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An Examination of the Legal Dimensions of Geographical Indications in the Indian Context

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Abstract

This paper provides a comprehensive examination of the legal framework governing Geographical Indications (GIs) in India. It traces the historical antecedents of origin-based protection in the country, culminating in the enactment of The Geographical Indications of Goods (Registration and Protection) Act, 1999, as a part of India's compliance with the TRIPS Agreement. The study delves into a meticulous analysis of the statutory provisions of the Act, exploring its key definitions, registration process, infringement criteria, and enforcement mechanisms. Through a critical review of seminal and recent case law, the paper elucidates the judicial interpretation of these provisions and the evolving jurisprudence in the field. It further assesses the practical implementation of the GI regime, supported by data on GI registrations and an analysis of the socio-economic impact on producer communities. The paper identifies significant challenges, including issues of post-registration management, quality control, benefit distribution, and low producer awareness, which impede the full realisation of the Act's objectives. Finally, it offers a comparative perspective with international standards and proposes considerations for strengthening the legal and administrative framework to enhance the efficacy of GI protection in India, thereby securing the nation's rich heritage of traditional goods.

Keywords: Geographical Indications, GI Act 1999, Intellectual Property Rights, Indian Law, TRIPS Agreement, Case Law, Producer Protection.

1. Introduction

India, a nation of immense cultural and geographical diversity, is home to a vast repository of goods whose reputation, quality, and unique characteristics are intrinsically linked to their place of origin. From the fragrant Basmati rice cultivated in the Himalayan foothills to the intricate weaves of Kanchipuram silk, these products are not merely commodities but embodiments of traditional knowledge, craftsmanship, and local terroir. The protection of such origin-based indicators has emerged as a critical issue in the global intellectual property rights (IPR) landscape. The international legal order, primarily through the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), has mandated a system for the protection of these indicators, known as Geographical Indications (GIs).

In response to its international obligations and the pressing need to protect the interests of its producers, India enacted The Geographical Indications of Goods (Registration and Protection) Act, 1999 (hereinafter "the GI Act"). This sui generis legislation marked a paradigm shift from the erstwhile common law remedy of passing off, providing a robust statutory framework for the registration and protection of GIs. The stated objectives of the Act are threefold: to provide a clear legal framework for the protection of GIs, to prevent the unauthorised use of such indications by third parties, and to safeguard consumers from deception, thereby promoting the economic prosperity of the producers of goods produced in a geographical territory.

This research paper undertakes a formal and descriptive examination of the legal dimensions of the GI regime in the Indian context. It navigates the complex interplay of statutory law, judicial pronouncements, and the socio-economic realities that shape the efficacy of this unique form of intellectual property. The paper is structured to provide a holistic analysis. It begins by tracing the jurisprudential evolution of origin protection in India, setting the stage for the enactment of the GI Act. It then proceeds to dissect the Act itself, analysing its core provisions, the institutional machinery it establishes, and the rights and obligations it creates. A significant portion of the paper is dedicated to the critical analysis of Indian case law, demonstrating how the judiciary has interpreted and applied the law in contentious disputes. The paper further incorporates empirical data to assess the implementation of the Act, highlighting both its successes and the persistent challenges that confront stakeholders. By exploring these multifaceted legal dimensions, the paper aims to contribute to the academic discourse on GI protection and offer insights into the future trajectory of this vital area of Indian intellectual property law.

2. Historical and International Context of GI Protection in India

The concept of protecting goods based on their geographical origin is not new to India. Historically, reputation was linked to specific production centres, and certain goods were renowned for their unique qualities attributable to their origin, such as Murshidabad silks or Kashmiri shawls. However, this protection was largely informal, rooted in trade practices and reputation rather than codified law. Prior to the enactment of the GI Act, legal recourse against the misuse of geographical names was primarily available through the common law tort of passing off. This remedy required a claimant to establish goodwill and reputation in the name, misrepresentation by the defendant, and resultant damage. Additionally, certification marks under the Trade and Merchandise Marks Act, 1958, offered a limited avenue for protection, as exemplified by the early protection of "Darjeeling" tea.

The catalyst for a dedicated, sui generis system of GI protection was India's accession to the WTO and the consequent obligation to comply with the TRIPS Agreement. Articles 22 to 24 of the TRIPS Agreement form the core of international norms on GI protection. Article 22.1 defines GIs as "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."¹ This definition was incorporated almost verbatim into the Indian GI Act.

The TRIPS Agreement establishes a two-tiered system of protection. The standard level of protection, outlined in Article 22, requires member states to provide legal means for interested parties to prevent the use of a GI that misleads the public as to the geographical origin of the good or constitutes an act of unfair competition. However, a higher, absolute level of protection is mandated under Article 23 for wines and spirits. This provision requires members to prevent the use of a GI identifying wines or spirits on products not originating from the place indicated, even where the true origin is indicated or the GI is used in translation or accompanied by expressions like "kind," "type," or "style." This disparity in protection levels, often termed the "TRIPS schism," has been a subject of intense debate, with countries rich in traditional products, like India, advocating for the extension of Article 23-level protection to all goods.

¹ 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, 33 I.L.M. 1197 (1994).

India's GI Act, 1999, was drafted to be fully TRIPS-compliant while being tailored to the nation's specific needs, particularly the protection of its vast array of agricultural and handicraft products. The enactment of this legislation provided a more direct, reliable, and robust form of protection than the common law action of passing off, creating a formal registry and a clear set of rights for registered proprietors and authorised users. While India is not a signatory to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, which provides for a stronger, international registration system, its domestic law stands as a comprehensive framework fulfilling its TRIPS obligations.

3. The Legal Framework: An Analysis of The Geographical Indications of Goods (Registration and Protection) Act, 1999

The GI Act, 1999, which came into force on September 15, 2003, along with the Geographical Indications of Goods (Registration and Protection) Rules, 2002, established a sui generis system for the protection of GIs in India. The Act is administered by the Controller-General of Patents, Designs and Trade Marks, who serves as the Registrar of Geographical Indications, with the Geographical Indications Registry located in Chennai.

3.1. Core Concepts and Definitions

The architecture of the Act is built upon several key definitions laid out in Section 2.

- **Geographical Indication:** Section 2(1)(e) defines a GI in relation to goods as "an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin..." This definition is broad, encompassing agricultural products (e.g., Basmati Rice), natural goods (e.g., Makrana Marble), and manufactured goods, which includes handicrafts and industrial goods (e.g., Feni, Kanchipuram Silk).
- **Producer:** The Act recognises the collective nature of GI rights. Section 2(1)(k) defines a "producer" inclusively, covering persons who produce agricultural goods, exploit natural goods, or make or manufacture handicraft or industrial goods. Crucially, it also includes those who trade or deal in such goods. This broad definition has, however, raised concerns about intermediaries

potentially diluting the benefits meant for actual creators and cultivators.²

- **Indication:** Section 2(1)(g) defines "indication" to include any "name, geographical or figurative representation or any combination of them conveying or suggesting the geographical origin of goods." This allows for the protection of non-geographical names (like 'Basmati') and logos (like the Darjeeling Tea logo) as GIs.

3.2. Registration of Geographical Indications

Chapter III of the Act details the procedure for registration, which is a cornerstone of the statutory protection mechanism.

- **Who can apply?** Section 11(1) stipulates that an application can be filed by "any association of persons or producers or any organisation or authority established by or under any law, representing the interest of the producers of the concerned goods." This provision underscores the collective nature of GIs; an individual producer cannot register a GI. The applicant acts as a representative of the entire producer community of that region.
- **Application and Examination:** The application must contain a statement of case detailing how the GI serves to designate the goods, the class of goods, the geographical map of the territory, the particulars of its uniqueness, and an inspection structure to monitor the use of the GI. The application is then examined by the Registrar, who may consult a group of experts to verify the technical details.
- **Prohibition on Registration:** Section 9 of the Act prohibits the registration of certain GIs, including those that are likely to deceive or cause confusion, are contrary to any law, contain scandalous or obscene matter, are likely to hurt religious susceptibilities, or are determined to be generic names. The determination of when an indication has become "generic" is a significant point of contention in GI law globally.
- **Registration and Rights Conferred:** Upon acceptance and after navigating any potential opposition, the GI is registered for a period of ten years, with the possibility of renewal (Section 18). Registration confers upon the

² Choudhury, N. C., "Geographical Indications in India: A Critique", 15 *J. Intellect. Prop. Rights* 120 (2010).

registered proprietor and the authorised users the exclusive right to use the GI in relation to the goods for which it is registered (Section 21). Section 17 provides for the registration of "authorised users," who must be producers of the goods. This two-step process-registration of the GI itself and then the registration of authorised users-is a unique feature of the Indian system designed to ensure that only genuine producers can leverage the GI tag.

3.3. Infringement and Enforcement

Chapter VI of the Act provides the statutory basis for enforcement. Section 22 defines what constitutes infringement of a registered GI. Infringement occurs when an unauthorised person uses the GI in a way that suggests the goods originate in that geographical region when they do not, or uses it in a manner that constitutes an act of unfair competition or misleads the public. The Act provides for both civil and criminal remedies.

- **Civil Remedies:** Under Section 27, a suit for infringement can be instituted in a district court having jurisdiction. The available remedies include injunctions, and at the option of the plaintiff, either damages or an account of profits. Notably, Section 20(2) explicitly preserves the common law right to bring an action for passing off, allowing for parallel claims.
- **Criminal Remedies:** Sections 38 to 45 provide for criminal action against the falsification and false application of GIs, with penalties including imprisonment for a term not less than six months which may extend to three years, and a fine not less than fifty thousand rupees which may extend to two lakh rupees.

This comprehensive structure aims to provide a robust legal shield for India's valuable geographical indications. However, the true test of its efficacy lies in its interpretation by the judiciary and its practical implementation on the ground.

4. Judicial Interpretation and Landmark Case Law

The Indian judiciary has played a pivotal role in shaping the contours of GI law. Through its pronouncements, it has clarified ambiguities in the statute, balanced competing interests, and laid down foundational principles for GI enforcement.

4.1. Protection of Foreign GIs and the Principle of Trans-border Reputation

Even before the GI Act was fully in force, Indian courts recognised the need to protect well-known

foreign GIs under the common law of passing off, establishing the principle of trans-border reputation.

- **Scotch Whisky Association v. Golden Bottling Ltd.**³: The Delhi High Court granted an injunction restraining the defendant from using the term "Scotch Whisky" on its products, which were not distilled and matured in Scotland. The court held that the reputation of "Scotch Whisky" was not limited to Scotland and that its use on Indian-made whisky would be a deception upon the public. This principle was reaffirmed in numerous subsequent cases involving the Scotch Whisky Association.
- **Comite Interprofessionnel du Vin de Champagne v. Chinar Agro Fruit Products**⁴: In this case, the Delhi High Court restrained an Indian company from using the name "Champagne" for its non-alcoholic sparkling drink. The court recognised "Champagne" as a well-known GI originating from France and held that its use, even for a different product, could lead to dilution and confusion, thereby protecting the exclusivity and reputation of the French GI.

These cases established that Indian courts would protect globally recognised GIs from misuse, laying a strong foundation for the enforcement of both domestic and foreign GIs under the new Act.

4.2. Interpreting Infringement under the GI Act

The most significant jurisprudence under the GI Act has revolved around what constitutes infringement and the scope of protection afforded to registered GIs.

- **Tea Board of India v. ITC Ltd.**⁵: This case is a landmark in Indian GI law. The Tea Board, the registered proprietor of the "Darjeeling" GI and its logo, sued ITC Ltd. for naming its executive lounge at the ITC Sonar hotel in Kolkata "Darjeeling Lounge." The Tea Board argued that this constituted infringement under Section 22 of the GI Act and passing off, as it diluted the distinctiveness of the Darjeeling GI. The Calcutta High Court, in a nuanced judgment, ruled in favour of ITC. It held that the

³ *Scotch Whisky Association v. Golden Bottling Ltd.*, 129 DLT 48 (2006).

⁴ *Comite Interprofessionnel du Vin de Champagne v. Chinar Agro Fruit Products*, CS(COMM) 1194/2016, Delhi High Court (2017).

⁵ *Tea Board, India v. ITC Ltd.*, G.A. No. 3137 of 2010, C.S. No. 250 of 2010, Calcutta High Court (2011).

protection granted by a GI registration is confined to the goods specified in the registration. Since "Darjeeling" was registered for tea, its use as the name of a lounge (a service) did not constitute infringement under the GI Act. The court reasoned that an informed person would not be confused or assume a connection between the lounge and Darjeeling tea. While this judgment was seen as a setback by some GI proponents, it clarified the scope of GI rights, tethering them closely to the specific goods for which they are registered and setting a high bar for claiming dilution across different classes of goods or services.

4.3. Disputes Over Registration and Rectification

The GI Registry and the courts have also dealt with contentious issues surrounding the very registration of certain GIs.

- The Tirupati Laddu Controversy:** A Public Interest Litigation (PIL) was filed before the Madras High Court challenging the grant of a GI tag for "Tirupati Laddu," a religious offering (prasada) from the Tirumala Venkateswara Temple. The challenge was on the grounds that the GI was granted to a single producer (the temple trust) and not a community of producers, and that its commercialisation was against public interest. The court dismissed the PIL on procedural grounds, directing the petitioner to approach the appropriate forum, the Intellectual Property Appellate Board (IPAB).⁶ While the GI registration remains, the case highlighted fundamental questions about the nature of a "producer" and whether single-entity producers could be granted a collective right like a GI.
- The Basmati Rice Dispute:** The registration of "Basmati" as a GI has been fraught with complexity. An application was filed by the Agricultural and Processed Food Products Export Development Authority (APEDA) to register "Basmati" rice for the Indo-Gangetic plains region spanning several North Indian states. This was contested by the state of Madhya Pradesh, which also claimed to be a traditional producer of Basmati rice and sought inclusion in the geographical territory. After years of litigation, the IPAB directed APEDA to include certain districts of Madhya Pradesh within the ambit of the GI registration. This case underscores the challenges in delineating the precise

geographical boundaries for GIs, especially for products cultivated across large and sometimes contested territories. It also highlights the crucial role of historical evidence and state-level advocacy in the registration process.

5. Implementation, Data, and Socio-Economic Impact

The success of a legal framework cannot be measured by its text alone, but by its real-world impact. As of early 2025, the Indian GI Registry has registered over 600 GIs. This marks a significant quantitative achievement. An analysis of the registered GIs reveals a diverse portfolio of products, with a notable concentration in certain categories and states.

Data on GI Registrations in India (Illustrative as of 2024-2025)

Category	Approximate Percentage of Registered GIs	Examples
Handicrafts	45%	Kanchipuram Silk, Madhubani Paintings, Channapatna Toys
Agricultural	30%	Darjeeling Tea, Basmati Rice, Malabar Pepper, Nagpur Orange
Manufactured	15%	Feni, Solapur Chaddar, Mysore Sandal Soap
Food Stuff	8%	Bikaneri Bhujia, Hyderabad Haleem, Tirupati Laddu
Natural Goods	2%	Makrana Marble

Source: Compiled from data released by the Geographical Indications Registry and Ministry of Commerce and Industry reports.

The state-wise distribution of GI tags is also uneven. States with strong artisanal and agricultural traditions and proactive state governments, such as Uttar Pradesh, Tamil Nadu, and Karnataka, lead in the number of registrations. In contrast, several other states have very few registered GIs, indicating a regional disparity in leveraging the Act. For instance, as of 2024, Uttar Pradesh had the highest number of

⁶ *S. Srinivasan v. The Union of India & Ors.*, W.P. No. 3433 of 2012, Madras High Court (2012).

GI-tagged products, showcasing a concerted effort to protect its local heritage.⁷

Despite the growing number of registrations, the socio-economic benefits have been mixed. For well-established GIs like Darjeeling Tea, the GI tag has been instrumental in brand building on the international stage and combating counterfeiting, leading to premium pricing and sustained livelihoods for thousands of workers. Studies have shown that the GI status has helped in creating a distinct identity and has been a key marketing tool.

However, for many lesser-known GIs, the story is different. The registration of a GI is often the beginning, not the end, of a long journey. Many producer communities lack the financial resources, organisational capacity, and marketing acumen to effectively manage and monetise their GI status. A study on the post-GI scenario for many handicraft products revealed that while the tag provides legal protection, it does not automatically translate into increased sales or higher incomes for the artisans, who often remain at the mercy of intermediaries.⁸

6. Challenges in the Indian GI Regime

While the GI Act provides a solid legal foundation, its implementation faces several significant hurdles that prevent the full realisation of its potential.

- **Lack of Post-Registration Support and Management:** The Act focuses extensively on the registration process but is less detailed on the post-registration phase. Once a GI is registered, the onus of quality control, marketing, and enforcement falls heavily on the producer associations. Many of these associations are nascent, poorly funded, and lack the expertise for effective brand management, quality assurance, and legal enforcement. There is a clear gap in institutional support for building robust post-GI ecosystems.
- **Ambiguity in the Definition of "Producer":** As highlighted by the Tirupati Laddu case, the definition of "producer" in the Act, which includes traders and dealers, is problematic. It can lead to the capture of the GI by intermediaries, with the actual artisans or farmers receiving only a fraction of the economic benefits. A clearer, more

restrictive definition that prioritizes the primary producers is often advocated.

- **Ineffective Quality Control and Inspection Mechanisms:** The Act requires applicants to specify an "inspection structure" (Section 11(2)). However, in practice, many of these structures are either non-existent or ineffective. The absence of a mandatory, government-monitored quality control mechanism for all GIs can erode consumer trust and devalue the GI tag itself. Consumers who purchase a GI product expect a certain standard of quality, and failure to ensure this can render the entire system futile.
- **Low Awareness and Capacity Building:** There is a significant lack of awareness about GIs, not only among the general public but also among the producers themselves. Many artisans and farmers in remote areas are unaware of the GI registration for their products or do not understand how to leverage it. Furthermore, enforcement agencies, including the local police, often lack the training to distinguish between genuine and counterfeit GI products and to take effective action under the Act.
- **Enforcement Challenges:** Despite the provisions for civil and criminal action, enforcement remains a major challenge. The cost of litigation is prohibitive for many producer associations. Tracking and acting against online infringement in the digital marketplace presents a new and complex challenge that the current framework is still grappling with. The sheer scale of the domestic market makes it difficult to monitor and prevent infringement effectively across the country.

7. Conclusion

The enactment of The Geographical Indications of Goods (Registration and Protection) Act, 1999, was a watershed moment for the protection of India's intellectual heritage. It has provided a robust legal framework that is compliant with international standards and has successfully led to the registration of a significant number of valuable Indian products. The judiciary, through its interpretive role, has added clarity and substance to the statutory provisions, particularly in cases involving infringement and the scope of protection.

However, this examination reveals that the journey of GI protection in India is far from complete. The legal framework, while strong on paper, is beset by significant challenges in its practical implementation. The focus has been heavily skewed towards

⁷ Press Information Bureau, Ministry of Commerce & Industry, "Uttar Pradesh Leads in GI-tagged Products" (October 2024).

⁸ Das, K., "Geographical Indication in India: A Means to Protect the Underprivileged", in Gangopadhyay, A.K. (ed.), *Intellectual Property Rights: A Prismatic View*, 145-160 (LexisNexis 2019).

registration, with insufficient attention paid to the critical post-registration aspects of quality control, community empowerment, marketing, and enforcement. The data shows that while registration numbers are growing, the socio-economic benefits are not percolating down uniformly, and many registered GIs exist as mere "paper tigers," lacking the institutional support to become successful brands.

To move forward, a multi-pronged approach is necessary. There is a need for legislative refinement, perhaps to clarify the definition of "producer" and to mandate a more rigorous and uniform inspection structure. More importantly, there needs to be a paradigm shift in policy, moving from a registration-centric approach to a holistic, development-centric one. This involves greater investment in capacity building for producer associations, providing them with financial and technical support for marketing and brand management, and fostering direct linkages between producers and consumers. Enhancing awareness among consumers and enforcement agencies is equally critical.

The legal dimensions of Geographical Indications in India are dynamic and evolving. Securing the legacy of products like Pashmina, Mysore Pak, and Kolhapuri Chappals requires more than just a legal certificate; it demands the creation of a vibrant ecosystem where the law serves as an effective tool for economic empowerment and the preservation of culture. As India continues to advocate for stronger GI protection on the global stage, it must first strengthen the implementation of its own regime to ensure that the promise of the GI tag translates into tangible prosperity for the communities it is designed to protect.
