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# CULTURAL CONTINUITY THROUGH LAW: THE ROLE OF GEOGRAPHICAL INDICATIONS IN SUSTAINING INDIGENOUS KNOWLEDGE SYSTEMS IN SOUTH ASIAN JURISDICTIONS

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## ABSTRACT

Geographical Indications (GIs) represent a distinct category of intellectual property rights that attribute goods to specific geographical localities, where their quality, reputation, or other defining characteristics are intrinsically linked to their place of origin. The recognition and protection of GIs emphasize the unique identity of regional products while safeguarding them against unauthorized use and imitation. This paper investigates the interaction between traditional heritage and contemporary legal mechanisms, elucidating how Geographical Indications function as a conduit between cultural identity and modern systems of intellectual property protection. It further examines the capacity of GIs to preserve authenticity, indigenous knowledge, and the cultural significance embedded in geographically rooted products.

The study critically reviews global legal instruments like the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and evaluates the role of various institutions like the World Intellectual Property Organization (WIPO) in shaping international GI governance. A comparative perspective is adopted to analyze the implementation of GI regimes across some of South Asian jurisdictions, identifying prevailing challenges, emerging innovations, and effective policy frameworks. By integrating cultural and legal analyses, this research underscores the function of GIs as transformative legal tools that harmonize traditional wisdom with contemporary intellectual property systems, thereby contributing to the sustainable safeguarding of cultural heritage.

The study employs a qualitative methodology, utilizing both primary and secondary materials such as legislation, treaties, academic research, and verified digital sources. Through a comparative exploration of selected national frameworks, the research synthesizes effective models and generates context-sensitive recommendations aimed at enhancing the protection and promotion of GIs in diverse legal and cultural settings.

## Introduction:

Geographical Indications (GIs) comprise a specialized form of intellectual property that link products to their specific geographical origins, recognizing the unique qualities, reputation, or other distinguishing characteristics inherently tied to that location<sup>1</sup>. Serving as markers of premium value, GIs provide assurance to consumers that goods bearing such indications originate from a defined area where environmental, cultural, and traditional factors collectively contribute to their distinctiveness. This connection between product identity and place of origin not only safeguards consumers from misleading claims but also fosters economic benefits for producers by enhancing market differentiation, preserving cultural heritage, and promoting sustainable regional development. "...indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin..."<sup>2</sup> Geographical Indications (GIs) typically use signs that correspond to the name of the place where the product originates or by which it is popularly known in that region, such as Jamaica Blue Mountain or Darjeeling. However, GIs may also comprise non-geographical names—like Vinho Verde, Cava or Argon Oil — as well as symbols traditionally associated with a local place. A fundamental characteristic of GIs is that production of the goods must be carried out by persons residing within the designated area and conforming to specified standards related to that place. Due to this intrinsic link, GIs cannot be assigned or licensed to producers located outside the geographical origin or unauthorized by the local producer group. Ultimately, whether a sign qualifies as a GI depends on the governing national legislation and the perceptions and recognition of consumers.

The study concentrates on four key South Asian nations as the primary jurisdictions under consideration. namely :

1. Pakistan
2. India
3. Sri Lanka
4. Bangladesh

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<sup>1</sup> World Intellectual Property Organization, <https://www.wipo.int/en/web/geographical-indications> (last visited Dec. 29, 2025)

<sup>2</sup>Agreement on Trade-Related Aspects of Intellectual Property Rights, art. 22, Apr. 15, 1994, 1869 U.N.T.S. 299, 33 I.L.M. 1197 .

**Research objective:**

The principal objective of this research is to critically examine, assess, and delineate the existing legal frameworks for the protection of Geographical Indications (GIs) within the selected South Asian jurisdictions of Sri Lanka, India, Pakistan, and Bangladesh. This study aims to evaluate the effectiveness and robustness of these legal systems, identifying notable successes as well as shortcomings in domestic legislation. Furthermore, it seeks to analyze the deficiencies inherent in the current regulatory mechanisms and propose informed recommendations to establish or enhance GI registration systems. These recommendations intend to strengthen the protection of GIs, thereby promoting equitable economic benefits, safeguarding of cultural heritage, Sustaining Indigenous Knowledge and fostering greater compliance with international intellectual property standards.

**Methodology:**

The methodology employed in this research is primarily qualitative, relying on a comprehensive examination of both primary and secondary sources. These include relevant legal statutes, enactments, scholarly literature, international legal instruments, and digital resources. A comparative analytical approach is utilized to assess the effectiveness of GI protection in the selected jurisdictions by examining successful legal frameworks and identifying deficiencies in domestic laws. This method facilitates a thorough understanding of the legal landscape and informs the formulation of contextually appropriate recommendations to strengthen the protection and administration of Geographical Indications.

**Geographical Indications In Pakistan: Legal Framework, Challenges, And Recommendations**

Pakistan possesses a rich agricultural heritage and a culturally diverse landscape, offering substantial potential for the development and protection of Geographical Indications (GIs). The enactment of the Geographical Indications (Registration and Protection) Act in 2020 marked a pivotal milestone in Pakistan's intellectual property framework, establishing a dedicated legal regime for the registration, protection, and enforcement of GIs. This statute represented a significant advancement, addressing the historical absence of specialized legal infrastructure to protect products linked to geographic origin, which had previously limited Pakistan's ability to fully capitalize on its unique goods in international markets.

The successful elements of Pakistan's GI framework include the landmark registration of Basmati rice as the nation's inaugural GI, which asserted exclusive proprietary rights over a product deeply embedded in the country's agro-cultural identity. Additionally, Himalayan salt, renowned for its distinct mineral composition and global demand, exemplifies another critical GI that bolsters Pakistan's export portfolio. Beyond these flagship products, Pakistan's domain of potential GIs<sup>3</sup> is extensive, encompassing agricultural varieties and artisanal goods such as the Chaunsa and Sindhri mango cultivars, the citrus-rich kinnows of Sargodha, Sialkot's globally recognized sports equipment, Wazirabad's reputed cutlery, along with Multani Sohan Halwa, Sindhi textiles including Ajrak and Sindhi Topi, Balochi embroidery, Kashmiri shawls, and gemstones sourced from mountainous regions like Hunza and Swat.

Despite this breadth, the legal system exhibits notable deficiencies that impede the full realization of GI protection. Procedural complexities and bureaucratic inefficiencies constrain the registration process, while limited awareness among producers, particularly in rural areas, restricts participation and compliance. Institutional weaknesses further hinder the enforcement of GI rights and the expansion of producer support mechanisms. Addressing these shortcomings, the Intellectual Property Organization of Pakistan and associated government agencies are prioritizing capacity-building efforts, stakeholder education, and simplification of administrative procedures to enhance inclusivity and efficiency and this has stopped many potential products from getting registered and some of Pakistan's potential GI products<sup>4</sup> are Pakistani gemstones, including exquisite Rubies and Emeralds; Kinnows from the Sargodha region; traditional sweets like Sohan Halwa; and culturally significant products such as Khalifa Nan Khatai cookies, Khussay footwear, Sialkot's internationally acclaimed sports goods, Sindhi Biryani, Sindhi Topi and Ajrak textiles, Swat's Trout Fish, Dates of Khairpur, Balochi Embroidery (Pashak), and Shikarpur's Pickle. These products collectively represent Pakistan's rich artisanal and agricultural heritage, with significant and stronger GI recognition and protection. Pakistan's evolving GI framework can constitute a strategic mechanism for harnessing its geographic and cultural heritage, with the potential to stimulate sustainable economic growth, support rural livelihoods, and elevate the country's competitive position in global trade. Continued policy innovation, institutional strengthening, and widespread

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<sup>3</sup> Abdullah, O., Bashir, S., & Ali, R. N. The Potential Geographical Indications in Pakistan, 3(1), Journal of Social Sciences Review, 335-346 (2023)

<sup>4</sup> Journal of Social Sciences Rev., vol. 3, no. 1 (Winter 2023).

stakeholder engagement will be essential to maximize the social, cultural, and economic benefits derived from Geographical Indications in Pakistan.

## **Geographical Indications In India: Legal Framework, Challenges, And Recommendations**

The Geographical Indications of Goods (Registration and Protection) Act of 1999, supplemented by the 2002 Rules, provides a *sui generis* legal framework to protect goods whose quality, reputation, or other distinctive attributes are intrinsically tied to their geographic origin. This legislation was enacted to fulfill India's obligations under the TRIPS Agreement, replacing earlier limited protections afforded through passing-off actions and consumer protection statutes. Section 1(3)(e) expansively defines eligible GIs, extending protection beyond mere country or region names to include other qualifying indications. While Section 20(1) affords protection even to unregistered GIs, the right to enforce these protections under Section 21(a) is vested exclusively in registered proprietors and authorized users. The Act establishes a ten-year registration term renewable indefinitely and prescribes both civil and criminal remedies against infringement and fraudulent use of Sections 21(1)(a), 39, 40, and 44 of GI Act<sup>5</sup> Complementing this regime, the Indian Tea Board's registration of the Darjeeling logo as a certification trademark under the Trade and Merchandise Marks Act, 1958, bolsters domestic and international protection efforts.

India's GI registry had recorded over 500 products by mid-2023, encompassing diverse categories from handicrafts to agricultural produce. Despite this progress, the system faces notable challenges. The Act predominantly protects product names and origins but lacks explicit provisions safeguarding traditional production methods, rendering genuine GIs vulnerable to imitation by mechanized substitutes that dilute authenticity. Furthermore, enforcement mechanisms are under-resourced, limiting producers' capacity to pursue infringement claims, compounded by diminished governmental support. The dissolution of specialized intellectual property tribunals has elongated dispute resolution timelines, exacerbating enforcement difficulties. The monopolistic tendencies of registered proprietors often marginalize traditional artisans, concentrated control thereby undermining equitable benefit sharing. Compounding these issues is inconsistent quality control, detrimental to consumer confidence and product reputation, as evidenced by Alphonso mangoes, with noted

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<sup>5</sup> Jayanta Ghosh, Oishika Banerji, Navajyoti Samanta and Ashish Bhargava, Geographical Indication (GI) Laws in India and Its Implementation: A Critical Appraisal, 30, Journal of Intellectual Property Rights, 304, 305-310 (2025)

weaknesses in their registered ownership; Nakshi Katha, which suffers from a disconnect between registered proprietors and authorized users; and Madur Kathi, highlighting failures in registering products across applicable categories.

To address these impediments, the research advocates for holistic reforms. Legislative amendments should mandate cooperative ownership models to democratize benefits distribution. Institutional support networks, including engagement with National Law Universities, should facilitate streamlined application assistance. Robust post-registration frameworks integrating branding, marketing, and stringent quality assurance protocols are necessary to maintain product integrity and competitive market positioning. Strategic collaborations with premier design and management institutions—such as the National Institute of Fashion Technology (NIFT) and Indian Institutes of Management (IIMs)—can enhance product packaging, marketing acumen, and brand equity. Decentralization of quality control, paired with a centralized enforcement agency vested with prosecutorial authority, is indispensable to effective GI protection. Government-sponsored common utility centers offering technical, financial, and insurance services would empower producers to scale sustainably. Finally, harnessing digital commerce platforms emerges as a vital strategy to broaden consumer access and curtail counterfeit practices. Clarifying legislative ambiguities regarding generic terms and geographic delineations is essential for resolving intra-national and international GI disputes. Together, these reforms are integral to safeguarding cultural heritage, ensuring equitable economic participation, and realizing the full economic promise of India's GI ecosystem, driving rural development and social empowerment.

### **Geographical Indications In Sri Lankan: Legal Framework, Challenges, And Recommendations**

The international framework for protecting Geographical Indications (GIs) has evolved considerably over recent decades, emphasizing the need for universal obligations. However, agreements like TRIPS do not mandate WTO members to implement uniform measures, leaving states discretion to protect GIs domestically until a broader international consensus emerges. Most countries, including Sri Lanka, bear a collective and individual responsibility to provide adequate GI protection within their jurisdictions because products such as Ceylon Tea, Ceylon Cinnamon, and Ratnapura Blue Gems stand out as prominent GIs that directly bolster Sri Lanka's export revenues. Other renowned indigenous GIs, including Ruhunu Buffalo Curd, Malwana Rambutan, Bibile Oranges, and Dumbara Mats, enjoy widespread

recognition domestically and contribute to the cultural identity and economic fabric of the nation. Given their substantial role in enhancing foreign exchange inflows and fostering rural livelihoods, the protection and promotion of GIs is imperative as a vital component of Sri Lanka's international trade strategy.

In Sri Lanka, GI protection is governed by the Intellectual Property Act No. 36 of 2003, which offers *sui generis* protection under Section 161, alongside protections via certification marks, collective marks, and unfair competition laws. Section 161 explicitly protects agricultural products, food, wine, and spirits against misleading public representation of geographical origin and prohibits deceptive use of terms like "imitation" or "style." Further, it empowers courts to grant injunctions and reliefs against misrepresentation. Additional safeguards under Sections 138 and 142 extend protection to GIs through collective and certification marks respectively.

Although Sri Lanka's "Ceylon Tea"<sup>6</sup> holds domestic certification mark protection, international registration efforts, notably in key markets like the USA, have been unsuccessful, resulting in widespread misappropriation. The Act also imposes criminal penalties for GI violations under Section 191, with legal remedies including civil compensation and magistrate sanctions.

Despite a robust legal framework, the absence of a formal national registration system for GIs has impeded effective enforcement and increased vulnerability to international infringements. Drawing on India's legislative experience, particularly its clear and accessible GI registration framework under the Geographical Indications of Goods (Registration and Protection) Act, 1999, Sri Lanka is encouraged to establish a dedicated GI registry and comprehensive registration procedures. This would enhance the commercial exploitation of GIs, protect producers' rights, and reduce infringements.

Furthermore, establishing an appellate authority modeled after India's Intellectual Property Appellate Board would enhance transparency, expertise, and efficiency in GI dispute resolution. Protection of traditional knowledge related to GIs is also crucial to safeguard indigenous producers and preserve product quality, ensuring equitable benefit-sharing even when commercialization is limited.

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<sup>6</sup> P.M.A.S. Pathiraja, The protection of geographical indications in Sri Lanka: need of a registration system, 6, Journal of the Faculty of Graduate Studies., 121, 131-136 (2018)

Given ongoing international GI disputes, Sri Lanka should advocate for extended TRIPS protections beyond wines and spirits (Article 23) and foster bilateral trade agreements with trading partners to regulate use of GIs effectively. Long-term solutions could include establishing an international court authorized by WTO members to adjudicate cross-border GI disputes and harmonize interpretations of global GI laws.

In summary, while Sri Lanka's legal regime provides foundational GI protections, urgent steps to develop a transparent registration system, strengthen enforcement, and align with international best practices are essential to fully protect and leverage the economic and cultural value of its geographical indications.

### **Geographical Indications In Bangladesh: Legal Framework, Challenges, And Recommendations**

Bangladesh has adopted a *sui generis* system through the Geographical Indications of Goods (Registration and Protection) Act, 2013 to protect products uniquely linked to its geography, culture, and traditional practices. The Act provides a comprehensive interpretation of a geographical indication under Section 2(9), defining it as an indication referring to agricultural, natural, or manufactured goods attributable to a specific country, region, or locality, where at least one production, processing, or preparation stage occurs within that territory. The legislation covers protection for GIs and appellations of origin, spanning natural, agricultural, handicraft, and industrial products, which are classified according to the WIPO NICE classification system.

The Act established a Geographical Indication Unit within the Department of Patents, Designs, and Trademarks (DPDT) under the Ministry of Industry to administer GI registration and related functions. Chapter IV outlines the registration system providing for two types of registrations: one for the GI itself and another for authorized users engaged in production, extraction, or processing of the GI products. Each type of registration requires a separate application, with an initial validity of five years subject to renewal in three-year increments perpetually, unless cancelled or voided. The application process follows a formal sequence of filing, examination, publication, objections, counter-objections, reply, and registration. However, registration is not mandatory, as unregistered GIs enjoy protection against passing off and unfair competition under relevant laws.

Section 20 of the Act incorporates the National Treatment Principle, ensuring equal protection for foreign GIs registered in Bangladesh. This provision facilitates registration and legal

safeguards for externally originating GIs, positioning Bangladesh to defend and promote its native GIs on the international stage effectively.

Bangladesh has recognized eleven GI-certified products notable for their unique geographical identities and cultural significance, these include<sup>7</sup>:

- Jamdani
- Hilsha Fish
- Khirsapat Mango of Chapainawabganj
- Muslin of Dhaka
- Silk of Rajshahi
- Shatranji of Rangpur
- Kataribhog Rice of Dinajpur
- Kalijira Rice of Dinajpur<sup>8</sup>
- Clay-crystalline cellulose composite of Bijoypur in Netrokona
- Bagda Prawn
- Fazli Mango

This diverse range reflects Bangladesh's rich natural resources and artisanal traditions, which contribute substantially to the country's socio-economic fabric.

Despite its comprehensive scope, Bangladesh faces implementation challenges, including delays in rule formulation, lack of quality inspection mechanisms, and procedural complexities that hinder especially small producers. Since the Act's commencement, Bangladesh has successfully certified ten GIs, including iconic products such as Jamdani muslin, Hilsha fish, Fazli mango, Nakshi Kantha, and others, reflecting nationally and internationally recognized heritage. Nevertheless, gaps remain in public awareness, enforcement capabilities, and institutional capacity.

To enhance effectiveness and uplift producer benefits, recommendations emphasize strengthening the DPDT's GI Unit by developing a comprehensive national database of GI products and streamlining registration procedures to be more transparent and expeditious. Strengthening enforcement through increased penalties, dedicated monitoring, and integrating

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<sup>7</sup> Dewan Alif Ovi and Abdul Hakim Noyon, A Legal Appraisal of the Protection and Opportunities of Geographical Indication (GI) in Bangladesh, 1, UAP LAW REVIEW, 57, 58-69, (2022)

<sup>8</sup> Asjadul Kibria, 'Getting Products GI-Tagged' The Financial Express (2021)

<https://thefinancialexpress.com.bd/views/getting-products-gi-tagged-1624722272> ( Last visited July 1 2022).

quality control systems is essential. Additionally, enacting *sui generis* protections aimed specifically at safeguarding cultural knowledge would preserve intangible heritage and ensure equitable benefit sharing among traditional producers. Public awareness campaigns must be scaled up to educate stakeholders about the socioeconomic and cultural importance of GIs, thereby enhancing utilization and protection. Collectively, these reforms will empower local producers, protect Bangladesh's unique heritage, and bolster the country's domestic and international market presence for its geographically indicated goods.

### **Recommendations and Way Forward:**

In the diverse national landscapes of Pakistan, India, Sri Lanka, and Bangladesh, the true power of geographical indications (GIs) to safeguard indigenous knowledge systems lies not just in legal frameworks, but in weaving a tapestry of clarity, collaboration, and enduring commitment. Effective GI protection flourishes when laws provide unmistakable certainty, registration processes flow with transparency and ease, and enforcement stands as a vigilant guardian against infringement. Imagine dedicated registries—central hubs of expertise—where disputes find swift resolution through specialized appellate bodies, ensuring that every voice, from the mountain farmer in the Himalayas to the coastal artisan in the Bay of Bengal, is heard and protected.

To breathe life into this vision, South Asian jurisdictions must champion cooperative ownership models that honor communal heritage, distributing benefits equitably while shielding sacred indigenous practices from exploitation. Quality control mechanisms, paired with vibrant post-registration marketing campaigns, will nurture consumer confidence and elevate these unique products on global stages, turning local treasures into symbols of cultural pride. Bolstering institutions through targeted training, digital tools, and shared knowledge platforms will empower producers and enforcers alike, fostering resilience against modern challenges like climate shifts and market volatility.

Looking outward, a unified South Asian push for stronger TRIPS alignments, bilateral pacts, and innovative arbitration forums will amplify national strides, creating a harmonious shield for indigenous legacies. By embracing these steps with genuine partnership—engaging communities as co-authors of their future—GIs can evolve from mere legal tools into living bridges, preserving the wisdom of generations while illuminating pathways to sustainable prosperity for all. This is more than policy; it's a heartfelt pledge to our shared roots.