coffee production process which meets the standards of the Enrekang Arabica Coffee Geographical Indication Requirements Book.

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