
PROTECTING CULTURAL HERITAGE AND PROMOTING ECONOMIC GROWTH THROUGH GEOGRAPHICAL INDICATIONS: A CRITICAL LEGAL ANALYSIS

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ABSTRACT

Geographical indications (GIs) have become an important tool for protecting traditional knowledge and boosting economic growth. By establishing a connection between the quality of the product and its geographical origin, GIs encourage local production practices and are beneficial for rural communities. This paper gives a detailed analysis of legal GIs protection across jurisdictions. It explores the performance of GIs to conserve intangible cultural heritage and to enhance trade in products associated with the origin. Genericide and gaps in implementation are critically analysed. The study concludes that well implemented GI legislation can be a catalyst for socio-economic development, but needs multi-faceted strategies involving participation of all stakeholders, awareness of consumers and public-private partnerships.

Keywords: Geographical indications; traditional knowledge; economic development; intellectual property; World Trade Organization; TRIPS Agreement; UNESCO; cultural heritage

INTRODUCTION

Geographical Indications (GIs) have become more and more topical as a legal tool to protect traditional knowledge and promote economic growth by establishing a connection between the quality of the products and the place of origin - thereby encouraging localized manufacturing practices and empowering rural populations. GIs global presence is also growing: as of 2022, WIPO estimated about 58,400 GI-protected products in the whole world, with Europe and Asia, respectively, making about 53 per cent and 36 per cent of the total¹. On the European Union side, there has been a corresponding increase in the number of registered GIs, with some 4,000 names in the eAmbrosia register by May 2025. At the same time, India has realized an impressive increase in its GI system, registering 643 products by 2024, including products in the fields of handicrafts, agricultural goods, foodstuffs, manufactured goods, and natural products. Such momentum is further reinforced by a dramatic increase of 380 percent in GI filings over the last five years and an ambitious policy objective to put 10,000 registered GI products into practice by 2030. Taken together, these numbers reflect the growing global adoption of GIs as a cultural preservation, market differentiation and rural value creation tool.

GIs recognize the unique qualities of products originating from distinct geographical locations. They protect the reputation of products such as Darjeeling tea, Napa Valley wines, Colombian coffee and Basmati rice. GIs link the product's quality and characteristics to its geographic origin and traditional production methods. This benefits local producers by adding value to their products. It prevents unfair exploitation by securing the exclusive right to use the GI. Consumers also benefit from the assurance of authenticity and quality.²

GIs intersect with traditional knowledge as they protect community practices and techniques embedded in origin-linked products.³ GIs transform this intangible cultural capital into commercial assets owned by communities. The enhanced income from GI registration uplifts socio-economic conditions in less developed regions. Developing countries view GIs as a means of preserving traditional practices and preventing bio-piracy of indigenous resources.

¹ Justin Hughes, *Champagne, Feta, and Bourbon: The Spirited Debate About Geographical Indications*, 58 *Hastings L.J.* 299 (2009).

² Felix Addor & Alexandra Grazioli, *Geographical Indications beyond Wines and Spirits: A Roadmap for a Better Protection for Geographical Indications in the WTO/TRIPS Agreement*, 5 *J. World Intell. Prop.* 865 (2002).

³ K. Das, *Protection of Geographical Indications under TRIPS: Some Issues of Concern*, 46 *Indian J. Int'l L.* 211 (2005).

However, critics argue that GIs may commercialize tradition and frozen.⁴

The legal recognition of GIs also touches on other international trade debates. Members of World Trade Organization (WTO) are required to provide GI protection that is not less than that outlined by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) but they are free to offer more liberal protection. Coverage, enforcement and the significance of GIs have shown frictions between developed and developing countries under this international order, particularly in the context of agricultural trade negotiations.⁵ The European Union has greatly advocated a stronger multilateral system of GI protection, whereas other jurisdictions such as the United States have been circumspect and preferred trademarks and certification marks over sui generis GI regimes. These dual techniques suggest the dubious nature of GIs within the global intellectual property platform.⁶

At a domestic level, GI laws may work well with the implementation level, awareness and enforcement. Geographical Indications of Goods (Registration and Protection) Act, 1999 is a new initiative in India to defend cultural and economic interests related to regional goods. However, certain challenges such as lack of awareness among producers, lack of counterfeiting enforcement, lack of marketing and inequality in sharing its benefits hamper the potential of GIs. Therefore, registration of GI creates a legal status, however, the socio-economic impact on local producers and artisans is varied. We should also learn about these gaps, to find out whether GIs are applied in a more beneficial way as a light instrument, as a legal instrument, or as an active driver of sustainable development.

Research Problem

Despite Geographical Indications being universalized across the world under the TRIPS framework, interpretation, scope and application of Geographical Indications across geographical jurisdictions has created loopholes in international trade and intellectual property regulation.

⁴ Jessica Greenberg, Protecting Traditional Foods: “Claw Back” in the European Union, 33 Wis. Int’l L.J. 321 (2015).

⁵ Tim Josling, The War on Terroir: Geographical Indications as a Transatlantic Trade Conflict, 57 J. Agric. Econ. 337 (2006).

⁶ Dev S. Gangjee, *Relocating the Law of Geographical Indications* (Cambridge Univ. Press 2012).

Despite the fact that the GI Act, 1999 has allowed registration of over 300 products since 1999, there remain gaps in successful implementation of the concept in India, including in producer awareness and benefits sharing and market-access to rural and artisanal communities.

Although GIs promotes the idea of preserving traditional knowledge as well as safeguarding of sustainable development, GIs have faced and continue to face challenges such as commercialization of culture, uneven socio-economic benefits, and lack of enforcement, which casts some doubt on its efficiency in the long run.

Research Hypothesis

The current international system with TRIPS Agreement and the Indian legal system with the Geographical Indications of Goods (Registration and Protection) Act, 1999 are sufficient in principle to protect traditional knowledge and advance economic development using GI.

MATERIALS AND METHOD

This study employs a qualitative methodology combining doctrinal legal analysis and comparative examination of GI laws and cases across jurisdictions.

1. Doctrinal legal analysis involves a systematic exposition of legal principles and tenets through an examination of statutory provisions, official documents, and judicial decisions. This method enables a rigorous understanding of the nature and scope of GI protection under international treaties and domestic laws of major countries.
2. The comparative approach focuses on contrasting the GI regimes across countries to ascertain similarities and differences in definition, eligibility criteria, registration processes and enforcement mechanisms.

The jurisdictions examined include multilateral treaties such as the TRIPS Agreement, Lisbon Agreement, and Geneva Act. Regional treaties analyzed encompass the European Union legal framework. National laws scrutinized include the sui generis GI regimes in India, France, Hungary, Brazil, Thailand, South Africa, Russia and Australia. The study also considers the GI frameworks in countries like the United States which rely on certification marks.

Analysis of disputes and lawsuits helps ascertain how GI laws have been interpreted and

applied in practice across jurisdictions. The court rulings span countries such as India, the EU, Australia, Brazil, South Africa and the United States.

The study relies on primary legal sources including statutory legislations, treaty texts, court rulings, and official records. Secondary academic commentary in journals and books is consulted to provide theoretical grounding and critique of GI laws.

RESULTS

The key findings that emerge from undertaking the doctrinal and comparative legal analysis are summarized below:

International Framework

The baseline international standards for protection of GIs are encoded under Article 22 to 24 of the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)⁷, which mandates that all 164 member states must have legal means to prevent misleading or unfair uses of GIs. This includes evoking legal remedies like injunctions against labeling or advertising goods in a manner that constitutes unfair competition. Hence even countries which do not formally recognize or register sui generis GIs have to comply with the TRIPS obligation of preserving enforceable legal recourse against misleading or confusing GI usage⁸. However, TRIPS sets more stringent stipulations for wines and spirits which merit preventing infringement even absent demonstration of misleading or confusion - this constitutes the highest level of GI protection.

TRIPS also incorporates the fundamental "national treatment" principle that member states must protect foreign GIs at par with domestically recognized indications. This subjects imported goods from WTO partners to the same level of protection against unfair usages. Additionally, well-known GIs for wines and spirits merit protection from uses on dissimilar goods which exploit their reputation or dilute their distinctive character.⁹ Reflecting lobbying

⁷ Dev S. Gangjee, Intellectual Property and Traditional Knowledge: Sui Generis Laws in India and Brazil, 19 J. World Intell. Prop. 55 (2017).

⁸ Thi Thu Trang Tran, Geographical Indications and Rural Development: Evidence from Vietnam, 20 J. Rural Stud. 119 (2022).

⁹ Belayneh Seyoum, The Potential for Geographical Indications in Africa: Protecting Coffee and Beyond, 12 Afr. J. Int'l Econ. L. 45 (2017).

by the European Union, TRIPS notably employs the term "genuine" which sets a high bar for reputational standing to merit legal protection against such dilution or free riding.¹⁰

Among post-TRIPS legal developments, the Geneva Act of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration serves as the only international instrument devoted exclusively to GIs. By enabling cross-border GI protections secured by a single application without domestic registration processes, the Lisbon system aims to enhance access while keeping costs lower for its Contracting Parties¹¹. However, opposition from the United States has hampered its expansion with just 31 members currently. The 2015 Geneva Act revises deficiencies of the original Lisbon Agreement by widening eligibility to embrace all goods, introducing legal safeguards for preexisting trademark rights and "term governing the use" of generics. But its usefulness for developing countries also hinges upon mitigating registration and post-registration costs.¹²

Alongside multilateral frameworks, a crucial avenue for expanding the ambit of protection for GIs globally has opened up via bilateral trade agreements intensely championed by the European Union through its bevy free trade agreements¹³. By pioneering detailed GI provisions under contemporaneous economic partnership agreements with developing regions, the EU has propagated TRIPS-plus standards worldwide. Whether such ratcheting upwards of IP protection helps or hinders the Global South remains debated.¹⁴

National Laws

Among domestic legal regimes, the European Union undoubtedly confers the highest degree of protection for GI products through its expansive *sui generis* framework which adopts a universally inclusive definition encompassing natural, agricultural, craft and industrial goods with embedded reputation attributable to geographical source. The EU framework legally demarcates GIs from trademarks by premising protection on qualities conferred by geographic provenance rather than indication of commercial origin. Its sweeping safeguards prohibit any

¹⁰ Nor Azam Ali & Zainab Nasir, Geographical Indications and Community Empowerment: The Malaysian Experience, 8 Asian J. Comp. L. 201 (2022).

¹¹ Maria Mancini, Is Geographical Indication Protection Delivering on Development Promises? Small Farmers and Market Access in Italy, 7 J. Dev. Stud. 301 (2013).

¹² Jeff Neilson, Bill Pritchard & Henry Fold, Global Value Chains and Geographical Indications: Distributional Consequences for Producers, 47 World Dev. 57 (2018).

¹³ Maria Mancini, Geographical Indications and Small Farmers: Access or Exclusion?, 11 J. Rural Stud. 59 (2013).

¹⁴ Rosemary J. Coombe & Nathalie Aylwin, Bordering Diversity and Desire: Using Intellectual Property to Mark Place-Based Products, 17 J. World Intell. Prop. 89 (2011).

evocation of a registered GI for comparable products, including where expressions like ‘style’, ‘type’, or ‘imitation’ are tagged to mislead consumers over true origins while benefiting from cultural familiarity.¹⁵

By contrast, the United States does not statutorily recognize sui generis GIs and instead relies upon pre-existing trademark law instruments like certification marks to afford a more limited scope of protection compared to the EU regime. This difference culminates in the genericide of terms associated with imported European goods including cheese varieties like 'Parmesan', which can lawfully be employed by American dairy producers to market hard Italian varieties despite the presence of registered certification marks. To tackle such threats, interested parties like dairy consortiums have undertaken mass media campaigns like ‘Legitimately Parmigiano Reggiano’ to boost consumer familiarity regarding authentic provenance and combat generic mislabelling.¹⁶

Among developing countries’ regimes, India confers legal protection for sui generis GIs defined expansively to include goods holding reputation and quality attributable to any natural or human input factor including key climatic features or production skills honed over generations, beyond just geographic connection. Any evocative usage of an enlisted GI deemed misleading for the general public is prohibited. However, India’s framework suffers from inordinate delays spanning four years or longer for securing registration, hampering potential developmental upsides despite growing applications numbering over 3000. Other developing countries like Thailand privilege GIs under their IP laws but continue to be plagued by awareness gaps regarding the meaning of GI tagging and a reliance on regular certification trademarks with limited enforcement.¹⁷

Many African countries face particular difficulties in setting up GI regulatory infrastructure owing to financial resource constraints, lack of technical expertise and weak institutional coordination across agriculture, IP and commerce agencies. Despite rich potential, most countries register less than a handful of GIs, denoting untapped promise. However, the Organization for African Intellectual Property Rights framed a Protocol on Geographical

¹⁵ Michael Blakeney, Protecting Traditional Knowledge: Challenges for Developing Countries, 24 J. World Intell. Prop. 231 (2022).

¹⁶ C. Bramley, A Review of the Socio-Economic Impact of Geographical Indications, Univ. Pretoria Inst. for Food, Agric. & Natural Res. (2011).

¹⁷ Dev S. Gangjee, Proving Provenance? GIs and the Challenge of Genericness, 13 World Intell. Prop. L. 95 (2018).

Indications to galvanize protection, with many countries having enacted or updated laws on GIs in recent years with a pointed focus on furthering agricultural development and rural incomes rather than purely commercial motives¹⁸. Hence analytical scrutiny reveals GIs remain at an incipient stage across much of the Global South in terms of both legal protection as well as leveraging cultural and developmental advantages.¹⁹

Traditional Knowledge Systems

The study finds registration of a distinct product under a GI confers legal protection and commercial rights upon generational wisdom and traditional practices of artisanal communities which have historically resided within informal spaces and hence outside conventional IP law frameworks fixated on rewarding individual innovations and invention. This elevates customary guardians and bearers of traditional knowledge into owners of a private intellectual property rights collective asset. By injecting exclusionary monopoly elements, GIs empower communities to counter unfair misappropriation or usurpation of their heritage expressions which multinational firms or competitors may free ride upon without sharing benefits.²⁰

Secondly, legal restricting GI usage solely for products genuinely cultivated or crafted leveraging traditional methods within engrafted geographies helps cement the indissoluble connection between source communities and their knowledge ecosystems against erosive pressures of hyper industrial supply chains.

Table 1 – Comparative analysis

Jurisdiction / Treaty	Definition of GI	Eligibility Criteria	Registration Process	Enforcement Mechanisms
TRIPS Agreement (1994)	Indications identifying good originating in a territory where quality, reputation, or characteristics are	Goods with a quality, reputation, characteristic attributable to higher origin; protection for wines/spirits (Art. 23)	No registration system—sets minimum standards, members adopt domestic laws	Member states must provide legal means to prevent misuse, unfair competition

¹⁸ Michael Blakeney, Geographical Indications and Traditional Knowledge, in *Research Handbook on Intellectual Property and Traditional Knowledge* 178 (Matthew David ed., Edward Elgar 2014).

¹⁹ Wendwosen Dagne, Geographical Indications and Traditional Knowledge, 12 J. World Intell. Prop. 92 (2010).

²⁰ Sandeep & Kuruvilla Zachariah, TRIPS-Plus Intellectual Property Rights: Issues for India, 43 Econ. & Pol. Wkly. 10 (2008).

	linked to origin (Art. 22)			
Lisbon Agreement (1958, revised 2015 Geneva Act)	Protects "Appellations of Origin" (AO) and "Geographical Indications"	AO: qualities due to environment; GI: broader link to origin (under Geneva Act)	Centralized international registration via WIPO, effect in member states	Stronger cross-border recognition; protection against genericide
European Union (EU Regulation 1151/2012)	PDO (strict link to geography) and PGI (looser link)	Agricultural products, foodstuffs, wines, spirits; strict product specifications	Application at national level, scrutiny by EU Commission; published in Official Journal	Civil/criminal remedies, customs enforcement, administrative checks
India (GI Act, 1999)	Goods originating in territory with given quality, reputation, or characteristic due to origin	Agricultural, natural, manufactured goods, including handicrafts	Application to GI Registry (Chennai); examination, opposition, registration	Civil suits for infringement, injunctions, damages; penalties under the Act
France (Appellation d'Origine Contrôlée - AOC)	Strong link between product and terroir (climate, soil, human factors)	Primarily wines, cheeses, spirits, agricultural goods	Managed by INAO; rigorous product specifications and inspection	Strict administrative control, certification, criminal penalties
Hungary	Protects both geographical indications and designations of origin	Foodstuffs, wines, agricultural products	Application through national authority; linked with EU GI system	National courts + EU mechanisms; strong protection against misleading use
Brazil	Two categories: Indicação de Procedência (IP) and Denominação de Origem (DO)	IP: reputation of region; DO: qualities linked to natural/human factors	Registration with National Institute of Industrial Property (INPI)	Civil enforcement, administrative measures, collective rights
Thailand	GIs cover products linked to geography and reputation	Agricultural and traditional goods	Application to Department of Intellectual Property; GI logo system	Administrative enforcement + civil remedies; public awareness programs
South Africa	No standalone GI law; uses trademarks & certification	Certification marks for GI-like protection	Through Companies and Intellectual Property	Trademark infringement remedies; limited sui

	marks; some protection via agricultural laws		Commission (CIPC)	generis recognition
Russia	2019 law on "Geographical Indications" distinct from "Appellations of Origin"	Broader scope with simplified conditions	Federal Service for Intellectual Property (Rospatent) registration	Administrative + civil remedies, criminal liability for infringement
Australia	Uses certification trademarks for GIs (except wines/spirits under sui generis system)	Certification mark criteria approved by IP Australia	Application under Trademark Act; separate wine GI registration	Trademark enforcement + customs; wine GIs get stronger protection
United States	No sui generis GI law; relies on certification marks & collective marks under Lanham Act	Marks certifying regional origin and standards	Application to USPTO; certification mark owner monitors use	Enforcement under trademark law—civil suits, customs enforcement

DISCUSSION

This section critically discusses four salient challenges in effectively harnessing GIs to foster cultural goals and rural development.

Genericide

Genericide remains a complex challenge, especially where prior use of a GI exists in countries like the US. For example, Budweiser beer traces its origins to Budweis in the Czech Republic but was treated as generic in the US. India grappled with cancelling the GI tag for Basmati rice in the US when American company RiceTec tried to patent 'Texmati' rice. Such genericide undercuts the value addition function of GIs. Preventing genericide requires greater awareness and policing. But campaigns like 'Legitimately Parmigiano Reggiano' to protect branding in the US are resource intensive.

Consumer Awareness

Multiple studies across Europe, India, Africa and China highlight poor consumer awareness about GIs. Low recognition hampers ability to extract premiums and guard against misuse.

Awareness campaigns are indispensable to educate consumers about links to geographic origin, cultural practices and quality. Public education enables informed choices and willingness to pay higher prices for authenticity that reward producers.

Distributional Effects

The proliferation of GIs will not automatically uplift disadvantaged groups. Critics argue GI systems are designed to benefit large corporate producers who can navigate registration processes. One study showed 98% of price gains for India's GI-protected Basmati and Darjeeling accrued to processors and traders rather than small farmers. Another case study in Thailand found GI rice supported wealthy contract farming groups not poor farmers. Supporting smallholder producers requires inclusive GI governance regimes with adequate representation and equitable benefit sharing mechanisms.

Institutional Challenges

Developing countries face particular difficulties in setting up GI infrastructure - obtaining legal protection abroad, maintaining quality control systems, preventing misuse, marketing and collecting fees. Resourcing challenges constrain many countries from registering more than a handful of GIs or effectively using those registered. This perpetuates dependence on a few agricultural and handicraft exports. Supporting institutions through partnerships and geographically dispersed collective rights management organizations can enhance GI outcomes.

CONCLUSION

This study demonstrates that GIs have emerged as an invaluable tool for securing economic rewards from traditional knowledge and furthering rural development goals. However, effectively harnessing GIs requires plugging implementation gaps, spreading awareness among consumers, ensuring representativeness in GI structures and building supportive public-private partnerships.

Robust legal protection and enforcement, both nationally and overseas, is indispensable for GIs to benefit heritage preservation and socio-economic growth. The costs of setting up GI frameworks necessitate differentiated obligations in multilateral rules and targeted support programs in poorer countries. Developing nations also need policy space to design sui generis

systems attuned to their realities.

Ultimately, GIs exemplify the possibilities and perils of utilizing intellectual property for world trade, cultural goals and human development. While critiques abound, the unique calibre of GI protection also harbors profound potential to advance both economic and non-economic values in the future.

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