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## INDIA'S GIS: LEGAL FRAMEWORKS, FAMILIARITY TRUST, AND IMPLEMENTATION REALITIES

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### ABSTRACT

Geographical Indications (GIs) represent one of the most culturally and economically significant, yet operationally underutilized, forms of intellectual property in the Indian legal system. This paper examines the concept, legal framework, and significance of GIs in India, and undertakes a critical analysis of the gap between the formal protection offered by the Geographical Indications of Goods (Registration and Protection) Act, 1999<sup>1</sup> and the practical realities of its implementation and enforcement. The paper situates Indian GI law within the broader international regime tracing the evolution of GI protection from the Paris Convention, 1883 through the TRIPS Agreement, 1995 and assesses the economic and cultural significance of GIs through three case studies: Darjeeling Tea, Basmati rice, and the Pashmina shawl. This paper further examines how familiarity trust, rooted in contractualist principles sustains consumer loyalty amid globalization challenges. The central argument is that India's GI framework suffers from structural implementation deficits including low producer awareness, the exclusion of individual producers from infringement proceedings under Section 22, the absence of a dedicated enforcement authority, and inadequate digital marketplace regulation that prevent the regime from delivering on its developmental promise. The paper concludes with legislative, institutional, and policy recommendations to address these deficits.

**Keywords:** Geographical Indications, GI Act 1999, Contractualism, Consumer Trust, Origin Familiarity, Enforcement, Traditional Knowledge, Rural Development

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<sup>1</sup> The Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48, Acts of Parliament, 1999 (India)

## INTRODUCTION

Geographical Indications (GIs) constitute a distinct category of intellectual property that link products to specific geographical origins, where particular qualities, characteristics, or reputational attributes are essentially attributable to that location. Unlike other forms of intellectual property, GIs are inherently collective in nature, representing not the rights of an individual producer but those of a community of authorised users within a defined territory.<sup>2</sup> According to WIPO, a GI is "a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin."<sup>3</sup>

Section 2(1)(e) of the Geographical Indications of Goods (Registration and Protection) Act, 1999 defines a Geographical Indication as an indication identifying goods as originating from a particular territory where a given quality, reputation or characteristic is attributable to that origin.<sup>4</sup> This definition is closely aligned with the framework under the TRIPS Agreement, particularly Articles 22 and 23. Article 22 establishes the general standard of protection for GIs, while Article 23 provides an enhanced level of protection specifically for wines and spirits, prohibiting the use of a protected GI even in the absence of consumer confusion.<sup>5</sup>

India possesses a remarkably rich portfolio of indigenous goods spanning handicrafts, textiles, agricultural products, and processed foods each deeply connected to the skills, ecology, and cultural traditions of specific regions. The GI Act, 1999 came into force on 15 September 2003 with four principal goals: to protect producer interests, bring economic prosperity to producing communities, promote goods in export markets, and protect consumers from deception.<sup>6</sup> As of 2024, India has registered over 600 GIs<sup>7</sup>, yet the scale of registration has not been matched by corresponding effectiveness in enforcement or benefit delivery. Studies consistently reveal that a large majority of artisans in GI product clusters

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<sup>2</sup> S.J. Mwakaje, "Protection of geographical indications and cross-border trade: A survey of legal and regulatory frameworks in East Africa", 25(11) *The Journal of World Intellectual Property* 31-44 (2021).

<sup>3</sup> Geographical Indications: What is a geographical indication? World Intellectual Property Organization (WIPO), [https://www.wipo.int/geo\\_indications/en/](https://www.wipo.int/geo_indications/en/)

<sup>4</sup> GI Act, Section 2(1)(e).

<sup>5</sup> TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, Articles 22–24.

<sup>6</sup> Statement of Objects and Reasons, GI Act, 1999.

<sup>7</sup> Malladagudda, Sangeetha and Manjusha R.S. (2025). "Twenty Years of Geographical Indications in India: Progress, Problems, and Policy Recommendations". *Archives of Current Research International* 25(3):365–74. <https://doi.org/10.9734/acri/2025/v25i31128>

are unaware of GI registration and its legal implications.<sup>8</sup>

The core problem this paper addresses is the discrepancy between the intended goals of GI protection and its actual implementation. This gap manifests at multiple levels viz legislative, institutional, economic, and international and demands both diagnostic analysis and concrete prescriptive responses. The paper is guided by three research questions: (A) How effective is the Indian GI legal framework? (B) What are the major challenges in implementation? (C) Do GIs contribute to economic development of local communities?

## LEGAL FRAMEWORK

### International Regime

The international regulation of GIs has its roots in the Paris Convention for the Protection of Industrial Property, 1883, whose Articles 1(2) and 10 oblige member states to seize goods bearing false indications of source at the point of entry.<sup>9</sup> The Madrid Agreement, 1891 extended this to deceptive indications.<sup>10</sup> The Lisbon Agreement, 1958 established a system for international registration of appellations of origin through WIPO, defining an appellation as the geographical name of a region whose product's quality is due exclusively or essentially to the geographical environment.<sup>11</sup> India is not a signatory to the Lisbon Agreement, which limits cross-border protection of Indian GIs in Lisbon member countries.

The most significant development came with Articles 22–24 of the TRIPS Agreement, 1995. Article 22 requires member states to prevent use of any designation misleading the public as to a product's geographical origin. Article 23 accords enhanced or 'absolute' protection to wines and spirits prohibiting use of GIs for these products even where the true origin is stated or qualifiers like 'kind', 'type', or 'style' are appended. Article 24 provides for exceptions including a grandfather clause for existing trademarks. The differential treatment of wines

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<sup>8</sup> Basu, Krishnokoli, "Role and Impact of Geographical Indication Laws in India". International Journal of Law Management and Humanities, Vol. 8, Iss. 4, p. 2555. <https://ijlmh.com/wp-content/uploads/Role-and-Impact-of-Geographical-Indication-Laws-in-India.pdf>

<sup>9</sup> Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, 828 U.N.T.S. 305, as revised, Articles 1(2) and 10

<sup>10</sup> Madrid Agreement Concerning the International Registration of Marks, Apr. 14, 1891, as revised, Stockholm, July 14, 1967, 828 U.N.T.S. 389.

<sup>11</sup> World Intellectual Property Organization (WIPO). "Lisbon Agreement for the Protection of Appellations of Origin and their International Registration": Status as of April 2026, the Lisbon System comprises 26 contracting countries. [https://www.wipo.int/en/web/lisbon-system/legal\\_texts](https://www.wipo.int/en/web/lisbon-system/legal_texts)

and spirits under Article 23 as opposed to all other categories under Article 22 has been one of the most contested aspects of the international GI regime, with India among the countries advocating for extension of Article 23 protection to all GI products.

### **The Indian Legal Framework**

The GI Act, 1999 is the primary domestic statute governing GI registration and protection. Section 2(1)(e) defines GIs broadly to include agricultural, natural, and manufactured goods, provided at least one activity of production, processing, or preparation takes place in the relevant territory. The Act is structured into seven chapters covering definitions, the GI Registry, registration procedure, rights conferred by registration, offences and penalties, appeals, and miscellaneous provisions.

Section 5 provides for the Geographical Indications Registry, presently located in Chennai as part of the Office of the Controller General of Patents, Designs and Trade Marks (IP India). The Register under Section 6 is divided into Part A for GI proprietors and Part B for authorised users.<sup>12</sup> Section 21(1) confers on both registered proprietors and authorised users the right to obtain relief in infringement proceedings.<sup>13</sup> Section 22 defines infringement as use of a GI by a non-authorised person in a manner falsely suggesting origin or constituting unfair competition.<sup>14</sup> Critically, individual producers who are neither registered proprietors nor authorised users who essentially are the majority of India's GI product producers have no statutory standing to bring infringement actions, even where they are the primary victims of GI misuse. This structural gap is among the most significant enforcement deficiencies in the current framework.<sup>15</sup>

Sections 38 to 42 prescribe criminal penalties including imprisonment up to three years and fines up to two lakh rupees for first-time offenders. However, these provisions have rarely been enforced, which remains a critical enforcement gap. Criminal remedies may in fact be more effective than civil remedies since they can be dealt with quickly and directly attack an

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<sup>12</sup> GI Act, Sections 5, 6 and 7.

<sup>13</sup> GI Act, Section 21(1). See also: Nair, Latha R. and Kumar, Rajendra (2005). Geographical Indications: A Search for Identity.

<sup>14</sup> GI Act, Section 22(1).

<sup>15</sup> GI Act, Section 22 read with Section 21. See: Basole, A., "Authenticity, Innovation, and the Geographical Indication in an Artisanal Industry: The Case of the Banarasi Sari", 18 Journal of World Intellectual Property 127 (2015).

infringer's honour and social status, potentially incentivising out-of-court settlement.<sup>16</sup>

Section 25 of the GI Act prohibits the registration of a GI name as a trademark in relation to goods not originating from the indicated territory: a provision designed to prevent 'GI squatting', whereby a foreign commercial entity pre-emptively registers a geographical name (like 'Darjeeling' or 'Basmati') as a trademark to block legitimate producers from using their own geographical name in that jurisdiction. The RiceTec/Basmati situation is the classic example.<sup>17</sup> Section 25 operates alongside Section 9(2)(b) of the Trade Marks Act, 1999<sup>18</sup> to prevent the appropriation of geographical names as private intellectual property.

### **Theoretical Justifications**

GI protection is underpinned by three principal theoretical frameworks. The primary rationale is the prevention of consumer deception: GI protection is a species of consumer protection law ensuring that buyers receive accurate information about the geographical origin and associated quality of goods. The economic rationale is complementary as GI protection allows producers to signal quality credibly, enabling them to command price premiums and resist competition from lower-quality imitations. A second framework, rooted in labour-desert theory, holds that communities that have developed a product through generations of skill and cultural practice have a moral entitlement to the fruits of that labour. A third framework draws on development justice discourse: scholars such as Madhavi Sunder and Madhuri Majumdar have argued that GIs serve as an instrument of development justice, redirecting economic value to marginalized communities excluded from the benefits of globalization.<sup>19</sup>

### **Consumer Nostalgia and GI Trust:**

Amid capitalism's global mobility, where individuals pursue better opportunities, studies, and lives, humans retain an innate search for "home," manifesting as emotional attachment to

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<sup>16</sup> Chaudhary, Swapnil, Analysis Of Geographical Indications and Its Infringement and Remedies with Case Studies, International Journal for Multidisciplinary Research (IJFMR) E-ISSN: 2582-2160. <https://www.ijfmr.com/papers/2024/2/18524.pdf>

<sup>17</sup> Gangjee, Dev, Quibbling Siblings: Conflicts between Trademarks and Geographical Indications, CHICAGO-KENT LAW REVIEW 82 CHI.-KENT L. REV. 1253 (2007). RiceTec Inc, "Basmati Rice Lines and Grains" US Patent No. 5,663,484 (issued 2 September 1997).

<sup>18</sup> The Trade Marks Act, 1999, No. 47, Acts of Parliament, 1999 (India).

<sup>19</sup> Sunder, Madhavi (2007). "The Invention of Traditional Knowledge". In: Law and Contemporary Problems 70.2, pp. 97–124. See also: Majumdar, Madhuri (2018). "Geographical Indications and Development Justice: The Indian Experience". In: Journal of World Intellectual Property 21.3–4, pp. 162–180.

familiar origins. Migrants and urban consumers gravitate toward GI products like Darjeeling Tea or Kashmir Pashmina, not solely due to legal tags, but as authentic reminders of cultural roots, evoking reliability amid homogenized markets. This familiarity principle fosters trust while origin cues signal "originality, authenticity, and genuineness."

Moreover, an idea to stand out for people, countering copycat "sheep-herding" or even fast fashion countering global climate damage, in global supply chains pushes people to seek original, authentic, and something principled in itself.

People don't reach for products, they reach for a feeling which usually is familiarity, or uniqueness or even wanting to be changemakers. These three criteria although stand pole apart, meet at one converging point- seeking an original or valued product. And this originality is guaranteed or rather promised by a GI tag. On this note, trends in food sector were studied over the past decade which indicate that consumers are increasingly placing value on products they can associate with a certain place and/or special means of production.<sup>20</sup>

Analogously, consumers' emotional attachments to a brand might predict their commitment to the brand (e.g., brand loyalty) and their willingness to make financial sacrifices in order to obtain it (e.g., to pay a price premium).<sup>21</sup> The results of a decade long empirical study indicate that GI labels tend to positively influence consumers' willingness to pay, preferences, and purchasing decisions by acting as indicators of quality that reduce information gaps and enhance trust. However, these effects are not consistent across all contexts, as they are shaped by factors such as the credibility of the GI framework, the presence of competing labels, local consumption practices, and consumers' prior awareness of certification systems.<sup>22</sup>

T.M. Scanlon's *What We Owe to Each Other* frames this as a contractualist pact that no rational agent rejects: producers uphold home-specific standards, while such consumers

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<sup>20</sup> Kneafsy, Moya & Libery, Brian, "Product and Place: Promoting Quality Products and Services in the Lagging Rural Regions of the European Union", *European Urban and Regional Studies*, <https://doi.org/10.1177/09697764980050040>

<sup>21</sup> Matthew, Thomson, MacInnis, Deborah and Park, C. Whan, "The Ties that Bind: Measuring The Strength Of Consumers' Emotional Attachments to Brands", *Journal Of Consumer Psychology*, 15(1), 77-91 [https://msbfile03.usc.edu/digitalmeasures/choong/intellcont/published\\_ea\\_measure\\_paper-2.pdf](https://msbfile03.usc.edu/digitalmeasures/choong/intellcont/published_ea_measure_paper-2.pdf)

<sup>22</sup> Tan, Ailin, Hashim, Sharizal Bin, Zuo, Jiaqi, Cheng, Jianyu, "Consumer responses and determinants in geographical indications agricultural product consumption: A ten-year systematic review", <https://doi.org/10.12688/f1000research.158225.3>

"owe" premiums for risk-reduced anchors to identity. GI protection fosters consumer loyalty through Scanlon's contractualist lens, where familiar origins create a mutual pact, no rational buyer reject: producers commit to verifiable geographic standards, while consumers pay substantial premiums for authenticity that reduces purchase risk.

When viewed through the lens of social contract theory, the system of Geographical Indications can be understood as embodying reciprocal obligations between producers and consumers. Producers are expected to maintain authenticity and uphold the quality associated with the geographical indication, thereby sustaining consumer trust. In turn, consumers assume a responsibility to recognize and fairly compensate such authenticity by supporting genuine GI products. This mutual exchange reinforces both trust and fairness within the marketplace.

Amid globalization's mobility where people chase opportunities yet crave 'home' reminders, GI cues like Darjeeling Tea evoke nostalgia, signaling reliability and driving repeat purchases. This fair deal counters imitations as well; loyalty endures as buyers 'owe' support to origin-tied producers, turning legal tags into emotional anchors that sustain market premiums despite counterfeits.

## **SIGNIFICANCE OF GIs IN INDIA**

**Economic Significance:** The most immediate economic benefit of GI registration is the ability of producers to command price premiums. Darjeeling Tea, registered as India's first GI in 2004-05, commands prices two to three times higher than comparable un-GI-tagged teas in international auction markets.<sup>23</sup> According to DGCIS data, India exported Basmati rice worth approximately five billion USD in the fiscal year 2024-25.<sup>24</sup> The Ministry of Commerce has identified GI products as a priority category under the 'Make in India' and 'One District One Product' initiatives.<sup>25</sup> A substantial share of registered GIs relates to handicrafts and textile products produced by traditional artisan communities, including Kashmir Pashmina,

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<sup>23</sup>Category Wise Avg. Price of Darjeeling Tea at Auctions, Darjeeling Tea: A Geographical Indication, Organization for an International Geographical Indications Network. [https://www.origin-gi.com/wp-content/uploads/2010/02/OriGIIn\\_Darjeeling\\_Tea\\_Presentation.pdf](https://www.origin-gi.com/wp-content/uploads/2010/02/OriGIIn_Darjeeling_Tea_Presentation.pdf)

<sup>24</sup> Directorate General of Commercial Intelligence and Statistics, India's Export by PRINCIPAL COMMODITY GROUP from April 2024 to March 2025, Ministry of Commerce and Industry, Government of India. <https://ftddp.dgciskol.gov.in>

<sup>25</sup> Commerce Minister Piyush Goyal sets a target of 10000 GI tags by 2030; committee to be formed to oversee implementation,2025, Ministry of Commerce & Industry. <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2095279>

Pochampally Ikat, Banaras brocades, Madhubani paintings, Kondapalli toys, and Channapatna toys. GI protection functions as a collective branding mechanism that reduces information asymmetry between producers and consumers by signalling authenticity and distinctiveness.<sup>26</sup>

**Cultural and Heritage Significance:** Many of India's GIs extend far beyond their role as economic assets rather they function as living embodiments of cultural identity and repositories of intangible heritage. Crafts such as Warli painting, Pattachitra, and Thanjavur painting are not merely commodities but expressions of community identity, ritual practice, and historical continuity. In this context, GI protection contributes to safeguarding intangible cultural heritage by formally recognising the link between a product and its geographical and cultural origins. By legally restricting the use of a GI to authorised producers within the designated geographical area, the law prevents de-contextualisation and misuse. The very recent instance of Kolhapuri chappals being used by Prada without any credit up till the point of very public backlash and thereafter, promoting 'Made in India' tag<sup>27</sup> illustrates that without active profiling and legal protection, instances of cultural appropriation are bound to recur. This also aligns with the UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, which emphasises protecting traditional knowledge passed on from generation to generation.<sup>28</sup>

**GIs and Traditional Knowledge Protection:** India does not yet have a comprehensive, standalone legal framework dedicated exclusively to the protection of traditional knowledge. The Biological Diversity Act, 2002 and the Protection of Plant Varieties and Farmers' Rights Act, 2001 offer partial protection in specific domains.<sup>29</sup> In this legislative gap, GIs have emerged as an important supplementary mechanism. Products such as Coorg honey, Malabar pepper, and Alleppey green cardamom each encode traditional cultivation and processing practices that constitute localised traditional knowledge.<sup>30</sup> The Neem and Turmeric biopiracy

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<sup>26</sup> Menapace, Luisa and Moschini, Giancarlo, Quality Certification by Geographical Indications, Trademarks and Firm Reputation, *European Review of Agricultural Economics*. <https://doi.org/10.1093/erae/jbr053>

<sup>27</sup> Prada, Made in India, <https://www.prada.com/ww/en/pradasphere/special-projects/2026/made-in-india-kolhapuri.html> See also: Yadav, Nikita, "Prada launches Indian-made sandals after cultural appropriation backlash" <http://bbc.com/news/articles/ce3p1nrz5qqo>

<sup>28</sup> Convention for Safeguarding of the Intangible Cultural Heritage, UNESCO 2003. <https://landscapes.icomos.org/2003-ich-convention/>

<sup>29</sup> Biological Diversity Act, 2002, No. 18, Acts of Parliament, 2003 (India); Protection of Plant Varieties and Farmers' Rights Act, 2001, No. 53, Acts of Parliament, 2001 (India).

<sup>30</sup> Pant, Ruchi, "Protecting and promoting traditional knowledge in India: What role for geographical indications?" IIED Working Paper. IIED, London. ISBN 978-1-78431-029-5. <http://pubs.iied.org/16576IIED>

disputes demonstrate that patent law alone is an inadequate and reactive safeguard for traditional knowledge: India successfully challenged both patents before the USPTO and EPO on prior art grounds, but the process was resource-intensive and time-consuming.<sup>31</sup> GI protection offers a complementary, affirmative mechanism recognising and commercially anchoring the products that embody traditional knowledge though it cannot substitute for a comprehensive TK protection framework.

## CASE STUDIES

### Darjeeling Tea

Darjeeling Tea became the first product in India to receive a GI tag in 2004, with the Tea Board of India as the registered proprietor.<sup>32</sup> The Tea Board has been notably active in international enforcement obtaining recognition in over 80 countries and successfully opposing misuse in Japan, Egypt, Germany, and before the European Community Trademark Office. In Japan, the Tea Board invalidated International Tea KK's pirate registration of the Darjeeling women logo, with the JPO Board of Appeal ruling on 28 August 2002 that the registration was void as contrary to public order and ordered its cancellation owing to non-use.<sup>33</sup> However, domestic enforcement remains patchy and industry estimates suggest that tea sold globally under the 'Darjeeling' label substantially exceeds total authenticated production from certified gardens, implying widespread fraudulent labelling that enforcement actions have failed to prevent.<sup>34</sup>

### Basmati Rice: The RiceTec Dispute

In the late 1990s, RiceTec Inc. (USA) was granted a patent by the USPTO covering rice lines marketed using the term 'Basmati', raising serious concerns for India.<sup>35</sup> The Government of

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<sup>31</sup> European Patent Office, Technical Board of Appeals, Case T 1205/01 (Neem Patent Case). University of Mississippi Medical Center v. Council of Scientific & Industrial Research, USPTO Patent No. 5,401,504 (1997). See also: Traditional Knowledge Digital Library Unit, CSIR, <https://www.csir.res.in/en/documents/tkdl>

<sup>32</sup> Nuzhatparveen Ganihar et al., "An Overview of Geographical Indications in India", South Asian Journal of Management Research, ISSN 0974-763X, <https://siberindia.edu.in/journals/SAJMR/Oct-2021/Paper-5.pdf>

<sup>33</sup> Tea Board of India v. International Tea KK, JPO Board of Appeal Decision, 28 August 2002. Opposition to Registration of "Divine Darjeeling", JPO (2000); cited in WTO, Protecting the Geographical Indication for Darjeeling Tea, Case Study No. 16. [https://www.wto.org/english/res\\_e/booksp\\_e/casestudies\\_e/case16\\_e.htm](https://www.wto.org/english/res_e/booksp_e/casestudies_e/case16_e.htm)

<sup>34</sup> Srivastava, S.C., "Protecting the Geographical Indication for Darjeeling Tea", Managing the Challenges of WTO Participation, Case Study 16, World Trade Organization.

<sup>35</sup> Rangnekar, Dwijen, Geographical Indications and Localisation: A Case Study of Basmati Rice (SSRN, 2008). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1143209](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1143209). See also: Shiva, Vandana, Basmati Biopiracy: RiceTec Must Withdraw All Patent Claims, The Hindustan Times (Nov. 20, 2000).

India formally challenged the patent, arguing that the claimed features were already part of traditional knowledge and agricultural practice as prior art. Despite the evidentiary challenge of demonstrating knowledge historically transmitted through practice rather than formal documentation, India succeeded in having several key patent claims either withdrawn or significantly limited in 2001. The dispute catalysed several institutional responses: the Traditional Knowledge Digital Library (TKDL) was established to document traditional knowledge and assist patent offices in prior art searches; India strengthened domestic GI protection under the GI Act; and India's advocacy at the WTO for

TRIPS Article 23 extension was intensified. In 2025, the Kenya Court of Appeal dismissed India's challenge brought by Agricultural and Processed Food Products Development Authority (APEDA) to the registration of 'Basmati' trademarks by a Kenyan entity called 'Krish commodities', illustrating the continuing territorial vulnerability of Indian GIs.<sup>36</sup>

### **Pashmina: Challenges of Certification**

The Pashmina shawl from Kashmir was granted GI status in 2008, with the Craft Development Institute, Srinagar, as registered proprietor.<sup>37</sup> Genuine Pashmina is produced from the undercoat fibre of the Changthangi goat fibres averaging 12–16 microns in diameter, finer than the finest merino wool (23 microns). The sector employs over one lakh workers directly and has an annual turnover of approximately Rs. 1,000 crores, of which Rs. 700 crore comes from exports.<sup>38</sup> Yet the market continues to be flooded with machine-made or blended products falsely marketed as Pashmina. A structured certification system using Secure Fusion Authentication Labels (SFAL) has been developed, incorporating fibre-level testing through thermal analysis and microscopic fibre diameter measurement.<sup>39</sup> However, the economic advantages of GI status have not been evenly distributed across the value chain and primary producers often receive only a limited share of the premium, reflecting deeper structural

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<sup>36</sup> Agricultural and Processed Food Products Development Authority (APEDA) v Krish Commodities Ltd [2025] KECA 1587 (KLR)

<sup>37</sup> Kour, Navdeep & Sharma, Kartik "Geographical Indications: Indian Scenario With Special Reference To Kashmir Pashmina", Indian Journal of Integrated Research in Law, ISSN: 2583-0538.

<sup>38</sup> Yaseer Ahmad Mir and Mushtaq Ahmad Darzi, "Kashmir Pashmina: A journey of standardization through geographical indication", 3(5) IJAR 01-04 (2017). <https://www.allresearchjournal.com/archives/2017/vol3issue5/PartA/3-4-149-517.pdf>

<sup>39</sup> Craft Development Institute, Srinagar "Quality Manual for Enforcement of Kashmir Pashmina GI", <http://www.cdisgr.org/public/Quality%20Manual%20KP.pdf>

inequalities in the industry.<sup>40</sup>

## CHALLENGES IN IMPLEMENTATION AND ENFORCEMENT

Limited Awareness and Registration Access: Despite India's vast repository of region-specific products, many eligible goods remain unregistered due to a lack of knowledge about GI benefits and procedures.<sup>41</sup> For instance, Punjab with a significant repository of potential GI products holds just one registered GI.<sup>42</sup> The evidentiary burden in the registration process compounds this problem: in many traditional communities, knowledge is transmitted orally rather than through written records, making it difficult to produce the documentation required. Judima Wine in Assam produced by the Dima tribal community through intergenerational oral tradition has been denied a GI grant for this reason.<sup>43</sup> Similarly, Hyderabad Biryani was declined a GI grant due to insufficient documentary proof of origin.<sup>44</sup>

Structural Enforcement Deficits: Enforcement represents one of the most critical weaknesses in the Indian GI system. Instances of unauthorised use and imitation of GI products are widespread domestically and internationally. Traditional products such as Banarasi silk and Kashmir Pashmina have faced competition from machine-made imitations sold under the same names.<sup>45</sup> The two-tier system of registered proprietors and authorised users means that intermediaries traders, exporters, and brand licensees often capture a disproportionate share of the premium generated by GI status.<sup>46</sup> A field-based study by The Energy and Resources Institute found that for GI-certified products such as Malabar Pepper and Vazhakulam Pineapple, the anticipated economic advantages of GI recognition have not substantially reached

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<sup>40</sup> Kour and Sharma (*Supra* n 37).

<sup>41</sup> Press Trust of India, Lack of Awareness About GI Spelling Doom for Many Products, THE BUSINESS STANDARD (Dec. 18, 2013). [https://www.businessstandard.com/article/pti-stories/lack-of-awareness-about-gi-spelling-doom-for-many-products-113121800166\\_1.html](https://www.businessstandard.com/article/pti-stories/lack-of-awareness-about-gi-spelling-doom-for-many-products-113121800166_1.html)

<sup>42</sup> Vijay C. Roy, Punjab, Haryana Unable to Reap Benefits of GI, THE TRIBUNE (Mar. 21, 2018). <http://www.tribuneindia.com/news/business/punjab-haryana-unable-to-reap-benefits-of-gi/566323.html>

<sup>43</sup> Jupi Gogoi, Locked Out, Without a GI Tag, THE HINDU (Nov. 27, 2017). <http://www.thehindu.com/opinion/op-ed/locked-out-without-a-gi-tag/article20944930.ece>

<sup>44</sup> U. Sudhakar Reddy, Origin Not Proved, So No Geographical Indication Tag for Hyderabad Biryani, DECCAN CHRONICLE (Mar. 9, 2017). <https://www.deccanchronicle.com/nation/in-other-news/090317/origin-not-proved-so-no-gi-tag-for-hyderabad-biryani.html>

<sup>45</sup> Das, Kasturi, "Prospects and Challenges of Geographical Indications in India", The Journal of World Intellectual Property (2010) Vol. 13, no. 2, pp. 148–201.

<sup>46</sup> Cardoso, V.A. et al. (2022). "The benefits and barriers of geographical indications to producers: A review." Renewable Agriculture and Food Systems, 37(6), 707–719. <https://doi.org/10.1017/S174217052200031X>

the primary producers, particularly farmers.<sup>47</sup>

The generic name problem: the risk of GI names becoming common descriptors for product categories rather than indicators of geographical origin is also underexplored in Indian jurisprudence. Section 9(c) of the GI Act prohibits registration of indications that have become the common name for goods in India.<sup>48</sup> Internationally, Article 24(6) of TRIPS permits member states to deny protection to terms customary in common language. Widely recognised names such as Mysore silk and Kanchipuram silk are frequently used beyond their geographical origin, indicating a risk of dilution that the law has not yet adequately addressed.

### Judicial Analysis: Key Cases

*Scotch Whisky Association v. Golden Bottling Ltd.*, decided by Justice Madan B. Lokur in Delhi High Court, is among the most significant judicial decisions on GI protection in India. The plaintiffs- the Scotch Whisky Association and its members sought a permanent injunction restraining the defendant (a Jaipur-based company) from dealing in whisky under the name 'Red Scot' or any name containing the word 'Scot'. The Court held that 'Scotch' was a well-recognised GI for whisky produced in Scotland per the Scotch Whisky Act, 1988 and Scotch Whisky Order, 1990, and that the defendant's use of 'Red Scot' constituted passing off by giving consumers an impression that the product originated in Scotland. Section 20(2) of the GI Act was applied to confirm that passing off actions remain available even for unregistered GIs.<sup>49</sup>

The decision confirmed that Indian courts will apply the passing off doctrine to protect foreign GIs even in the absence of formal GI registration in India.

*Comité Interprofessionnel du Vin de Champagne v. M/s. Chinar Agro Fruit Products*, is one of the clearest judicial applications of Section 22 of the GI Act. The plaintiff (CIVC) is the registered proprietor of the GI 'Champagne' in India, which was accorded additional

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<sup>47</sup> Nanda, Nitya et al., The Protection of Geographical Indications in India: Issues and Challenges, TERI POST-TRIPS IPR REGIME IN INDIA PROJECT (2013). [http://yucita.org/uploads/yayinlar/diger/makale/8-The\\_Protection\\_of\\_Geographical\\_Indications\\_india.pdf](http://yucita.org/uploads/yayinlar/diger/makale/8-The_Protection_of_Geographical_Indications_india.pdf)

<sup>48</sup> GI Act, Section 9(c). See: Gangjee, Dev S., Genericide: The Death of a Geographical Indication? (Jan 30, 2016), in D Gangjee (ed) Research Handbook on Intellectual Property and Geographical Indications (Edward Elgar, 2016) 508. <https://ssrn.com/abstract=2923895>

<sup>49</sup> The Scotch Whisky Association and Others v. Golden Bottling Limited and Another, Civil Suit No. 406/2004, decided 20 April 2006; 129 (2006) DLT 423; 2006 (32) PTC 656 (Del.). Per Justice Madan B. Lokur.

protection by notification in GI Journal No. 44 with effect from 28 November 2011.<sup>50</sup> The defendant manufactured non-alcoholic sparkling drinks under the name 'Champagne', using bottle shapes and packaging associated with Champagne wine. The Court held that this constituted infringement under Section 22(1)(a) and that the additional protection notification triggered the absolute prohibition of Section 22(3), under which no unauthorised use of the protected GI is permissible regardless of whether consumer confusion is established. A permanent injunction was granted. The case confirms that enhanced protection notifications operate as an absolute bar on use, which is a significant tool for GIs of particular commercial and cultural significance.

**Tea Board, India v. ITC Limited**, produced two significant judicial decisions in 2011 and 2019 on the use of the designation 'Darjeeling Lounge' for a hospitality lounge at ITC's Sonar Hotel in Kolkata. The Calcutta High Court declined to grant an interim injunction in 2011. In the final judgment of 4 February 2019, the Court dismissed the Tea Board's suit entirely and imposed costs. The Court's central holding was that GI rights under the GI Act extend only to goods and not to services, since ITC's Darjeeling Lounge was a hospitality service rather than a good. The certification trademark rights were held to be limited to certifying that a tea product originates from Darjeeling; they did not confer a blanket right to prohibit all commercial uses of the word 'Darjeeling' unconnected with tea. On passing off, the Court found that ITC's high-end, educated clientele would not be misled into believing that food and beverages at the Darjeeling Lounge originated from Darjeeling.<sup>51</sup> The case confirms that the GI Act is a goods-specific statute, a limitation the legislature may need to revisit as the economy becomes increasingly service-oriented and signals judicial reluctance to permit GI registration to be weaponised which may be used to challenge uses of geographical names unrelated to the specific goods for which the GI was registered.

**In Re: GI Registration of Banglar Rasogolla and Odisha Rasagola:** The dispute between West Bengal and Odisha over the GI registration of the popular sweet dish known variously as Rasgulla, Rasogolla, and Rasagola illustrates both the cultural significance of GI protection and the doctrinal utility of geographical prefixing as a mechanism for resolving

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<sup>50</sup> Comité Interprofessionnel du Vin de Champagne v. M/s. Chinar Agro Fruit Products, CS(COMM) 1194/2016, Delhi High Court, decided 07.09.2017; MIPR 2018 (1) 24. See also: Geographical Indications Journal No. 44, January 11, 2012 / PAUSHA 21 SAKA 1933, IPO Journal, Govt. of India.

<sup>51</sup> Tea Board, India v. ITC Limited, CS No. 250 of 2010; 2011 (48) PTC 169 (Cal); (2019) 1 CALLT 538 (HC). See: Muralidharan, Sahithya, "India: Limitations of geographical indication and certification trademarks - Tea Board v. ITC Limited (2019)", Kluwer Trademark.

competing regional claims. The Registrar granted GI registration to West Bengal for 'Banglar Rasogolla' in November 2017; an objection was filed contending that the sweet originated at the Jagannath Temple in Puri, Odisha. Subsequently, on 29 July 2019, the Registrar granted a separate GI tag to Odisha for 'Odisha Rasagola'. Critically, the Registrar did not grant protection to the generic term 'Rasogolla'/'Rasagola' itself but only to the prefixed designations. Accordingly, neither state holds a monopoly over the base term, therefore, any trader may continue to sell the sweet under any equivalent synonym. What is prohibited is use of 'Banglar Rasogolla' and 'Odisha Rasagola' by non-authorised users. The decision illustrates the interpretive flexibility of Section 2(1)(e): distinct geographical variants of a product can co-exist as separate GIs where differentiated on verifiable characteristics which in this case is the light brown colour, soft texture, and lower sweetness of the Odisha variant.<sup>52</sup>

### **International Trade Challenges and Digital Marketplace**

India, along with the EU and developing country coalitions, has consistently advocated at the WTO for the extension of TRIPS Article 23 enhanced protection beyond wines and spirits to all GI categories. This proposal has faced sustained opposition from the United States, Australia, Canada, and others who argue it would constrain their domestic industries.<sup>53</sup> The issue was formally incorporated into the Doha Development Agenda but negotiations have made limited progress.<sup>54</sup>

The misuse of GIs on digital marketplaces has emerged as a growing concern. Online platforms host thousands of product listings that falsely claim GI status or use qualifiers such as 'style', 'type', or 'inspired' to evade scrutiny while misleading consumers.<sup>55</sup> The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 provide no GI-specific provisions for digital enforcement.<sup>56</sup> This regulatory gap enables proliferation of digital counterfeit GI goods that the traditional enforcement machinery cannot effectively

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<sup>52</sup> GI Registry, Banglar Rasogolla, GI No. 533, 18.09.2015; GI Registry, Odisha Rasagola, GI No. 612, 29.07.2019, Chennai GI Registry.

<sup>53</sup> Neethu, S.T., "Geographical Indications Laws in India: Issues and Challenges", South Asian Law and Economic Review. <https://doi.org/10.55662/SALER.2023.802>

<sup>54</sup> GI in the WTO & Doha Negotiations by Miguel Rodriguez Mendoza, WIPO Worldwide Symposium on GI. [www.wipo.int/edocs/mdocs/geoind/en/wipo\\_geo\\_bei\\_07/wipo\\_geo\\_bei\\_07\\_www\\_81777.doc](http://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_bei_07/wipo_geo_bei_07_www_81777.doc)

<sup>55</sup> Panjwani, Mehak (2024), Challenges in the Digital Age: Online counterfeiting of GI Products, IP Link-Asia. <https://www.iplink-asia.com/article/detail.php?id=1175>

<sup>56</sup> Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, <https://www.meity.gov.in/static/uploads/2025/10/708f6a344c74249c2e1bbb6890342f80.pdf>

address.

## CONCLUSIONS AND RECOMMENDATIONS

### Answering the Research Questions

The Indian GI legal framework is effective at the level of formal registration, the GI Act is broadly TRIPS-compliant, the registration system well-structured, and judicial engagement increasingly sophisticated. However, the framework is significantly less effective at the level of practical enforcement and benefit delivery. The institutional infrastructure required to translate legal protection into economic benefit such as enforcement agencies, certification bodies, GI funding mechanisms, and awareness programmes remains underdeveloped.<sup>57</sup>

The evidence on GIs and economic development is mixed. In ideal cases, where registration is accompanied by active enforcement and branding as with Darjeeling Tea and Basmati rice, it can be observed that GIs contribute to sector-level economic performance. However, benefits frequently do not percolate to artisans and small producers at the base of the supply chain due to supply chain inequities and limited market access. The developmental potential of GIs remains unrealised without complementary policy interventions.

### Recommendations

**Legislative Reforms: Amendment to Section 21 of the GI Act:** The Act should be amended to provide individual producers and not merely registered proprietors and authorised users with the standing to initiate infringement proceedings. A class action-style mechanism, similar to the representative action provision under the Consumer Protection Act, 2019, would enable communities of producers to collectively enforce their rights. This is perhaps the single most impactful legislative reform available.

A dedicated GI Enforcement Authority should be established by statute, modelled on the Competition Commission of India (CCI) or the Telecom Regulatory Authority of India (TRAI), empowered to conduct market surveillance, receive public complaints, investigate GI violations, impose civil penalties, and manage a GI fund for post-registration maintenance

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<sup>57</sup> Ferrao, R., "Taking measures without measurements: Abolition of Intellectual Property Rights Appellate Board", 61 Indian Journal of International Law 84, 92 (2023).

and protection.<sup>58</sup> India should continue its advocacy for TRIPS Article 23 extension and prioritise bilateral GI recognition agreements with major trading partners, building on the India-EU Free Trade Agreement model. The GI Act should also be amended to incorporate express provisions recognising the relationship between GI-protected goods and the traditional knowledge systems of producing communities, triggering additional protections against biopiracy and cultural appropriation.

**Institutional and Policy Reforms:** Procedural requirements and fees for authorised user registration should be substantially simplified and, for small-scale artisans below a prescribed annual turnover threshold, entirely waived. Registration camps modelled on the UIDAI's Aadhaar enrolment camps in terms of the guidance and support, should be deployed in GI product clusters. The process should be made smoother and not intimidating for rural artisans. For each registered GI, a GI Certification Body should be established for testing, quality verification, and issuance of GI certification marks modelled on the Parma Ham production certification process in Italy.<sup>59</sup> The existing GI Registry database should be upgraded into a fully searchable National GI Portal with a public complaint mechanism.

The government should incentivise GI producer cooperatives and producer companies under the Companies Act, 2013, drawing on the model of the Amul cooperative. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 should be amended to require e-commerce platforms to implement GI-specific due diligence measures including but not limited to mandatory GI verification before allowing sellers to use protected GI names in listings, and expedited takedown procedures for GI-infringing listings.<sup>60</sup> A National GI Awareness Campaign targeting artisan clusters, agricultural producer communities, and educational institutions should be launched under the aegis of DPIIT, with GI law modules incorporated into law school and management curricula.

## **Concluding Observations**

Geographical Indications occupy a distinctive and increasingly important position in India's intellectual property landscape. It stands at the intersection of trade law, cultural heritage,

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<sup>58</sup> Vinayan, Soumya "Geographical indications in India: Issues and challenges: An overview", ISSN 1422-2213 Journal of World Intellectual Property, 2017, Vol. 20, Issue 3/4, p. 119.

<sup>59</sup> Janice Hopper, Lessons from Parma: A Taste of Success, THE SCOTTISH FARMER (Mar. 30, 2017). [http://www.thescottishfarmer.co.uk/lifestyle/cls\\_features/15192529.Lessons\\_from\\_Parma](http://www.thescottishfarmer.co.uk/lifestyle/cls_features/15192529.Lessons_from_Parma)

<sup>60</sup> IT Rules, 2021 (n 52).

rural development policy, and consumer protection. India's GI framework provides a workable legal architecture that has delivered measurable benefits in specific sectors, most notably in tea and rice export markets. Yet the promise of GI protection: the preservation of traditional knowledge, the economic empowerment of artisan communities, and the safeguarding of India's rich cultural heritage, remains incompletely realised.

The path forward lies in a GI regime that is not merely protective in the passive sense of enabling rights-holders to sue infringers, but proactive in the developmental sense of actively building the capacity of producer communities to use GI protection as a lever for sustainable economic growth. Such a regime would honour not only India's international IP obligations under TRIPS but the deeper promise of Article 39 of the Constitution's Directive Principles of State Policy: the obligation to ensure that the economic system does not result in the concentration of wealth to the common detriment.<sup>61</sup>

In sum, the Geographical Indication is more than a legal label, more than that it is a story, a community, and a living tradition. The law must be made equal to the weight of that inheritance.

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<sup>61</sup> The Constitution of India, Art. 39(b) and (c).