

Geographical Indications: Legal Protection and Regulatory Framework

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Abstract

Products with traits, reputation, or features that are associated with their place of origin may be protected by a special kind of intellectual property called a Geographical Indication (GI). The function of GIs in safeguarding cultural legacy, traditional knowledge, rural development, and the commercial value of regional goods is crucial. Geographical indications are the subject of this study, which delves into their definition, relevance, legal protection, and regulatory structure on a global and national scale. Indian law pertaining to geographical indications of goods (registration and protection) and the TRIPS Agreement are both covered. Major problems with GI protection, as highlighted in the paper, include ignorance, counterfeiting, enforcement concerns, and problems with international recognition. Protecting GI goods and guaranteeing sustained cultural and economic growth are two of the main goals of this study. To achieve these goals, greater regulatory procedures and adequate legal protection are necessary.

Keywords

Geographical Indications, Intellectual Property Rights, TRIPS Agreement, GI Protection, Traditional Knowledge, Rural Development

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Introduction

To safeguard originality, craftsmanship, traditional wisdom, and brand equity in today's interconnected global economy, intellectual property rights have become crucial legal tools. Products whose reputation, attributes, or traits are inherently associated with a particular geographical region are protected by Geographical Indications (GIs), which set them apart from other types of intellectual property. Geographical indicators are collective rights that help communities, groups of producers, and regions, as opposed to patents, copyrights, or trademarks, which are often linked with individual inventors or businesses. They establish a connection between a product and its origin, making it such that the protected name may only be used by authorised manufacturers in the specified region. The global importance of geographical indications has skyrocketed due to the proliferation of international commerce and the rising demand for genuine, high-quality goods. The original idea behind geographical indicators was that the unique characteristics of certain items are a result of a combination of natural and human elements that are exclusive to a single area. Traditional production techniques, skills, and cultural practices passed down through generations are examples of human factors, while climate, soil composition, geography, and other environmental elements are examples of natural factors. When taken as a whole, these characteristics make the resulting items one-of-a-kind and impossible to find anywhere else. Among the most well-known are the following: French Champagne, Scottish Whisky, Italian Parmigiano Reggiano, Indian Darjeeling Tea, and Mexican Tequila. People all across the globe recognise these brands because they are associated with high quality, genuineness, and cultural heritage. As globalisation and international trade have progressed at a fast pace, the need to safeguard geographical markers has grown. Geographical names might be worth a significant penny in today's cutthroat business environment. Some unscrupulous businesspeople may try to take advantage of this value by passing off items made in other regions as belonging to the specified area, deceiving buyers and tarnishing the credibility of legitimate manufacturers. In addition to hurting genuine companies financially, this kind of abuse makes consumers doubt that the things they buy are real. By shielding qualifying producers from infringement and offering remedies for unlawful use, copying, or misrepresentation, legal protection of geographical indicators helps alleviate these issues.

The protection of cultural artefacts and traditional knowledge is another important function of geographical markers. Traditional techniques that have been handed down through generations are used to create several GI items. Local communities' cultural identity, history, and traditions are often reflected in these

ways. Without sufficient legal protection, communities that have produced and preserved this traditional knowledge run the risk of having it exploited without giving due credit or remuneration. Protecting these cultural assets is a way for the communities that created and care for them to keep the money that comes from selling traditional goods. This is what GI protection is all about. As a result, geographical markers help preserve cultural variety and legacy while simultaneously promoting economic growth. Their role in rural development and long-term economic prosperity is another crucial facet of geographical indicators. Agriculture, handicrafts, and traditional industries are the mainstays of rural and economically depressed areas, the origins of many GI goods. Producers are able to charge higher prices and tap into new local and worldwide markets because of GI protection, which increases product recognition and market value. Jobs, higher wages, and more investment in local economies are all results of a surge in demand for GI goods. In addition, geographical indications often encourage sustainable farming and industrial methods that protect local resources and biodiversity, since the reputation of GI goods is dependent on maintaining certain production standards and environmental circumstances. Through a series of treaties and accords, geographical indicators have been progressively recognised legally on an international level. International agreements like the 1883 Paris Convention for the Protection of Industrial Property and the 1891 Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods were the first to attempt to safeguard indications of source and appellations of origin. Nevertheless, full worldwide protection was established in 1994 by the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In order to safeguard geographical indications, the TRIPS Agreement mandated that member governments have legislative safeguards in place to avoid deceptive practices and unfair trade practices. Because of their importance to global commerce, it also instituted stricter regulations on wine and spirit exports.

India has great potential as a geographical indicators destination because of its varied climates, long history of handicraft and agriculture, and abundant cultural heritage. There are a lot of Indian items that are well-known for being associated with certain places and having special attributes. The Pochampally ikat, Nagpur oranges, Alphonso mangoes, Kashmir saffron, Kanchipuram silk sarees, Mysore silk, Darjeeling tea, and Banarasi sarees are just a few examples. As part of its commitments under the TRIPS Agreement and to safeguard these precious assets, India passed the Geographical Indications of Goods (Registration and Protection) Act, 1999. Indian geographical indications (GI) have been more widely recognised

and appreciated on a global scale thanks to the Act, which establishes a thorough legal framework for their registration, protection, and enforcement in India. Protection of geographical indications is nevertheless hindered by a number of issues, even though there are legislative frameworks in place on both the international and national levels. Problems with quality control and access to markets are among these obstacles, as are insufficient enforcement mechanisms, counterfeit goods, trouble obtaining international protection, and a general lack of knowledge among manufacturers. Furthermore, new avenues for the illicit use of protected geographical names have opened up due to the proliferation of online marketplaces and the digitisation of business. Governments, producer groups, regulatory agencies, and international organisations must work together to tackle these issues.

Research into geographical indicators and the laws that safeguard them is crucial in this regard. In addition to protecting producers' financial interests, a good GI system does the following: builds confidence among consumers, protects traditional knowledge, supports rural development, and helps ensure the long-term viability of both culture and the economy. Government officials, academics of law, manufacturers, and companies selling items peculiar to a certain area would do well to familiarise themselves with the regulations and statutes that control geographical indicators. In this study, we take a look at geographical indications—what they are, why they're important, how they're protected, and how successful the current regulatory systems are. The Indian legal system as outlined in the Geographical Indications of Goods (Registration and Protection) Act, 1999 is given special attention. The article delves further into the difficulties of GI protection and suggests ways to improve the legislative environment so that geographical indication goods are better protected, more widely recognised, and more commercially successful on a worldwide scale.

Legal Frameworks Regarding Geographical Indications

For GI protection to work, it is necessary to determine who has the exclusive right to sell products with a certain area identity. Nowadays, there are a number of methods to get this right via the legal system. Therefore, producers need to be aware of the several processes that might safeguard their exclusive right to use geographical names in commerce. Those who have studied up on these legal foundations might skip to the GI case studies if they so want. A GI may be anything that stands out visually and aurally, such as a slogan, logo, or distinctive typeface used to advertise a product. Customers may learn everything about a product's special features in relation to its category with the use of these indications. In order for a sign to serve its GI role adequately. It has to have a consistent market meaning so that consumers can instantly

associate it with a particular brand and product category. While registering a Geographical Indication (GI) is the standard practice, there are other approaches that show promise, especially in emerging markets. The various legal regimes in certain locations imply that particular. When it comes to benefiting GI protection, localized tactics could work better. In addition, exporters must have a deep understanding of the legal requirements of their target markets in order to take advantage of new prospects, since globalization has led to varied international processes.

Importance of Geographical Indications

One of the most important ways that intellectual property is protected in today's legal and commercial climate is via Geographical Indications (GIs). Products that can be traced back to a certain location and are known for traits, attributes, or reputations that are fundamentally associated with that location are called Geographical Indications. In contrast to trademarks, which reveal the product's economic origin, geographical indicators associate a product with a specific location. The product's distinctive character and market worth are bestowed by this link, which is difficult to imitate. As a result of factors such as greater acknowledgement of traditional knowledge and cultural history, increased consumer awareness of the value of product authenticity, and globalisation, the significance of geographical indicators has grown significantly in the last several decades. An integral part of intellectual property law and international commerce, geographical indicators serve many social, cultural, economic, and legal purposes.

Geographical indicators serve to safeguard producers' financial interests, which is one of the main reasons for their significance. Over time, the quality, originality, and authenticity of products linked to a certain geographical area tend to earn them a solid reputation. A high market value is a direct result of this reputation. Unauthorised manufacturers might take advantage of the good brand established by legitimate manufacturers by selling subpar goods under the geographical name if it is not protected by law. By limiting production to approved entities within the specified area, geographical indicators discourage this kind of abuse. Consequently, manufacturers may safeguard their assets, maintain the quality of their products, and get equitable profits from their wares. Legal protections offered by geographical indications contribute to a competitive and stable market, which is good for legitimate producers and bad for dishonest ones. The capacity to raise product prices is another major benefit of geographical indicators. Products with the GI seal are often thought of by consumers as being of higher quality, more genuine, and made using traditional techniques. Thanks to this notion, companies may demand higher prices than for regular items. Products with a strong national or worldwide reputation, such as

Darjeeling Tea, Champagne, or Scotch Whisky, may fetch a premium price in both local and foreign markets. Product revenue for growers and regional economic development is both boosted by the premium prices linked with GI goods. The enhanced brand awareness of GI goods also aids small and medium-sized companies in competing successfully on a national and international basis. Supporting rural development and fighting poverty are two other important functions of geographical markers. The principal means of subsistence in rural regions, where many GI items are made, are agriculture, handicrafts, and traditional industries. Local communities may enhance their economic circumstances via greater production, marketing, and exports, made possible by the preservation and promotion of geographical indicators. Higher living conditions, more job possibilities, and better infrastructure in rural communities may be achieved by the increased cash produced from GI goods. Geographical indicators assist in spreading economic progress more equitably by supporting rural producers and conserving local industries, in contrast to industrial expansion that tends to concentrate economic advantages in metropolitan regions. As a result, GI protection is a powerful instrument for long-term, equitable development.

One of the most important functions of geographical markers is to protect cultural assets and traditional knowledge. Traditional methods and skills that have been honed over many generations are used in the production of several GI items. Many times, the manufacturing processes used in these items mirror the identity, culture, and history of the people who made them. The Indian crafts of Kanchipuram silk, Madhubani paintings, Channapatna toys, and Banaras sarees are just a few examples. Without proper legal safeguards, outsiders may plagiarise, exploit, or commercialise such traditional knowledge, robbing the communities that worked so hard to keep it alive. By limiting the usage of the protected geographical designation to authorised producers only, geographical indicators help keep these ancient practices secure. In an increasingly interconnected world, this safeguard ensures that communities may go on with their traditional vocations and contributes to the preservation of cultural variety. Protecting geographical markers helps maintain cultural identity and also safeguards traditional knowledge. Products with geographical indications often represent the traditions, culture, and history of the places they originate from. They are often symbols of local customs and decades of knowledge. Geographical indicators play an important role in preserving the cultural identity of communities and regions by providing legal protection for these items. In a world where mass manufacturing and standardisation pose serious threats to local identities and traditional industries, the preservation of cultural practices like these takes on added significance. Protecting GIs allows communities to take pride

in their history while also reaping the financial benefits of their cultural treasures. Geographical indicators also play a crucial role in consumer protection. More and more, today's shoppers want to know where their items come from, how good they are, and if they are legitimate. Consumers may be certain that a product has the features and characteristics linked to its geographical origin when they see a geographical indicator, which provides trustworthy information about the product's provenance. Customers are able to make educated purchases with less chance of being misled. Products like Darjeeling Tea and Basmati Rice that have the GI mark on them guarantee that they are of high quality and come from the specified geographical area. Therefore, geographical signals increase trust among consumers and encourage market openness.

Geographical indicators have a significant role in facilitating international commerce and boosting exports. Because of their prestige and distinctive qualities, GI goods often have an upper hand in international trade. In order to boost exports and solidify their position in international markets, countries that own significant GI portfolios may use these items as important economic assets. Geographical indicators are a great way for developing nations to differentiate their goods and get into high-end markets. Indian GI items like Pochampally ikat, Kashmir saffron, Darjeeling tea, and Malabar pepper have become well-known throughout the world and have helped boost export revenue. Preventing the abuse of geographical designations in foreign markets is another way that international protection of geographical indicators helps maintain these items' economic worth.

Additional support for ecological preservation and biodiversity is provided by geographical designations. There is a considerable motivation for manufacturers to protect the natural resources used to make GI goods because of the strong correlation between the quality and reputation of these items and certain environmental conditions. Sustainable land usage, preservation of local plant types, and ecologically benign production techniques are typically promoted by traditional agricultural and production practices linked with GI products. For instance, a lot of the agricultural goods that are GI-certified use methods that have been used for a long time, which help keep the environment clean and biodiversity high. Geographical indicators help ensure environmental sustainability and balance in the long run by promoting the preservation of certain practices.

The encouragement of joint economic growth is another significant advantage of geographical indicators. In contrast to trademarks, which are usually held by specific companies, geographical indications are more like collective rights that all qualified producers in a certain area tend to enjoy. Because of this communal

aspect, producers are more likely to work together, which improves quality control and makes it easier to form producer groups. By working together, local industries are fortified, producers are able to increase their negotiating power, and they may launch joint branding and marketing campaigns. So, geographical signals encourage people to become involved and contribute to the economy as a whole.

Lastly, safeguarding market integrity and avoiding unfair competition are two important functions of geographical indicators. The use of geographical names without permission may deceive buyers and tarnish the credibility of authentic goods. Geographical markers provide powerful tools for combating infringement, forgery, and misleading business practices because of the legal protection they offer. This safeguard makes sure that the protected name may only be used by producers who match the specified criteria and are located in certain areas. Because of this, geographical indicators help to keep products genuine, protect their standing in the market, and level the playing field for businesses.

Economic, social, legal, cultural, and environmental considerations all highlight the paramount significance of geographical markers. They safeguard producer interests, boost product value, encourage rural development, safeguard traditional knowledge and cultural heritage, safeguard consumers, ease international commerce, promote environmental sustainability, and prohibit unfair competition. Despite rising levels of competition in today's global marketplace, geographical indicators remain an effective means of protecting regional goods and fostering long-term economic growth. To ensure that producers, consumers, and society at large get the full advantages of these laws, it is crucial that they be well-protected and strictly enforced.

Challenges In Gi Protection

Geographical indications (GIs) are becoming more and more acknowledged as important IP rights, but protecting them effectively is still a major hurdle on a global scale. Protecting goods with distinctive attributes associated with a particular place of origin is an important function of geographical indicators. They help safeguard consumers, maintain cultural traditions, and preserve traditional knowledge, all of which contribute to economic growth. Nevertheless, there are often several diplomatic, administrative, economic, and legal hurdles to the actual application and enforcement of GI rights. Producers and communities might expect GI protection to be successful, but these issues can reduce its efficacy. The future of geographical indicator systems depends on finding solutions to these problems, which are becoming more pressing as the world economy becomes more interdependent.

The lack of knowledge among farmers and communities is a major obstacle to GI protection. The notion of geographical indications and the advantages of GI registration are unknown to many craftsmen, farmers, and traditional producers in many developing nations, including India. Without understanding that legal protection may increase their market value and prohibit unauthorised usage, many communities persist in producing distinctive regional goods. Technical data, proof of geographical relationship, and legal formalities are often required for registration, which may be challenging for producers in rural areas to comprehend. This leaves many worthy items open to copying and exploitation because they have not been registered. Consumers aren't always informed, which means they may not know how important GI labels are and end up buying fakes instead of real ones.

The length and expense of the registration procedure are another key obstacle. Despite the fact that many nations have established legal requirements for GI registration, the process may be time-consuming and demanding in terms of resources. It is common practice to request applicants to provide extensive documentation of the product's origin and its history, as well as scientific data, manufacturing specs, maps, and any other relevant documentation. Particularly for less well-off traditional communities and small-scale producers, collecting this kind of data may be a daunting and costly task. To go through the registration procedure, manufacturers sometimes have to depend on government authorities, lawyers, or NGOs. The GI system may not be as effective or accessible since many populations are discouraged from seeking protection due to the fees involved.

The enforcement of rights related to geographical indications is another significant obstacle. Signing up does not ensure that you will be adequately protected. Authorities and producer organisations are obligated to diligently keep an eye on the market after a GI is registered in order to detect any instances of infringement, counterfeiting, or unauthorised usage. Weak enforcement procedures are a result of a lack of resources, oversight, and institutional competence in many jurisdictions. False goods are a common sight in both local and foreign marketplaces, leading buyers astray and tarnishing the credibility of real brands. It is challenging for producer groups and communities to seek meaningful remedies via the lengthy and expensive legal processes against infringers. The usefulness of GI protection is diminished since a lot of infringement instances are left unsolved.

In this age of globalisation, the theft and counterfeiting of GI items have been much more common. In order to cash in on their fame, unauthorised manufacturers often go for products with solid reputations and high market demand. Products that do not come from the authorised location or do not match the requisite

quality criteria may be deceitfully named by these companies. Counterfeit goods have a negative impact on the protected indication's reputation and customer confidence, which in turn hurts the profitability of legitimate manufacturers. False Darjeeling tea, Basmati rice, and Kashmiri handicrafts have recently surfaced in several shops throughout the globe. Tackling these abuses requires robust enforcement tools, global collaboration, and ongoing market monitoring, each of which poses considerable obstacles.

Geographical indicators protection on a global scale is another intricate matter. Globally important goods (GI) often need acknowledgement and protection in international marketplaces where they are marketed, in contrast to national registration, which only offers protection inside a particular nation. In terms of GI protection, different nations take different tacks. While trademark laws or unfair competition principles are the mainstays of certain countries, others have extensive and robust specialised legislation that covers all bases. It is challenging for producers to get uniform protection across several jurisdictions due to the legal ambiguity caused by these discrepancies. It may be expensive and time-consuming to get worldwide recognition since it usually requires several applications, legal counsel, and compliance with many regulatory criteria. Consequently, there is still a risk of abuse and illegal registration in international markets involving several GI medicines.

The ambiguity surrounding geographical identifiers and trademarks is another obstacle. Conflicts over who gets to use what happen often when trademarks and geographical indications overlap. Legal issues may arise if a firm registered a trademark that incorporates a geographical name before the associated GI was recognised. It will be necessary to strike a balance between trademark owners' and GI manufacturers' interests in order to resolve such disputes. Prolonged litigation and ambiguity about the extent of protection might ensue from these issues. It is a problem for both courts and regulators that geographical indications and trademarks may coexist; this is an ongoing dispute in the field of international intellectual property law.

The efficient administration of geographical indicators is further complicated by the need for quality control and standards. Keeping all authorised manufacturers to the same high-quality standards is crucial to a GI product's reputation. But it's not always easy to make sure everyone follows the rules, especially when there are a lot of small-scale producers utilising old-fashioned techniques. The quality of a product could vary according to factors such as manufacturing methods, available resources, and level of technical knowledge. Consumers may lose faith in the GI, which might hurt its image and bottom line if quality standards aren't strictly enforced. Lots of money and institutional backing are needed to set up inspection,

certification, and monitoring systems that work. New difficulties have arisen for GI protection as a result of the fast expansion of online marketplaces and e-commerce. Counterfeit goods are more easily able to reach customers across borders due to the worldwide selling of items enabled by online platforms. Online ads, product descriptions, or domain names may include protected geographical designations if the vendor is not authorised to do so. The vast number of online transactions and the global nature of digital commerce make it very difficult to detect and prevent such abuse. When it comes to cyber infringements, traditional enforcement procedures aren't always up to the task; thus, new legislative methods and tech solutions are needed. The uneven distribution of gain among producers is another significant concern. While GI protection aims to foster communal economic growth, the producer community may not necessarily reap the advantages to the same extent. Bigger companies have more marketing power, more capital, and easier access to markets than their smaller counterparts. Because of this, they can end up keeping a disproportionate amount of the money that GI protection brings in. Market access, certification, and decision-making participation may remain challenges for small producers. One of the biggest obstacles to the long-term success of GI systems is making sure everyone gets their fair share of the benefits.

Another major danger to geographical indicators is the deterioration of the environment and the effects of climate change. Climate, soil, and natural ecosystems are some of the environmental factors that give many GI products their distinctive qualities. Product quality and distinctive features are susceptible to changes in environmental factors such as temperature and precipitation patterns. These environmental changes pose a significant threat to agricultural GI products. Changes to the product's unique ingredients or processing methods might make it harder to maintain the GI's credibility and reputation. Thus, environmental sustainability is now a key factor in safeguarding geographical indicators for the long run.

There are several obstacles to the successful conservation of geographical indicators, despite the fact that they provide significant social, cultural, and economic advantages. Some of these issues include not enough knowledge, complicated registration processes, ineffective enforcement mechanisms, counterfeiting, problems with quality control, problems with digital commerce, uneven distribution of benefits, environmental hazards, and conflicts with trademarks. Governments, NGOs, producer groups, legal institutions, and consumers must all work together to solve these problems. The efficiency of GI protection may be greatly enhanced by strengthening legislative frameworks, bettering awareness programmes, strengthening enforcement procedures, encouraging international collaboration, and embracing current technical

technologies. Protecting regional goods, safeguarding cultural heritage, and encouraging sustainable economic growth can only be achieved by such comprehensive regulations regarding geographical indications.

Conclusion

An essential kind of intellectual property, Geographical Indications (GIs) safeguard goods that have qualities, reputation, and attributes associated with a particular geographical area. As a result, farmers and rural communities get economic advantages while traditional knowledge, cultural legacy, and local identities are preserved. In order to avoid exploitation and guarantee authenticity, the legal framework for GI protection is vital, both globally and in India. Nevertheless, obstacles including ignorance, forgery, and problems with enforcement persist. Improve the efficacy of GIs and boost long-term cultural and economic growth by raising awareness and fortifying protective measures.

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