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ROOTS OF DISTINCTION: UNVEILING THE LEGAL LANDSCAPE OF GEOGRAPHICAL INDICATIONS IN INDIA FOR SUSTAINABLE RURAL DEVELOPMENT

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ABSTRACT

In an era where cultural heritage and economic sustainability are increasingly intertwined, Geographical Indications (GIs) emerge as powerful catalysts for rural development in India. This paper delves into the intricate legal framework surrounding GIs, particularly through the lens of the Geographical Indications of Goods (Registration and Protection) Act, 1999. By tracing the historical roots of GIs and their evolution from mere markers of origin to vital assets for local economies, we explore how these indicators encapsulate the unique qualities of products tied to specific regions. However, despite their potential, the journey towards effective GI implementation is fraught with challenges. Overlapping intellectual property rights create a convoluted landscape, while insufficient enforcement mechanisms hinder producers from reaping the full benefits of their unique offerings. Additionally, a lack of awareness among stakeholders—ranging from local artisans to consumers—further complicates the landscape.

This research aims to critically assess the efficacy of India's current GI legal system in safeguarding producers' rights and fostering employment opportunities, cultural preservation, and rural upliftment. By identifying practical and legal barriers that impede the successful utilization of GIs, we seek to offer actionable recommendations for enhancing GI protection and maximizing their economic impact.

The authors in this paper aspire to illuminate the path toward a more robust framework for GIs in India, one that not only empowers local producers but also enriches global markets with authentic Indian products. Through this exploration, we aim to contribute to a deeper understanding of how GIs can serve as a bridge between tradition and modernity, fostering sustainable development while celebrating the rich tapestry of India's diverse cultural heritage.

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Keyword: Geographical Indications, Heritage, Rural Development, Tourism, Producer Safeguard

BACKGROUND

Geographical indicators have also been considered as an industrial work under the intellectual property law. It refers to any product having unique features rooted to the environment from which it emerges and has distinguished features contributed by the variables, processing method or manufacturing expertise. These are denotations for its place of origin. For a diverse country like India, every place in itself shall have more and one geographical indication.

From the days of the Delhi Cloth Mills to the empires of Birla and Tata, Indian companies have consistently identified with the need for strong intellectual property protection for domestic industry and lobbied the domestic government as well as the international community to respect those rights.³ With a view to that, the Indian legislature kept on pronouncing its support, as also evident from the statement of objects and reasons behind the Patents Act, the Trademarks Act, the Copyright Act, and the Designs Act. While India was busy agglomerating to itself the rights under these treaties, no thought was spared to accord similar protection to rights originating from other parts of the world. The Trade Related Aspects of Intellectual Property Rights was only one among the host of international law conventions that India entered into since obtaining her political freedom in 1947.

The history of geographical indication emerges back to 5th century BCE given to wines emerging from one part of the world having very distinctive characteristics and such a characteristic which cannot be found anywhere else. It was only in 1883 through the Paris Convention that a formal document came into the global picture and gave protection to the indicators and its association to such land. Further, the globe saw the Madrid Agreement, 1891⁴ and TRIPS Agreement, 1995.⁵ India enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999 in the same regard.⁶ The objective of the Act is to channelize the registration process of GI and give a better safeguard mechanism for the goods.

³Anand, Priya, India's IP Journey from Independence to TRIPS: Emergence of an IP Policy in a Developing Nation, 36 J. World Intell. Prop. 45, 46 (2004)

⁴ <https://www.wipo.int/treaties/en/registration/madrid/> (accessed on 02.08.2024)

⁵ Daniel J. Gervais, Geographical Indications and WTO Obligations in Research Handbook on Intellectual Property and Geographical Indications 53, 56 (Dev Gangjee ed., 2016).

⁶ Geographical Indications of Goods (Registration and Protection) Act, No. 48 of 1999, India Code (1999)

As of 2024, India had 643 registered geographical indicators.⁷ The history of granting GI started from the Darjeeling Tea. The taste of the tea, fashioned from the tea plantation situated in Darjeeling West Bengal and tea has a distinct flavor and smell which cannot be tasted anywhere, which allowed it to get its GI status.

GI offers a promising avenue for India's economic growth, rural development, and cultural preservation. By protecting the unique qualities of products associated with a specific geographic region, GIs can enhance the export potential of Indian products, create employment opportunities in rural areas, and preserve traditional knowledge and practices. Furthermore, GIs can help build strong brands for Indian products, making them more recognizable and desirable in both domestic and international markets.⁸ However, effective enforcement of GI rights, increased awareness among producers, consumers, and policymakers, and strong international cooperation are crucial to ensure the successful implementation of GIs and their full potential benefits for India.

LITERATURE REVIEW

A paper by Rathod (2023)⁹ provides a comprehensive analysis of the obstacles faced by Geographical Indications (GIs) in India. The document delves into various aspects, including disparities in GI registrations among different states, legal hurdles in the registration process, and the predominance of GIs in certain categories. It also addresses social, economic, and geographical challenges, emphasizing the lack of awareness about GI laws and the economic and technical difficulties in promoting GIs. The research outcome of the paper is a detailed understanding of the challenges affecting the protection and promotion of GIs in India. It highlights the significant economic strain required to bring GI products to the global market and obtain international GI branding. The document also emphasizes the monitoring costs for developing self-GI mechanisms or hiring legal services to monitor instances of infringement. Furthermore, it discusses the need for stronger punitive measures for violators and the establishment of a strong GI mechanism at domestic and international levels. The research gap identified in the paper is the lack of literature addressing the difficulties faced by GI producers

⁷ Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce & Industry, Government of India, List of Geographical Indications in India (2024) (<https://dpiit.gov.in/content/registered-geographical-indications>) (accessed on 26.08.2024)

⁸ Shubha Ghosh, Identity, Invention, and the Culture of Personalized Markets: Navigating Intellectual Property Rights at the Border of the Global Economy, 23 Cardozo Arts & Ent. L.J. 347, 354 (2006)

⁹ Shilpa Rathod, Challenges Posing to Geographical Indication in India, 01 IPR Journal of Maharashtra National Law University, Nagpur 39-65 (2023).

and consumers. It emphasizes that there has been relatively little written about these challenges, despite numerous studies on the subject of GIs. The document aims to fill this gap by providing a thorough analysis of the challenges posed to the present GI protection system provided under the Geographical Indication Act, 1999. It also highlights the need for increased awareness about GI laws and the economic and technical difficulties in promoting GIs. In conclusion, the paper offers valuable insights into the challenges faced by GIs in India, providing a foundation for understanding the complexities and obstacles associated with the protection and promotion of GI products.

The research paper by Das¹⁰ (2009) analyzes the challenges and opportunities associated with GIs in India, focusing on the handloom sector and artisan communities. The literature review within the document delves into the historical and contemporary context of GIs, emphasizing the impact of policy shifts on the handloom sector and the livelihoods of weavers. It also discusses the significance of GI registration and the initiatives undertaken to revive specific clusters and art forms, such as the Pochampally Ikat. One potential research gap in the paper is the need for a more in-depth exploration of the socio-economic implications of GI registration and the associated challenges faced by artisan communities. While the document provides valuable insights into the impact of GIs on specific clusters, further research could focus on a comparative analysis of multiple clusters to identify common challenges and best practices. Additionally, the paper could benefit from a more detailed examination of the legal and regulatory frameworks governing GIs in India and their effectiveness in protecting traditional knowledge and cultural diversity. The research outcome lies in its comprehensive assessment of the role of GIs in the handloom sector, shedding light on the challenges faced by weavers and the potential benefits of GI registration. It emphasizes the need for strategic interventions by public or quasi-public institutions to support GIs initiatives and highlights the socio-economic significance of protecting GIs. Furthermore, the document underscores the importance of preserving specialized human skills and craftsmanship, particularly in the context of handloom products, and the potential socio-economic benefits of effective GI protection. In conclusion, the paper serves as a valuable resource for understanding the complexities and implications of GIs in India, particularly in the handloom sector. However, further research could explore the legal, socio-economic, and cultural dimensions of GIs in greater depth to address existing research gaps and contribute to a more comprehensive

¹⁰ Kasturi Das, Socioeconomic Implications of Protecting Geographical Indications in India, Centre for WTO Studies (2009).

understanding of the subject.

The legal research paper by Dileep¹¹ (2023) focuses on the significance of Geographical Indication (GI) products in promoting rural tourism in Kerala. The study aims to examine the awareness level of tourists regarding GI-tagged products, identify the factors influencing their buying behavior, and explore the potential scope of GI tagging as a tool for rural tourism development. This research involves data collection from both tourists and experts. The study utilized a questionnaire-based survey to collect primary data from 210 tourists, both local and foreign, who visited different regions in the state. The variables were measured using a five-point Likert scale, and the responses were analyzed to understand the tourists' awareness and buying behavior associated with GI products. Additionally, the study involved expert opinions, with twenty experts participating in a survey consisting of eighteen statements. The findings from both the tourist and expert data collection were analyzed using descriptive statistics and factor analysis. The research paper highlights the importance of promoting GI-tagged products to attract tourists and develop rural tourism. It emphasizes that tourists are attracted to GI products and have varying levels of awareness. Factors influencing their buying decisions include the desire for authenticity, support for local communities, and cultural/heritage value. The research gaps identified in the study is the limited sample size, which could potentially impact the generalizability of the findings. The paper acknowledges that while proper representation was ensured in designing the sample, the results are limited to the sample size. Therefore, there is a need for further in-depth studies from different perspectives and multiple approaches to validate the findings. The legal outcome of the paper is focused on the potential socio-economic benefits and the scope for increased tourist attractiveness through GI products as a tool for rural tourism development in Kerala. The study recommends effective measures and efforts to spread awareness among tourists about Geographical Indications. It also suggests the development of dedicated web portals and websites to connect tourists to GI-qualified products, along with the organization of training courses and capacity-building programs at the local level. In conclusion, the research paper provides valuable insights into the potential of GI-tagged products in rural tourism development, emphasizing the need for increased awareness and the economic and social benefits for rural areas.

¹¹ Dileep M R, Geographical Indication and Tourism: A Study on the Awareness, Factors Influence, and the Scope of Gi Tagging in Kerala as a Rural Tourism Development Tool, Volume 16 Issue 4 International Journal of Hospitality and Tourism Systems (2023).

The legal research paper by Makam¹² (2023) provides a comprehensive analysis of the role of Geographical Indications (GIs) in promoting regional development in India. It explores the legal framework for GIs, emphasizing the importance of clear definitions, streamlined registration procedures, and effective enforcement mechanisms. The paper also evaluates the impact of GIs on rural and traditional industries, highlighting the challenges and opportunities in utilizing GIs for cultural preservation, economic development, and sustainable tourism. The paper presents successful case studies of GIs in India, such as Darjeeling Tea and Kanchipuram Silk Sarees, to illustrate their positive impact on local economies and traditional knowledge. It also addresses the challenges associated with GI protection, including counterfeiting and unauthorized use, and proposes policy recommendations to address these challenges. Additionally, the legal framework for GIs in India and international protection and market access are thoroughly discussed. The research gap is that it does not extensively explore the specific legal mechanisms for addressing the challenges associated with GI protection, such as counterfeiting and unauthorized use. Furthermore, it could provide a more in-depth analysis of the international legal framework for GIs and its implications for India. The research outcome of the paper underscores the potential of GIs in contributing to sustainable and inclusive regional development. It emphasizes the importance of GIs in preserving cultural heritage, fostering economic growth, and empowering local communities. However, it leaves room for further exploration of specific legal mechanisms for addressing the challenges associated with GI protection and a more comprehensive analysis of the international legal framework for GIs and its implications for India.

The research paper by A N¹³ delves into the significance of GIs in India and the challenges associated with them. It provides a comprehensive overview of GIs, emphasizing their role in identifying products with specific geographic origins and unique qualities. The document discusses the importance of GIs in protecting the rights of local producers and enhancing the economic, social, and cultural aspects of society. It also highlights the significance of GIs in boosting exports and maintaining the uniqueness of products. Furthermore, the paper addresses various challenges faced by producers with GIs, including issues related to the verification of goods, inspection, and the lengthy registration procedures. It emphasizes the need for effective protection of GIs to prevent unauthorized entities from exploiting the reputation and image

¹² Makam Ganesh Kumar, Geographical Indications and Cultural Protection in India: Harnessing Intellectual Property for Regional Development, SSRN (2023).

¹³ Lakshmi Prasad A N, Importance of Geographical Indications in India and Various Challenges Involved, PRESIDENCY UNIVERSITY.

established by indigenous communities. The research paper also outlines the legal framework and research methodology used in the study, emphasizing the doctrinal method and the reliance on secondary sources of data. It discusses the limitations of the current legal framework and the need for measures to address the challenges associated with GIs effectively. The research paper identifies a gap in the effective protection of GIs and the challenges faced by producers in safeguarding their rights. It emphasizes the need for a more streamlined and efficient process for the verification, inspection, and registration of goods with GIs. Additionally, it highlights the gap in the legal framework and the need for measures to address the exploitation of GIs by unauthorized entities. The research paper aims to analyze the importance of GIs from various perspectives, including social, economic, and cultural factors. It also seeks to identify and analyze the challenges and difficulties faced by producers with GIs. The outcome of the paper is to emphasize the need for effective protection of GIs to preserve the rights of local producers and prevent unauthorized entities from taking advantage of the reputation and image associated with GIs. Additionally, the paper aims to raise awareness about the significance of GIs in India and the measures required to address the challenges involved.

RESEARCH PROBLEM

Geographical Indications (GIs) are acknowledged to be crucial for India's economic development and cultural preservation, but their successful use is hampered by a number of issues. These include overlapping intellectual property rights, insufficient enforcement tools, and low producer knowledge. The purpose of this study is to determine the practical and legal barriers to using GIs for rural development and brand awareness in both local and foreign markets.

RESEARCH OBJECTIVE

Evaluate the efficiency of India's current GI legal system in defending the rights of producers and to assess how GIs affect employment creation, cultural preservation, and rural development.

Determine the difficulties stakeholders have in implementing GIs successfully and to make suitable recommendations for improving GI protection's effectiveness and economic impact in India.

RESEARCH QUESTION

Whether India's current GI legal system is efficient in defending the rights of local producers against misappropriation and infringement?

Whether modifications in the legal framework could improve the enforcement of GI protections and enhance their economic impact for local communities in India?

Whether there are measurable economic differences in rural regions with active GI protection compared to similar regions without GIs?

RESEARCH HYPOTHESIS

The Indian legal system currently in place for geographical indications is insufficient for the efficient enforcement and defense of producers' rights. The economic growth of rural communities in India is positively correlated with GI registration. Better protection and use of these rights will result from producers' and consumers' increased knowledge of GIs.

RESEARCH METHODOLOGY

This paper employs the normative juridical research approach, which focuses solely on legislative authorities, rules, and regulations that have been passed by the body that makes laws. The facts and research are grounded in doctrinal research.

RESEARCH METHODS

This research draws upon secondary data, but it also draws on a number of primary and tertiary legal sources. The laws used for analysis and case law provided by different courts are the main sources of legal information. The pertinent empirical research conducted by other writers serves as secondary data, while commentary is a tertiary resource. The only sources gathered here are from reputable literature, and the deductive logical pattern is applied to use the data from these sources.

SCOPE AND LIMITATIONS

The legal aspects of GIs in India will be the main topic of this study, with special attention to how they affect cultural preservation, rural uplift, and economic growth. It seeks to examine many facets of GI enforcement and protection, evaluating how well they aid regional producers and improve product branding in both home and foreign markets. Due to time limits and the scope of the topic, the study may not cover all registered GIs, even though it will look at a

variety of them.

Furthermore, the study will rely on qualitative information gathered through the literature, which could have subjective biases. Various authors may have very different viewpoints and experiences, which could cause discrepancies in the results. Additionally, even if the study aims to give a thorough grasp of the opportunities and difficulties related to GIs, it might not take into consideration all regional variances or subtleties unique to a given business.

CHAPTERS OF THE PAPER

Definition and Significance of Geographical Indications

GI is a sign used on goods that have a specific geographical origin and possess qualities, reputation, or characteristics that are essentially attributable to that geographical origin. The decision to attribute a geographical indication to a product must be taken very carefully, as the reputation of the place of origin and the value addition to the final product depend on such geographical indications. Geographical indications act as a complement to the conventional intellectual property systems, which are based on industrial property. Geographical indications have the capability to empower and protect traditional producers and contribute towards their economic prospects.¹⁴

Throughout history, numerous instances have emerged where the reputation of specific regions, tied closely to particular goods, has been manipulated by individuals lacking any authentic ties to the area of production. This exploitation not only undermines the integrity of the originating region but also robs these areas of their rightful economic benefits. In response to these challenges, legal frameworks have been established to uphold the sanctity of GI. In India, this is encapsulated in the Geographical Indications of Goods (Registration and Protection) Act, which provides a foundational legal structure to safeguard these indicators.¹⁵ The historical need for rigorous regulation surrounding geographical indications in India is deeply rooted in the context of ensuring fair recognition and protection for indigenous products. Recognizing the unique cultural and economic significance of these goods, India has instituted a relatively progressive legal approach towards GIs. However, it is important to note that the current

¹⁴ Geographical Indications Importance in India (no date) CORPSEED ITES PRIVATE LIMITED. Available at: <https://www.corpseed.com/knowledge-centre/geographical-indications-importance-in-india> (Accessed: 8 November 2024).

¹⁵ Apoorva Sinha, The Role of Geographical Indications in the Indian Legal Landscape, 10 Indian J. Intell. Prop. L. 87, 90 (2019)

regulatory regime adopts a broad procedural framework that applies uniformly across all product categories. This homogeneity raises critical concerns, especially for foreign holders of geographical indications who may find themselves voiceless in the decision-making processes regarding Indian GI applications.¹⁶ The potential for misappropriation of their rights becomes particularly acute if these applications come into effect without adequate oversight, thereby echoing historical patterns of exploitation and marginalization within the domain of international trade and commerce.

Importance of Geographical Indications

The purpose of this research paper is to meticulously note the exceptional treatment that has been meted out to certain specific parts of the world that have sought to selectively protect their native knowledge and, as a result, have succeeded in receiving what traditional intellectual property protection might not have conferred upon them. This notable situation arises primarily because traditional knowledge generated often does not comply with the rigorous criteria of novelty nor does it meet the demanding standards of non-obviousness, leading to the elaboration of a different set of principles that have been developed for the purpose of according these essential rights.¹⁷ The existence of geographical indications, which are critical for recognizing and protecting such knowledge, was first acknowledged and subsequently safeguarded under a system that operated at the sub-national level. It was only at a later stage that these rights graduated to occupy a place on the international stage of intellectual property rights. Geographical indications consist of names that precisely identify a product as originating from a specific territory, region, or even locality, where a given quality and reputation exist, or where other distinctive characteristics of the product are essentially attributable to its unique geographical origin. While the events surrounding these developments are recited, they will only serve as a prelude to the legislative enactment that took place in India, which will be further detailed.¹⁸ This enactment is particularly significant, as it illustrates how only those individuals who possess genuine and unwavering commitment, specifically those who have cultivated the generically valuable knowledge that holds intrinsic value akin to that of France, have managed to subliminally capture the essence of this for the mother

¹⁶ Dev S. Gangjee, Geographical Indications and Cultural Heritage in India: A World of Difference, in *The Protection of Traditional Cultural Expressions in India* 89, 92-94 (Anupam Chander et al. eds., 2013)

¹⁷ World Intellectual Property Organization (WIPO), *Intellectual Property and Traditional Knowledge* 22-25 (2017), (<https://www.wipo.int/tk/en/>) (last accessed on 26.08.2024)

¹⁸ D Alagu Niranjan & Sujeet Kumar Jha, *Blog 149- Why aren't we talking about Geographical Indications?* (Jan. 6, 2021), <https://aesanetwork.org/blog-149-why-arent-we-talking-about-geographical-indications/>.

manufacture within its own legal ambit, thereby achieving a remarkable balance of traditional and modern intellectual property practices.

In order to maintain the identity and authenticity of items that are unique to a certain location, GIs are essential. By giving a place a distinctive brand, this legal recognition not only safeguards the goods but also promotes tourism.¹⁹ GIs increase the value of local customs and cultures by connecting products to their place of origin, luring tourists to these areas to witness the real manufacturing methods. As consequently, local economies—including people working in the service, hotel, and transportation sectors—benefit. The case studies that follow show how GIs affect tourism's bottom line.²⁰

A. The Effect of Darjeeling Tea on Travel

In 2004, West Bengal's Darjeeling area produced the world-famous Darjeeling Tea, which was granted the GI designation.²¹ This tea is well-known for its distinct flavor and has come to represent the cultural past of the area. In addition to safeguarding the tea from counterfeiting, the GI lured tourists who were keen to see the picturesque tea gardens and learn about the tea-picking procedure. Due to the GI, Darjeeling became a popular tourist destination where people came for guided tours of tea farms and tea tasting sessions. The local economy benefited greatly from the rise in tourism, which created job possibilities in the travel and hotel industries. Additionally, the region's tea festivals draw tourists from outside, boosting local companies' earnings. Thus, Darjeeling Tea's GI classification contributed to the integration of agrotourism with the local culture, resulting in a long-term economic benefit.²²

B. Karnataka's Mysore Silk and Tourism

Since 2005, the GI has been held by Mysore Silk, an opulent fabric produced in the Karnataka state. In addition to shielding Mysore Silk from market dilution, the acknowledgement of its quality and legacy has increased travel to the silk-producing areas. Visitors are lured to Mysore to tour the local silk markets and observe the elaborate silk weaving process.

¹⁹ The Protection of Geographical Indications in India: Issues and Challenges, Teri: The Energy & Resources Institute (2013).

²⁰ Meenu Tewari & Anirban Dasgupta, The Economic Benefits of Geographical Indications: An Empirical Analysis of India's Artisan-Based Industries, 12 Asian J. Econ. & Soc. Res. 85, 87-90 (2018).

²¹ S. R. Subramanian, Darjeeling Tea: The First Indian Product to Receive Geographical Indication, 45 J. World Intell. Prop. 345, 346-347 (2005).

²² Dr. Sudhir Ravindran & Ms. Arya Mathew, The Protection of Geographical Indication in India – Case Study on 'Darjeeling Tea', International Property Rights Index 2009 Report.

Since tourists frequently take guided tours of silk mills and historical places, the GI certification has helped Mysore's cultural tourism industry flourish. The local economy has benefited from the yearly silk fairs and exhibits, which have grown to be popular tourist destinations.

India, where each state has unique products connected to cultural customs, is a prime example of this relationship between GIs and tourism. The GI brand attracts travelers who want to experience something different by promoting the areas from which these items are sourced and safeguarding their authenticity. Rural and semi-urban communities that would not otherwise be on the tourist map are made more visible through GIs, which promote anything from textiles to handicrafts, agricultural products to regional delicacies.²³

Travelers are increasingly drawn to locations where they may observe the methods used to produce GI-tagged goods, such as going to workshops run by craftspeople, observing agricultural operations, or taking part in local festivities honoring these products. Direct tourism money is only one aspect of the economic impact. Local producers frequently see better incomes as a result of the growing demand for genuine, superior GI products, which further supports the region's economic growth. Additionally, the global marketing of these goods draws tourists from other countries, growing the market for exports and tourism.

Laws Governing GI Protection in India

Regionally specific products are legally protected by India's Geographical Indications of Goods (Registration and Protection) Act, 1999. The Act protects traditional knowledge and discourages counterfeit goods by limiting the use of the GI label to approved makers. By ensuring the authenticity of GI-tagged goods, the regulatory framework plays a crucial role in boosting tourism by drawing in travelers looking for authentic cultural experiences. GI registration promotes strategic promotion in addition to protection. Through tourism marketing, events, and festivals, government activities frequently highlight GI items, enticing tourists to visit the areas linked to these products. By highlighting India's rich cultural legacy, this combination of legislative protection and tourism promotion strengthens local economies

²³ Kstdcwbadm (2021) Handcrafted heirlooms from Karnataka, KSTDC. Available at: <https://www.kstdc.co/uncategorized/handcrafted-heirlooms-from-karnataka/> (Accessed: 9 November 2024).

and serves as a vital instrument for both heritage preservation and tourism expansion.²⁴

The legal framework for the registration and enforcement of GIs in India is provided by the Act of 1999. The Act stipulates that any group of people, producers, or an organization that represents the interests of producers from a certain area may apply for GI registration under Section 11 of the Act.²⁵ The Geographical Indications Registry in Chennai receives the application, and if accepted, the GI registration is good for ten years, with the option to renew indefinitely under Section 18²⁶. This guarantees the long-term preservation of the product's protection and reputation. Section 21 of the Act grants GI proprietors' exclusive rights after registration, enabling them to use the GI tag and prevent others from using it without authorization.²⁷ This legal safeguard helps to maintain the product's market worth and protects its authenticity. Section 22²⁸ gives owners the right to take legal action against anybody who uses the GI designation fraudulently in the event of infringement.

Both civil and criminal remedies are available for enforcement under the Act. Owners are permitted to pursue remedies in civil courts under Section 67²⁹, including accounts of profits, damages, and injunctions. Those found guilty of attaching the GI tag fraudulently face criminal consequences, which include fines or imprisonment, as described in Section 39³⁰. These laws guarantee strict enforcement, safeguarding manufacturers' financial interests and preserving consumer confidence in the legitimacy of goods with GI tags.

In *Tea Board of India v. ITC Limited*³¹ where the Tea Board of India filed an infringement suit against ITC Limited for using the name "Darjeeling" in relation to its hospitality business. The Tea Board argued that the use misrepresented the connection to the GI product and could mislead consumers, violating Section 21³² of the Act regarding exclusive rights to the GI. The court ruled in favor of the Tea Board, confirming that even indirect or suggestive misuses of a GI can violate Section 22.

²⁴ The geographical indications of goods (registration and protection) act, 1999: An overview (no date) Shardul Amarchand Mangaldas & Co. Available at: <https://www.amsshardul.com/insight/the-geographical-indications-of-goods-registration-and-protection-act-1999-an-overview/> (Accessed: 9 November 2024).

²⁵ Geographical Indications of Goods (Registration and Protection) Act, 1999, § 11, No. 48 of 1999 (India).

²⁶ Geographical Indications of Goods (Registration and Protection) Act, 1999, § 18, No. 48 of 1999 (India).

²⁷ Geographical Indications of Goods (Registration and Protection) Act, 1999, § 21, No. 48 of 1999 (India).

²⁸ Geographical Indications of Goods (Registration and Protection) Act, 1999, § 22, No. 48 of 1999 (India).

²⁹ Geographical Indications of Goods (Registration and Protection) Act, 1999, § 67, No. 48 of 1999 (India).

³⁰ Geographical Indications of Goods (Registration and Protection) Act, 1999, § 39, No. 48 of 1999 (India).

³¹ *Tea Board of India v. ITC Limited*, MANU/WB/0277/2019.

³² Geographical Indications of Goods (Registration and Protection) Act, 1999, § 21, No. 48 of 1999 (India).

In *Chinnaraju G. Naidu v. M/s. Rajagopal & Co.*, the Intellectual Property Appellate Board (IPAB) ruled that the registrants of "Basmati Rice," a globally recognized agricultural product in India and Pakistan. The case arose when M/s. Rajagopal & Co. opposed the GI registration, arguing that the GI did not apply exclusively to specific regions. The IPAB emphasized the importance of maintaining geographical specificity for GI products and the strict enforcement of the registration mechanism to prevent dilution of a GI's value. The case also highlighted the need for high evidentiary standards in objections to GI registrations.

LEGAL CHALLENGES AND INTERPLAY WITH TOURISM

The very existence of IP laws is to encourage the owners to create more and have an edge over profit than others. In the same line of thought, even the Act of 1999 aims the same along with cultural integrity of the place. The interplay between tourism development and the legal protection of GIs cannot be ignored, and has to be discussed but striking a balance between the two is difficult. Although GIs aid in preserving the integrity and authenticity of items unique to a certain region, the increasing focus on tourism associated with these products occasionally runs counter to the objectives of GI preservation. Significant legal problems regarding abuse, over-commercialization, and exploitation are brought up by this delicate balance, especially in areas where maintaining traditional knowledge and cultural identity is essential. Despite the rise in demand from tourists, the authenticity of products with the GI badge remains preserved. As GIs become more well-known, particularly in global markets, commercialization is frequently the result of pressure to satisfy the rising demand. Because producers can be enticed to stray from conventional practices in favor of quicker or less expensive production processes, this could dilute the product's quality. Such variations compromise the GI's integrity and may result in legal challenges regarding the product's validity.³³

The other open-ended legal issue is in avoiding unauthorized parties in the tourism industry from misappropriating GIs.³⁴ There is a chance that organizations that are not directly involved in the manufacturing or that do not follow the guidelines established by the GI registration could abuse the GI name, since tourism campaigns frequently use the branding of GI products to draw tourists. This leads to a legal conflict between advancing tourism that benefits the area

³³ Niraj Kumar & Saroj Mishra, *Geographical Indications and Rural Development: A Study on Their Impact on Economic and Social Well-being in India*, 4 *J. Rural Dev. Stud.* 116, 119-121 (2021).

³⁴ Gautami Govindrajan & Madhav Kapoor, *Why the Protection of Geographical Indications in India Needs an Overhaul*, Vol.viii(1), *nliulawreview* 39-65 (2022).

and defending the exclusive rights of GI holders under Section 21³⁵ of the Act. Even if tourism boosts the economy, excessive use or misuse of a GI name can diminish its value and cause consumer deception.³⁶

The intersection of GI preservation and tourism further complicates the enforcement position. It is difficult to keep an eye on and enforce adherence to GI standards because of the quick commercialization and greater visibility of GI items in popular tourist locations. Promoting the goods to tourists while making sure that legal protections are maintained is an ongoing balancing act for local government officials and GI owners. For example, it can take a lot of resources to regularly police tourist markets and shops to make sure they only sell genuine GI products.³⁷

For GIs to effectively contribute to tourism development, there needs to be an integrated approach that aligns GI protection with tourism promotion strategies.³⁸ Currently, there is often a disconnect between local producers and tourism authorities, leading to missed opportunities for collaboration. Establishing partnerships between these stakeholders could enhance visibility for GI products and promote regional tourism more effectively.

In order to create more effective monitoring mechanisms, tourism authorities, local governments, and GI owners must work together more closely.³⁹ Authorities should guarantee that visitors have access to authentic items that reflect local heritage and facilitate the process of confirming the reliability of GI products in high-traffic regions by investing in licensing and traceability systems. Additionally, educating visitors on the cultural value of GIs can promote ethical shopping habits, which will ultimately aid in the preservation of customs and boost local economies. Thus, maintaining the integrity of the GI and the region's cultural character may be achieved by a unified approach that combines tourist marketing with strict GI enforcement.

³⁵ Supra 12

³⁶ Shilpa Rathod, Challenges Posing to Geographical Indication in India, Vol. 01 IPR Journal of Maharashtra National Law University, Nagpur 39-65 (2023).

³⁷ Admin (2024) From soil to sip: How geographical indications cultivate local economies, nurture rural development, and Brew Tourism, The IP Press. Available at: <https://www.theippress.com/2023/08/26/from-soil-to-sip-how-geographical-indications-cultivate-local-economies-nurture-rural-development-and-brew-tourism/> (Accessed: 9 November 2024).

³⁸ Shashikant B Bagade & Deven B Metha, Geographical Indications in India: Hitherto and Challenges, Research Journal of Pharmaceutical, Biological and Chemical Sciences (2014).

³⁹ Geographical indications and its infringement and remedies - a critical analysis - GIPC Global IP Convention - GIPC. Available at: <https://www.globalipconvention.com/blog/geographical-indications-and-its-infringement-and-remedies-a-critical-analysis> (Accessed: 8 November 2024).

The growth of tourism centered on GIs also requires adequate infrastructure development, including facilities for visitors, transportation options, and marketing initiatives. Many regions with potential GI products lack the necessary infrastructure to support increased tourist traffic, which can deter visitors seeking authentic experiences tied to local GIs. Addressing these infrastructural challenges is essential for realizing the economic benefits associated with GI-driven tourism.

In conclusion, addressing these legal challenges within the GI legislative framework is crucial not only for protecting producers' rights but also for leveraging GIs as catalysts for tourism development in India. Enhancing awareness among stakeholders, improving enforcement mechanisms, clarifying definitions within the law, providing post-registration support, and integrating tourism strategies will contribute significantly to maximizing the potential benefits of geographical indications.

RECOMMENDATIONS

1. Informing Producers about GI Registration Advantages

To effectively promote the benefits of geographical indications (GIs), it is essential to conduct comprehensive workshops and awareness campaigns aimed at producers. These initiatives should focus on educating producers about the economic advantages of GI registration, which include enhanced marketability, protection against unauthorized use, and the potential for premium pricing.⁴⁰ By highlighting successful case studies of registered GIs, producers can gain insights into how GI status can elevate their products' reputation and consumer trust. Informational materials should be developed to elucidate the provisions of the Geographical Indications of Goods (Registration and Protection) Act, 1999, thus empowering producers to utilize GI registration as a strategic tool for competitive advantage.

2. Boosting Enforcement Efforts

The enforcement of GI standards must be strengthened through the establishment of a specialized task force dedicated to overseeing compliance with GI regulations. This task force should be empowered to conduct regular inspections and monitor both

⁴⁰ Sunil Sudhakar Varnekar, Legal Implications of Geographical Indications in India, Vol.4(1) International Journal of Law, Justice & Jurisprudence (2024).

traditional retail and online platforms to combat counterfeiting effectively.⁴¹ Increasing the number of inspectors will enhance oversight, ensuring that registered GIs are not misused or misrepresented in the marketplace. Furthermore, ongoing training for inspectors is crucial to keep them abreast of developments in GI legislation and enforcement practices, thereby improving their capacity to uphold the integrity of GIs.

3. Clarifying Distinctions between GIs and Trademarks

To protect producers' rights adequately, it is imperative to provide clear guidelines that delineate the differences between geographical indications and trademarks. This clarity will prevent overlapping claims and ensure that producers understand their rights under both systems. Additionally, establishing a robust dispute resolution framework will facilitate the swift resolution of conflicts related to GI usage, thereby minimizing the potential for protracted legal disputes that could detract from producers' interests.⁴² Seminars that bring together legal experts and producers can foster dialogue on these distinctions, enhancing understanding and compliance.

4. Amending the GI Act for Individual Producer Rights

The Geographical Indications Act should be amended to explicitly safeguard the rights and interests of individual producers. Such amendments should include provisions that allow individual producers to raise concerns regarding the management of GIs within their respective regions or product categories. This approach will promote equitable distribution of benefits derived from GI registration, particularly for small-scale producers who may otherwise be marginalized by larger entities.⁴³ By ensuring that individual contributions are recognized and valued, the legislative framework can foster a more inclusive environment for all stakeholders involved in GI production.

5. Implementing Certification Systems for Genuine GI Goods

A robust certification system for genuine GI products is essential to maintain quality

⁴¹ Yashna Walia & Shreya Kumar, The Success and Failure of Gi Tag in India: A Critical Analysis of the Working of Geographical Indications of Goods (Registration and Protection) Act, 1999, 101 E- Journal of Academic Innovation and Research in Intellectual Property Assets (2020).

⁴² Paramita Nandy Gupta, International Trade Impacts of Geographical Indications, <https://depenning.com/blog/international-trade-impacts-of-geographical-indications/>.

⁴³ SpicyIP et al. (2024) An assessment of inspection mechanism in the Indian GI regime, SpicyIP. Available at: <https://spicyip.com/2024/06/an-assessment-of-inspection-mechanism-in-the-indian-gi-regime.html> (Accessed: 11 November 2024).

standards and prevent misuse. This system should mandate regular audits and inspections to ensure compliance with established production practices.⁴⁴ The certification process must be transparent and involve local producer groups to ensure that criteria reflect regional practices accurately. Marketing initiatives should emphasize certified GI products' authenticity and quality, thereby enhancing consumer awareness and demand while supporting local economies.

6. Updating the GI Legislative Framework for Online Protection

The legislative framework governing GIs must be updated to address the unique challenges posed by online marketplaces. Specific provisions should be introduced to protect GIs in e-commerce environments, requiring online retailers to verify the authenticity of GI products before listing them for sale. Collaborating with e-commerce platforms to establish best practices will enhance consumer trust in purchasing GI products online while safeguarding producers' rights against counterfeiting.⁴⁵ By implementing these measures, India can strengthen its commitment to protecting geographical indications in an increasingly digital marketplace.

These recommendations aim to enhance the legal framework surrounding geographical indications in India by promoting producer awareness, improving enforcement mechanisms, clarifying legal distinctions, safeguarding individual rights, establishing certification systems, and ensuring robust protections in online environments. Through these measures, India can better support its producers while preserving its rich cultural heritage associated with geographical indications.

CONCLUSION

Geographical Indications (GIs) have enormous potential to support India's economic development, particularly in rural regions where distinctive production techniques and traditional knowledge serve as the foundation of local identity. By maintaining the integrity and authenticity of region-specific goods, the Geographical Indications of Goods (Registration and Protection) Act, 1999, which governs India's GI legal framework, seeks to safeguard producers' rights. Enforcing GI safeguards is still difficult, though, especially in tourist-heavy

⁴⁴ Strengthen quality control mechanisms in GI-tagged products: Experts to Government, (Oct. 24, 2009).

⁴⁵ Rai, D. (2023) Geographic indication law in India: Registration process, iPleaders. Available at: <https://blog.ipleaders.in/geographic-indication-law-in-india/> (Accessed: 8 November 2024).

locations where the cultural value of the product is sometimes diminished by quick commercialization.

In order to prevent abuse and take advantage of the economic benefits presented by tourism, stakeholders must strategically collaborate in order to strike a balance between GI protection and tourism development. The execution of GI might be greatly enhanced by suggestions like better awareness campaigns, more robust enforcement measures, and funding for digital traceability systems. By tackling these issues, the advantages of GIs may be maximised, promoting rural development, conserving cultural heritage, and improving the competitiveness of Indian goods in international markets. In the end, India will be able to fully utilise the potential of its GIs through an all-encompassing strategy that combines strong legal safeguards with workable, community-centred solutions.

