



" SOCIO-ECONOMIC DEVELOPMENT BY PROTECTION OF GEOGRAPHICAL INDICATIONS IN INDIA "

1. AMIT KUMAR, Assistant Professor, S D College of Law, Muzaffarnagar ,
Mobile No. 9410898122, Email- amitchauhan920@gmail.com

2. PRITI LOUR, Assistant Professor, S D College of Law, Muzaffarnagar
Mobile No. 9410891945, Email- pritchauhan920@gmail.com

Abstract

Global issues have many dimensions and are not only economic in nature. They primarily appear as a transparent type of rural development in a larger framework, leading logically to the growth of commercial and economic advantages while increasing local worth's like culture, tradition, and climate. As a result of globalization, GIs have emerged as a competitive force in both international commodities markets and in the advancement of national economies and cultural traditions. There are three key international treaties for protecting GIs across the world: the Paris Convention, the Madrid Agreement, and the Lisbon Agreement. When it comes to protecting GIs, the Paris Convention has your back. It includes provisions for protecting GI concepts like indications of source or appellations of origin (which were later acknowledged by the Madrid Agreement and the Lisbon Agreement). In this framework, it becomes clear that the concept of a name conceals identifiers, whereas the concept of a sign conceals not just images but also national symbols and even representations. In addition, the Madrid Agreement designates that signs of source signify that a product or service originates from a certain area, nation, or region.

1.1 Introduction

Current international trends reveal a number of concerns from the perspective of farm trade and marketing, albeit in India they have yet to be relevant from the standpoint of either discussion or actual implementations. Things in independent India have progressed along the same lines as they did under colonial rule; however, recent focus has been placed on implementing land consolidation, supplying farmers with irrigation facilities, and establishing policies and rules regarding emerging concerns and issues related to the use of fertilizers and pesticides.

Intellectual property such as GIs can help fix the problems that plague information marketplaces. Primarily, they are utilized for what economists call "the search commodity" or the "experience commodity." As a result of their widespread, standardized production, basic commodities like wheat and sugar typically do not warrant GI protection. Therefore, buyers shouldn't stress too much with individual novelty. However, buyers save considerable time and energy in their product searches when they have easily identifiable, distinct differences. The Search expenses represent the money spent in order to discover the appropriate novelty that is often required in any product.¹

Customers can benefit from GI protection by easily distinguishing goods made in one region or nation from those made in another, reducing the likelihood that they will be duped. Protection for GIs in the form of intellectual property rights (IPR) creates the appearance that only businesses based in a certain area may legally prohibit competitors from using the mark. In addition, IGs are meant to aid producers by increasing the competitiveness and pricing of linked products via giving a premium to those products. Having made

¹ Keith E. Maskus, 'Observations on the Development Potential of Geographical Indications'

such a significant leap, seed producers across the country were compelled to charge a premium. Businesses in the seed and technology industries saw an opportunity to capitalize on the market for modified plant types and genes. Seed enterprises internationally have amalgamated with the purpose of gaining resources and expertise with which to dominate the industry. A growing body of evidence suggests that the marketing of agricultural products has become a significant industry in its own right, with important implications for the generation of processed goods.

1.2 ECONOMIC IMPORTANCE OF GI IN INDIA

From the perspective of transaction cost economics, many aspects of GIs advance independently. The examination of transaction costs sheds light on the seriousness of pledged and administrative concerns within the GIs framework. This perspective also places an emphasis on consumers' faith in certain brands or items as a bargaining chip to drive down overall sales prices. In a developing nation like India, the transaction cost analysis may prove to be a useful tool for the implementation of GIs.²

India has come to appreciate the economic value of GIs. GIs in India have shown amazing progress in a short period of time, with items like Basmati rice, Darjeeling tea, Chanderi silk, Kanjeevaram silk, Malabar pepper, etc. commanding far higher prices on both domestic and international markets than alternatives. After the GI Act 1999 was passed to provide for the protection and registration of GI items, the exports of other GI products like handicraft, textiles, etc. expanded as well. When a product has GI registration, it gains legitimacy in the eyes of the law and credibility among consumers, both of which contribute to a price increase. Agriculture and the textile industry are where GIs have been seen to have the most effect.

1.2.1 Role of GI in Agriculture Region

Basmati rice, Darjeeling tea, Alphonso mangoes, Malabar pepper, etc., are some of the most well-known GI agricultural goods. The economics of trading Basmati rice show that it is more lucrative than trading other types of rice. Economic gains from GI registration have been demonstrated by Ulrike Grote's research using the Heckman selection model. The 28-nation European Union banned Alphonso mango imports briefly in April 2014. From May 1, 2014, it also banned the import of four Indian vegetables: taro, bitter gourd, snake gourd, and eggplant. Mangoes from India were valued \$6.74 million and \$10.08 million when exported to the European Union in 2012 and 2013, respectively. In 2009-10, the top five markets for Indian basmati rice exports were Saudi Arabia, the European Union, Kuwait, the United Arab Emirates, and the United States, accounting for 86% of the country's total basmati exports. These countries acknowledge that the original basmati rice came from India and Pakistan, making it a GI in the eyes of the law. Basmati rice's three distinctive qualities—pleasant scent, fine grain elongation, and high export price on the global market—make it the most sought-after kind of rice in worldwide trade. Approximately two-thirds of India's Basmati rice harvest is commercially sold. Out of India's total rice output of 2.25 million metric tons, over 70 percent comes from the basmati variety. In 2009–10, they were close to \$2.8 billion, or around 40% of total rice exports. It was especially significant since its agricultural export made up around 5% of the total. The rice market has been influenced by the current volatility in the pricing of agricultural commodities. Basmati's high price on the international market has not decreased since 2008 (APEDA, 2009).

1.2.2 Role of GI in Textile Region

The textile and garment industry in India is a major contributor to the country's GDP. Also, this area plays a significant role in India's overall export success. Of the total number of items registered under the GI Act,

² Josling Tim, International Trade Center, "Guide to Geographical Indications: Connectioning Products and their origin", Geneva: ITC 2009,xix p.9

95 are directly related to the textile industry in India.³ It has not been shown that GI directly increases exports, although India's exports of textiles and garments have increased gradually over the past few years, especially when the textile export restriction was eliminated in 2004. In 2013–14, sales of textiles and clothing were estimated at 35426.97 US\$ million, whereas in 2014–15, that number has dropped to 24084.15 US\$ million.

In 2011-12, India's T&C exports increased by 19.76 percent, reaching US\$ 32.95 billion, up from US\$ 27.50 billion in 2010-11. In FY 2013/14, growth continued at US\$ 39.45 billion, up from US\$ 39.5 billion in FY 2012/13 (6.03%). There was an increase of 15% in US dollar terms and 15% in rupee terms for textile exports in the first nine months of FY 2014-15 (Apr-Dec) compared to the same period in FY 201314 (Apr-Dec). In dollar terms, textile sales increased by 12.94% from the previous fiscal year, totaling USD 39.46 billion in 2013-14 compared to USD 34.94 billion in 2012-13.

Readymade Garments account for over 37% of the global textile market in 2013–14. Recent data from the first nine months of 2014-15 show that RMG exports account for 47% of the total textiles exports, including Cotton textiles (35% of total exports) and human-made textiles (18% of total exports).

1.3 SOCIO-ECONOMICS DEVELOPMENT BY PROTECTION OF GEOGRAPHICAL INDICATIONS

When it comes to GIs in developing countries, the paucity of data is especially glaring⁴.

1.3.1 Socio-Economic and Development Issues

- It categorizes a product as being from a certain region, which is useful when the product's special qualities can be traced back to its origin rather than being invented in a lab.
- GIs may be made using ingredients from nature, agriculture, mass production, or industry.
- Misuse, protecting traditional and indigenous knowledge, improving market access, creating a niche market, protecting one's reputation, the benefits income effect, and rural evolution are some of the most pressing socioeconomic issues related to geographical indications in rapidly developing states like Sri Lanka, Pakistan, Nepal, and India.
- There have been 120 commodities approved for registration under the Act as of March 2010, with more in the works. Darjeeling (tea), Chanderi (handloom) textiles, Pochhampalliikat (rice), Alphonso (mango), and Basmati (rice) are just a few examples of famous GI products from India.

1.3.2 Socio-Economic Implications of GI in Developing States

Different levels of protection are afforded to wines and spirits than to other products or commodities in general, a feature unique to GIs under the TRIPS clause. First, all GIs, no matter their commodity type or defining characteristics, are subject to the same minimum protection level. The underlying concept is that a GI should not misinform society as to its true source, albeit it is left to the specific WTO member states to select the most effective protection regime. There is discussion of a more robust level of protection for GIs

³ The fourth schedule of the GI act constitute "Classification of Goods, Textile is covered under class.24-it reads: Class 24, Textiles and textile goods, not included in other classes; bed and table covers"

⁴ Hans Skov--Petersen, "GIS implementation in a Developing Country - the case of Bhutan" (1997).

in the wine industry, and for wines and spirits more generally⁵. Some have dubbed GI the "sleeping beauty IPR" because of the potential social and economic advantages it may bring to developing nations.

1.3.3 Protection of GIs as a Trademark

Many countries that are part of the WTO provide trademark protection for geographical indicators. The United States, Canada, Australia, and Japan are all represented here, as are a number of African and Arab nations. Although geographical indicators and trademarks have certain similarities, they are based on fundamentally distinct legal philosophies. Similar to how trademarks or distinguishing features are valued by businesses, GIs have value to those who produce goods in a certain region. The significance of GI may be broken down into two parts.

1.3.4 Socio-Economic Rationale for Protecting Geographical Indication

Producers have long used trademarks to distinguish their goods from those of competitors, and the first trademarks were those that indicated the place of origin of the goods⁶. Although distinct IPR, it signals economic suitability similar to that of GI/TM protection. An individual who claims ownership of a design or sign must not employ the same design or sign in commerce⁷. Recently, India has made it mandatory to check the authenticity of silk textiles and Darjeeling, where a certification marks under CTM is defined as regards Tea manufactured in Darjeeling and may be marketed if the product satisfies the recognized uniqueness requirements⁸.

1.4 ECONOMICAL IMPACTS DUE TO PROTECTION OF GEOGRAPHICAL INDICATIONS

There are theoretically sound economic reasons why geographical indicators should be protected as such, therefore it would be a good idea. In the next part, we go deeper into these topics by breaking down the economic roles of GIs into four distinct classes: IP rights, transaction costs, institutions, and economic development. The most basic definition of GIs is an indication that shows how a product's fame, distinctiveness, or other feature is related to its place of origin. The GI serves as an indication of the product's superior originality, which is the result of environmental features and/or local knowledge employed in manufacture. Reputation can act as a window to overcome the market failure caused by information asymmetry.⁹

1.5 COMPARATIVE STUDY BETWEEN "UNITED STATES AND EUROPEAN UNION" CONCERNING GEOLOGICAL SIGNS

While the United States does not have its own "sui generis" system for insuring Geographical Indications (GIs), it does use administrative trademark systems similar to those used in other countries. Structures like this existed in the United States' legal framework at the time, allowing any interested party to challenge the legally registered topographical markers if they believed doing so would undermine the validity of the registration process. The "U.S. Patent and Trademark Office (USPTO)" evaluates trademark and geological sign applications. All goods and services are under the purview of the Lanham Trademark Act of 1946.

It becomes clear in the course of a discussion of American law that the country does not provide legal protection for GIs that are generic in character or such signs used for products and services. Generic refers

⁵Yusuf Daya, "Trade-Related Aspects of Intellectual Property Rights and Indigenous Knowledge Systems" (2003).

⁶Dwijen Rangnekar, "The Socio-Economics of Geographical Indications", ICTSD, p. 4 (2004)

⁷Pradyot R. Jena and Ulrike Grote, "Changing Institutions to Protect Fieldal Heritage", pp. 2-3, 2010.

⁸Brenda Matanga, "Utilization of Collective and Certification Marks by Small and Medium Sized Enterprises", pp.3-4, 2007.

⁹Tirole Jr, "The theory of industrial organization" MIT Press, Cambridge (1988).

to a geographical phrase or symbol that is so extensively used that consumers understand it to be a classification of all products and services of a similar type rather than a reference to their place of origin. If we use the word "apple" as an example, we quickly realize that it cannot be protected as a brand name for apples since "apple" is the generic term for the fruit. Conventional signals are not protected in other countries, such as the United States, since officials there believe they are inadequate for identifying a single commercial or bulk delivery source. In the United States, for example, any manufacturer is free to use the term "United States" for its products and services after the term has achieved the status of being customary.¹⁰

The "European Community" does not insist on a product's geological origins guaranteeing its superior qualities, so long as the consumer associates the product with a particular region. Because a geological term has historical significance and continues to exist apart from the object, it merits protection even if GIs typically don't need such a divergence. The European Union has accomplished much in terms of GI production because of its importance to TRIPs and the global arena. What the EU really wants can be summed up in one phrase: TRIPs-plus protection. The United States has made it clear that it does not support the European Union's plan to create a multilateral system of registration for GIs, which is one of the other crucial elements that necessitate such a system. The European Union proposed a "multilateral enlistment framework" to increase the scope of GI protections. The European Union's proposal was a sound one that provided complete guarantee to safeguarded invention rights in relation to the "TRIPs" and other standards. The European Union and the United States were brought closer together by this proposition and recommendation. The European Union (EU) has long argued that geographical indicators should be protected since they are crucial in ensuring the survival of regional traditions and cultures. For these reasons, it is essential to increase and improve GI safeguards. The European Union has advocated and proposed the need for enhanced protection of GIs on a global scale. The European Union lists several terms and images, such as "Champagne," "Sherry," "Swiss Chocolate," "Bottle Shapes," and "Pictures of the Eiffel Tower," as being at risk and in need of protection.

The "claw-back list" refers to a crucial proposal made by the EC in the WTO's Agricultural Committee. There are around 41 GI items on this list that must be marketed using the GI terminology specified below. It was also proposed that the WTO members should delete the older trademarks that conflicted with the conditions on the list and accept those terms unconditionally for protection. The plan emphasized limiting how often these phrases might be used in marketing or on product labels. Regulations created for the sole purpose of protecting wines and spirits as GIs were followed by the European Union as well. Before 2008, only various national laws governed the area of GIs for wines and spirits in the European Union, and there were no explicit legislative rules for them or associated registration. Regulation "479/2008 of the 29th April, 2008" on the basic association of the market established some exclusive rules that were similar to the system of registration and security of "Protected topographical Indications (PGIs)" and ensured "Designation of Origin (PDOs)" for agricultural products and groceries.¹¹

In order to maintain a certain level of quantity and value in agricultural exports, the European Union is considering the use of GIs as a mechanism to combine the publicity of certain agricultural products. The United States, however, had very exceptional vested interests on this matter. The United States places a premium on allowing agricultural products easier access to international markets, and geological sign security is seen as a very protectionist barrier to entry for agricultural products.

1.6 Conclusion

¹⁰ J. Audier, "TRIPs Agreement Geographical Indications", "European Commission", 2000.

J. Audier, "TRIPs Agreement Geographical Indications, European Commission," 2000 available at <http://www.ecipe.org>

Since there is no way to reliably identify these producers, there is no motivation for them to keep the level of uniqueness as high as possible. In this way, the manufacturers are able to send a message to the customers about the degree to which they are truly distinct by the reputation they have earned. Thus, Shapiro's analysis typifies the dynamics between the seller's selection of the product's uniqueness, the buyer's tearing and the business's reputation, and the producers' and consumers' reputations for materials as a coping device in the presence of information asymmetry. As a result, manufacturers have started using techniques that boost the prestige of their wares.

Some have noted, however, that maintaining a product's reputation requires a set of instruments that formalize the connection between the product's features and its area of origin in order to reduce the influence of information asymmetries on market efficiency.

In the search-based agriculture market, where experience and credibility items pose a significant risk of unfavorable selection, GIs serve as a signaling mechanism.

There is a significant danger of adverse selection in agricultural markets defined by search, experience, and credibility commodity, hence GIs serve as a signaling mechanism in these markets. In order to prevent consumers from being duped, GI labels let them distinguish between goods made in one nation and those made in another. The practical effect of this is to provide businesses in the designated area a measure of control over who can and cannot use their trademarked identifier. In addition, GIs are likely to aid producers by enhancing the product's competitiveness and pricing, which in turn benefits the producers.

As a result of the country's progress, seed growers were compelled to charge a higher price. Companies in the seed and technology industries have taken note, seeing an opportunity to turn plant types and plant DNA into cash crops. Additionally, seed firms united as a worldwide strategy to consolidate resources and gain market dominance. The topic has gained prominence as of late due to the widespread belief that the selling of agricultural products has developed into a lucrative industry based on the processing of raw materials.

Although it is challenging to quantify the effects of GIs on the economy, society, and the environment, important research, primarily from European nations, have found that it is feasible to assess a beneficial influence from the usage of GI labeling, bolstering the arguments in favor of origin based marketing schemes.

References

1. Brenda Matanga, "Utilization of Collective and Certification Marks by Small and Medium Sized Enterprises", pp.3-4, 2007.
2. Carl Griffith, "Geographic information systems and environmental impact assessment", Environmental Management, Volume 4, Issue 1, pp 21-25 (1980)
3. Del 1. Hawkins, Don Roupe and Kenneth A. Coney, "The Influence of Geographic Subcultures in the United States", pp. 713-717
4. Dr. P. Sree Sudha, "Protection of Geographical Indications (GIs) From Infringements- An Indian Perspective", (2013-14).
5. Dwijen Rangnekar, "The Socio-Economics of Geographical Indications", ICTSD, p. 4 (2004)
6. Dwijen Rangnekar, "The Socio-Economics of Geographical Indications", ICTSD, p. 4 (2004)
7. Felix Addor and Alexandra Grazioli, Federal Institute of Intellectual Property, 2006.
8. Hans Skov--Petersen, "GIS implementation in a Developing Country - the case of Bhutan" (1997).
9. J. Audier, "TRIPs Agreement Geographical Indications", "European Commission", 2000.
10. Jayashree Watal, "Intellectual Property Rights in the WTO and Developing Countries," "Kluwer

Law International The Hague,” London, 2001.

11. Josling Tim, International Trade Center, "Guide to Geographical Indications: Connectioning Products and their origin", Geneva: ITC 2009,xix p.9
12. Keith E. Maskus, 'Observations on the Development Potential of Geographical Indications'
13. P. Narayanan, “Intellectual Property Law”, 3rd edition, “Eastern Law House”, Kolkata, Revised Reprint, 2004.
14. Pradyot R. Jena and Ulrike Grote, "Changing Institutions to Protect Fieldal Heritage", pp. 2-3, 2010.
15. Rangnekar D, "Geographical indications: A review of proposals at the TRIPS council: Extending article 23to products other than wines and Spirits. UNCTAD/ICTSD Capacity Building Project on Intellectual PropertyRights and Sustainable Development", May (2003a)
16. Sabrina Lucatelli, “Appellations of origin and Geographical Indications in OECD Member Countries: Economic and Legal Implications,” available at <http://www.oilis.oecd.org>
17. Shapiro C, "Consumer information, product uniqueness, and seller reputation", Bell Journal of Economics13: pp. 20-25, (1982).
18. Shapiro C, "Consumer information, product uniqueness, and seller reputation", Bell Journal of Economics13: pp. 20-25, (1982)
19. Tamara F. Mangleburg, Virginia Tech, "Children's Influence in Purchase Decisions: a Review and Critique" pp. 813-825, (Advances in Consumer Research Volume 17, 1990)
20. The EC Proposal, “WTO Agriculture Negotiations,” available at <http://www.trade.ec.europa.eu>.
21. The fourth schedule of the GI act constitute "Classification of Goods, Textile is covered under class.24-it reads: Class 24, Textiles and textile goods, not included in other classes; bed and table covers"