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GEOGRAPHICAL INDICATIONS GRANTED IN INDIA, EUROPE AND USA: A COMPARATIVE ANALYSIS

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ABSTRACT

Geographical indications (GIs) are markers that identify products as originating from a specific geographical location, possessing qualities, reputation, or characteristics attributable to that origin. In India, Geographical indications hold significant cultural and economic value, protecting products like Darjeeling tea and Kanchipuram sarees. The legal framework for Geographical indications in India is governed by the Geographical Indications of Goods (Registration and Protection) Act, 1999. In the United States, Geographical indications are handled through certification marks or trademarks, rather than a specific Geographical indications law. Conversely, the European Union (EU) has a robust Geographical indications system, safeguarding products like Champagne and Parmigiano-Reggiano. EU Geographical indications are protected under the Council Reg (EC) No. 510/2006 and Reg (EU) No. 1151/2012, emphasizing protection, enforcement, and the link between product quality and from its origin. Comparatively, India's Geographical indications system, while similar in principle to the EU, has faced challenges in implementation and enforcement. The U.S. system diverges significantly, focusing more on trademark principles. The EU's comprehensive approach ensures strict protection and has led to the recognition and appreciation of numerous high-quality products globally. Differences in legal frameworks, enforcement mechanisms, and approaches to protecting GIs characterize the landscapes in these regions. While India has made strides in recognizing GIs, challenges remain in bolstering enforcement. In contrast, the EU's established system serves as a global benchmark for GI protection, promoting rural development, preserving cultural heritage, and ensuring fair returns to local communities. The U.S. system, though different in approach, acknowledges the significance of certain Geographical indications through bilateral agreements but lacks a comprehensive, standalone Geographical indications law. In a globalizing environment, each nation has, on average, its own legislation designed to safeguard

GI in some fashion. However, it is crucial to conduct a comparative analysis of those laws with one another, not only to assess the effectiveness of the current legislation but also to identify numerous crucial concerns that require attention.

INTRODUCTION

Geographical indication (GI) is a tag applied to products that are distinct due to their production in a specific geographic location and guaranteed quality. It is limited and exclusive, as the geographical origin of these products is influenced by local factors such as soil and climate. GI also highlights unique qualities of a product due to human factors such as production techniques and cultural norms of its original location. The Indian government has enacted legislation to protect GI through the Geographical Indications of Goods (Registration and Protection) Act 1999 and the Geographical Indications of Goods (Registration and Protection) Rules in 2002.¹

India's rich natural and cultural history has led to the creation of products famous for their location, which boosts trade and keeps local merchants busy. Geographical indications have played an increasingly important role in the agricultural industry over the last 20 years, with the Green Revolution of the 1960s incorporating IP considerations into industrial agriculture. The Geographical Indications of Goods (Registration and Protection) Act of 1999 in India identifies goods as originating or being produced within the specific geographical boundaries of a particular government. Some items acquired attributes like quality, reputation, or other distinguishing features directly associated with that geographical region, making them recognized as products originating from that particular origin. However, India faces challenges in providing adequate protection for its products, as it has an imperfect system compared to other developed nations. This paper aims to compare the current state of intellectual property protection in India with the United States, focusing on the European region with 4968 registered geographical indications. In conclusion, while India has abundant resources, heritage, and diversity, it lacks adequate protection for its products. This study aims to comprehensively examine the laws on geographical indications in the intellectual property regime and provide strategies to overcome these challenges.

GEOGRAPHICAL INDICATIONS GRANTING IN INDIA

Products with a distinct geological origin and the attributes or fame that come with it may be

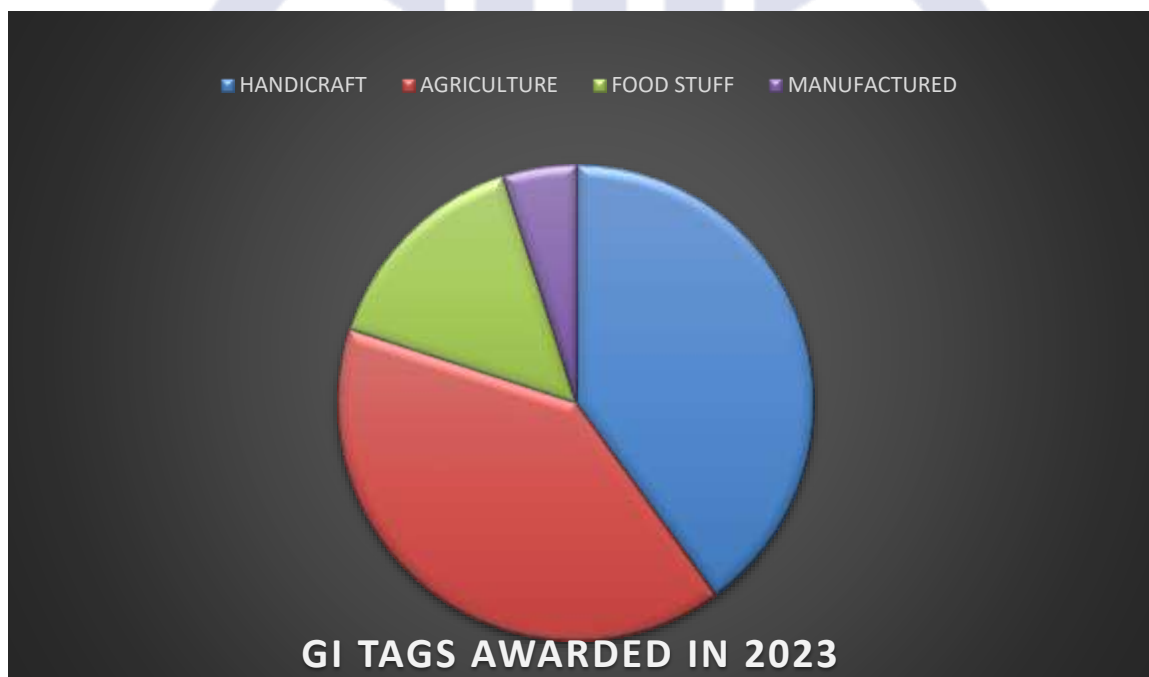
¹ Soumya Vinayan, GI in India: Issues and challenges, 20 *The Journal of World Intellectual Property* 119-132 (2017).

marked with a Geographical Indication. This makes the product very much different from other products. There should be a strong connection between the item's popularity, attributes, or quality and its location of origin. The item's attributes are directly related to its unique historical origin, which is determined by the geographical site of origination.

There are presently more over 550 GI registered in India, which are classified into four broad categories:

- Handicrafts
- Food Stuff
- Agricultural
- Manufactured Goods.

Among the Indian states, Uttar Pradesh, Tamil Nadu, Karnataka, Maharashtra, and Kerala have the highest concentration of GI tags. Although many more products with a presence in other states may seek to have the GI label applied, only a small number of commodities have been classified as GI thus far. Important considerations about the management of enrolment and the relevance of GI must be given careful consideration



The Geographical Indications Of Goods (Registration And Protection) Act, 1999

The Geographical Indications Of Goods (Registration And Protection) Act, 1999, was passed in India to register and protect geographical indications of goods, such as "Darjeeling" (tea), "Alphonso" (mango), and "Basmati" (rice). India, a country rich in agricultural products, has a unique structure to ensure the safety of Geographical Indications (GIs). The GI Act was created

to ensure compliance with the TRIPS agreement and establish national IP laws. The GI Registry, covering all of India, was established in Chennai, and right-holders can register their GIs there. The GI 1999 Act aimed to provide Indian GIs with the exact safeguards promised by the TRIPS Agreement. However, the WTO members did not allow a high degree of protection for every Indian GI, leaving the door open for their expropriation on the global stage. The Indian Geographical Indications (GI) Act defines any term that does not contain the name of a country, region, or territory as a GI if it is associated with a specific geographic area where the products are created. This legislation aims to protect Indian GIs and ensure their protection in line with the TRIPS agreement.²

REGISTRATION PROCESS IN INDIA

In India, geographical indications (GIs) are not mandatory under the legislation, and no individual has the authority to impede or demand compensation for harm caused by an unregistered GI. However, businesses registered as GIs have the legal right to seek assistance in case of infringement. The Controller-General of Licenses, Plans and Trademarks is the Registrar of GIs, and the GI Registry is located in Chennai. Section 6(1) requires the establishment of a GI Register divided into Part A and Part B, which consolidates information about GIs and Part B contains details about permitted customers. GIs can be registered for any or all items in a certain category, and the Registrar must categorize items according to the Global Classification of Products. An application can be submitted for many classes of products, and expenditure payable is calculated separately. The initial enrolment period for a GI in India is ten years, with further recharges at regular intervals. GIs are not subject to any kind of agreement, including tasks, transmissions, permits, promises, and contracts.

Who Is Eligible to Request GI Protection?

"Any group of individuals, business, or government agency that has been legally formed can submit an application."

- a) One of the producers' interests must be represented by the applicant.
- b) Submit the application in writing using the provided form.
- c) Send the application and the required fee to the Registrar of GI.

² Mustafa Khan, "An exploratory study of socio-economic challenges of Jasmine flower cultivators and traders of South India with special reference to post geographical indication" (2021).

The Procedure for Granting a Geographical Indication in India.

Individuals, manufacturers, organizations, associations, or agents representing the manufacturers of the relevant products can submit an application for GI enrolment to the GI Registration Centre. Every application must be submitted within the approved framework GI Section 1A to ID and should be labelled by the applicant in three copies alongside three duplicates of the Case Statement with the approved fee. The candidate should demonstrate the manufacturers' interest in the items in question in order to be considered for enrolment.³

Prior to further consideration, the application will be evaluated by a panel of specialists in order to detect any inadequacies or deficiencies. Representations of grievances. An offer may be extended in the event of a complaint; the applicant is subsequently required to appear at a public hearing within a period of two months. Upon receiving approval, the application will be distributed to all entries in the GI Register within a stipulated timeframe of three months. Following this, in the event that any restrictions apply, the competitor is obligated to formally record a notice in a journal within the designated period, forbidding the use of the product as it was originally published. Candidate-in-waiting is obligated to submit a counterargument against the opponent within two months of receiving correspondence from said opponent. This counter articulation must be both well-founded and essential. During the hearing, in the event that a counterstatement is submitted, both the applicant and the opponent will provide their respective evidence by means of verbal declarations and corroborating documentation. The candidate's application will be assessed by the Registry centre for Geographical Indication (GI) acknowledgment in the absence of a counterstatement. Upon receiving approval, a certificate bearing the Geographical Indication Registry's seal shall be issued, effective from the date of documentation. The validity of a GI registration lasts for a period of 10 years. If the applicant wants to do the same, it is feasible for another consecutive 10 years each. If there is a low probability of being removed from the GI registry.

Fundamental Rights Granted to Geographical Indication Holders in India.

Enlisting a Geographical Indication (GI) in India has several advantages, such as ensuring legal protection inside India and preventing unlawful use of a registered GI by third parties.

Extending Indian GI protection has a significant impact on the economic prosperity of producers of goods in a certain geographical area. It also enhances legal protection in other member nations of the World Trade Organization (WTO).⁴

³ Narasimman Kuppusami Suriyaprakasha, 2007 Intellectual Property Rights.

⁴ Naazima Kamardeen, Community Rights to Intellectual Property in Asia-From Rhetoric to Consensus

The fundamental safeguards provided to Geographical Indications (GI) under the Act are listed below.

- Provides legal safeguard to GI in India.
- This makes it possible to stop infringers from using a product that has been registered as a Geographical Indication illegally.
- By offering legal protection, it increased the export of Indian geographical indications.
- It enhances the economic well-being of producers.
- It allows for the pursuit of legal safeguards in other member nations of the World Trade Organization (WTO).⁵
- It enhances the economic well-being of producers.
- It allows for the pursuit of legal safeguards in other member nations of the World Trade Organization (WTO).

Protection Is Provided To Products Equivalent To Geographical Indications Under The Intellectual Property (IP) Regime Of The United States.

In the United States, GIs generally fall outside the scope of common law ownership rights, which follow the principle of "first in time, first in right." Instead, they are classified as trademarks, collective marks, or certification marks, and are regulated by (PTO) U.S. Patent and Trademark Office under the U.S.A Trademark Act

. The legislation permits the registration of "certification marks that incorporate indications of territorial origin." The responsibility for labelling requirements for wine, malt beverages, beer, and distilled spirits falls under the jurisdiction of the Liquor and Tobacco Tax and Trade Bureau of the U.S. Treasury.

The PTO defines GIs as "indications that identify a product as originating from a specific area, region, or locality, where a particular quality, reputation, or other characteristic of the product is attributable to its geographic origin," as per the World Trade Organization (WTO) Agreement on Trade-Related Intellectual Property Rights (TRIPS). PTO permits the use of any distinctive element that could indicate the origin of a product or service, in addition to a specific place name (example "Napa Valley"), an picture, a map of the location, a colour, or any other alternative that identifies a geographic location. GIs are safeguarded against unjust competition and trademark infringement in accordance with U.S. trademark regulations, irrespective of their registration status with the PTO. The PTO states that GIs serve the same purposes as trademarks, including

⁵ Bamford Excavators Limited vs Bull Machines Pvt Ltd, 2016, CS(OS) No.2934/2011 (Del)

guaranteeing quality, serving as indicators of origin, and protecting commercial interests. The process of ascertaining the attributes of an entity predicated on its geological properties can be intricate, encompassing the establishment of a trademark or brand name via a substantial advertising campaign. The PTO offers comprehensive information regarding the certification or collective mark application process as it pertains to agricultural, health, and food products. Security is not provided by the PTO.⁶

Consumers perceive geographical expressions that are commonly described as "generic" or "widely used" as emblematic of an entire category of products or services, as opposed to individual instances. The PTO does not oversee suitable norms or standards however there is no national registration that specifically records GIs in the US, with the exception of the Trademark Electronic Search system, which serves as the PTO's trademark register. Legal Framework: As stated earlier, the term "geographical indications" is defined in Article 22.1 of the 1995 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization. Likewise, instances of geographical indication originating from the United States encompass the nomenclature "Florida" applied to citrus. Washington State is renowned for its apple cultivation, while Idaho is renowned for its potato production. Geological indicators comprise a subset of registered trademarks. Similar to trademarks, geographical indicators serve as source identifiers, ensure product quality, and facilitate profitable commerce.

The incorporation of geographical indications (GIs) into the trademark framework, frequently achieved through certification and collective marks, has been identified by the United States as a means to ensure that GIs, regardless of their country of origin comply with the TRIPS agreement. The United States granted assurance to both residential and distant geographical indications as early as 1946, prior to the TRIPS agreement of 1995, which popularized the term "geographic indication."

PROTECTION OF U.S. GEOGRAPHICAL INDICATIONS

The current US GI system utilizes established trademark structures and allows interested parties to challenge or invalidate a registered GI if they believe it would do them harm. The United States Patent and Trademark Office (USPTO), which is a legislative specialist, is responsible for creating applications for both trademarks and Geographical Indications (GIs).⁷

⁶ Surip Marwadi, Advantages, constraints and key success factors in establishing origin- and tradition linked quality signs: the case of Kintamani Bali Arabica coffee geographical indication, Indonesia (1 ed. 2009), <http://www.fao.org/fileadmin/templates/olq/documents/documents/Kintamani.pdf>.

⁷ Bonanno, A., Sekine, K., & Feuer, H. N. (2019, June 25). Geographical Indication and Global Agri-Food. Routledge.

Exclusive protection is not granted by the United States to geographic phrases or indications that are not associated with specific products or services. A geographical expression or icon is considered "generic" when it is widely applied to symbolize a class of identical products and services, as opposed to designating a particular geographic source. As an illustration, the trademark for apples cannot be guaranteed using the word "apple" since it refers to the produce in its generic form. It is not protected in many nations, including the United States, that generic trademarks cannot be used to designate a particular commercial source or a collective production source that has been precisely defined. When a geographic assignment is not restricted to the United States, it may be utilized by any manufacturer for its products or services. An important feature of the trademark/GI framework in the United States is that it confers upon the owner of the mark or GI the sole authority to forbid unauthorized users from employing the GI or trademark if such usage is likely to cause damage to the proprietor, confusion, or deception concerning the source of the products or services. Thus, when there is a likelihood of confusion between the two uses, the initial proprietor of a right has priority and superiority over any subsequent users of the same or similar sign on the same, similar, related, or occasionally unrelated goods/services.⁸

- **The GI Is Safeguarded Through Trademark Protection.**

In order to protect geological indications through trademarks, collective marks, or certification markings, the current administration of trademark is utilized. A modern GI enlistment or security framework can be established with this system without requiring additional funding or faculty from governments or citizens. Topographical signs including words, trademarks, plans, three-dimensional marks, colors, noises, and fragrances are encompassed within the framework. Furthermore, it satisfies the stipulations of TRIPS's substantive GI and trademark commitments, encompassing national treatment and provisions for remote nationals. Self-policing is the most essential provision of this agreement, as it permits competitors to raise concerns regarding encroachment and ensures GI adherence to certification standards. Private proprietors have the authority to determine when to take legal action against encroachment or resolve unauthorized use, thereby safeguarding profits from being acquired by rivals.

- **Gi As Collective Marks**

Collective marks and collective trademarks or collective service marks are the two categories of collective marks in the United States. It is the Trademark Trial and Appeal Board (TTAB) that provides clarification regarding the differentiation among these various varieties. A collective

⁸ Bonanno, The Contradictions of the Neoliberal Global Agri-Food System, *Global Environmental* (2017)".

benefit stamp or trademark is a stamp that is acquired by a "collective" for the purpose of enabling its members to identify their products or services. Under the mark, the collective may promote or advertise the goods or services offered or provided by its members. A collective participation check is a stamp that signifies active involvement in a structured collective endeavor. Collective benefit marks and trademarks collectively attest to the commercial origins of a group of individuals, as opposed to a single component or party. The check is utilized by all group members, and no individual is permitted to claim the stamp. A collective organization, an agrarian cooperative of producers promotes the goods and services of its members. In order to publicize the members' businesses, the collective organization may organize promotional or special programs that make reference to the check; however, this would constitute mere informational use or display of the mark for publicity purposes.

- **GI Is Recognized as A Certification Mark.**

Geographic names or signs that are generally not eligible for registration as trademarks or collective marks may be designated as certification marks under the U.S. Trademark Act. certification inspect is any duration, title, image, or device that a party or parties other than the owner use to certify certain qualities of the products or services of third parties. Certification marks can be classified into three categories: the means of production or manufacture, the level of accuracy, or any other features that set the products or services apart, and affiliation with a union or other organization that conducted the work or labour on the goods or services. Two characteristics distinguish certification marks from trademarks under the U.S. Trademark Act: the proprietor is not permitted to utilize the seal, and the mark does not indicate a commercial origin or distinguish the goods or services of one individual over those of another. Certification marks function as source identifiers, differentiating the quality and characteristics of products while also verifying that they satisfy specific defined standards.

- **GI As Trademark**

Geographic indications (GIs) can be protected as trademarks under U.S. trademark law. GIs are not registered if they are geographically descriptive or misdescriptive of the origin of the product or services. Misrepresentative signage has the potential to misinform consumers and result in fraudulent activities. However, if a GI is employed to emphasize a product and establish a connection with a particular producer or manufacturer, it may qualify for trademark protection under the condition that it possesses "auxiliary meaning" or "produced peculiarity." The principal significance for purchasers is the geographical placement, whereas the supplementary significance for consumers pertains to the origin or producer. Consumer-facing

GIs that possess an "auxiliary meaning" are eligible for protection as trademarks or collective marks under U.S. trademark legislation.⁹

Legal Safeguards Provided To Holders Of Geographical Indications (Gi) Under The Intellectual Property (IP) Regime Of The European Union.

The EU comprises the membership of twenty-seven states. The European Union (EU) originated from the European Coal and Steel Community (ECSC) and the European Economic Community (EEC), both of which were established in the 1950s by the following six countries: France, Belgium, and Luxembourg, Germany, Italy, and the Netherlands.

The process of European Union expansion was incremental, occurring as member states' administrations achieved consensus agreements with the European Economic Community (EEC). Geographical indications (GI) are safeguarded within the European Union (EU) in accordance with the provisions outlined in Art 3 of the Lisbon Agreements on the International Registration and Protections for Appellations of Origin. This safeguard also encompasses the prevention of illicit utilization or forgery of registered designations, irrespective of whether the actual source of the product is revealed, the appellation is translated, or it is accompanied by terms like "kind" or "type." The aforementioned legislation broadened the parameters of the Stresa Convention of 1951, which was the primary global accord regulating the utilization of cheese appellations. This convention was initially ratified by Switzerland, Austria, Denmark, France, Italy, Norway, and Sweden.¹⁰

Legal Structure

The subsequent one is the collection of EU Reg that oversee the process of awarding, registering, and revoking Geographical Indications (GIs):

- Reg (European union) Number 1151/2012, enacted by the European Parliament and the Council on 21/11/2012, pertains to excellence programs for the agricultural goods and foodstuffs. It specifically focuses on safeguarding GI and Official Titles of Origin for agricultural products and foodstuffs.
- Implementation Regulation: Council Reg No 1898/2006 .

⁹ Veneziani, M., Mancini, M. C., & Arfini, F. (2016, September 23). Intellectual Property Rights for Geographical Indications. Cambridge Scholars Publishing.

¹⁰ Rački Marinković, A. (2022, February 3). Civil enforcement of geographical indications in Europe. *Journal of Intellectual Property Law & Practice*. <https://doi.org/10.1093/jiplp/jpab17>

- Reg (EU) No 1308/2013, enacted by the Europe Parliament and the Council on 17 /12/2013, establishes a unified system for managing the markets in agricultural goods.

REGISTRATION PROCESS

In the European Union (EU), the enlistment or registration of Geographical Indications (GIs) is governed by two distinct processes: one that is dedicated to spirits, and the other that pertains to food and agricultural products. Manufacturers and national and European authorities with hiring authority comprise the majority of applicants. To be eligible for the enrollment of a European Union Geographical Indication (EU GI) title, the consortium of producers is required to successfully complete two distinct application phases. Nationally, the process begins; subsequently, it advances to the European level.¹¹

The completion of this task may need several years. The stages are as follows:

- **Submitting application to the Commission for consideration.**

Applications originating from third parties, including those originating from the European Union after the national phase, should be submitted to the Commission via the EU Competent National Authority or the appropriate experts from the third countries involved. The application for protection is permissible only for names that have been guaranteed within the country of origin.

- **The Commission will review the application.**

The Commission will conduct a thorough examination of the application upon its receipt in order to ascertain its validity and adherence to the requirements outlined in the Regulation. The duration of the evaluation must not surpass twelve months. The customary duration for the applicant to provide a response to any inquiries from the Commission is six months.

- **The act of making the applications available to the public.**

The Commission is required to receive an inventory of the names of individuals for whom it has received enrolment applications, accompanied by the date of accommodation. The Commission ensures electronic accessibility of the application's single report to the Official Registry of the European Union and submits it to the registry once the requirements outlined in this regulation have been met. The Commission retains the authority to decline the enrollment application in

¹¹ Zappalaglio, A. (2023, January 9). *The Transformation of EU Geographical Indications Law*. Routledge. http://books.google.ie/books?id=gaSEzwEACAAJ&dq=GEOGRAPHICAL+INDICATIONS+IN+EUROPE&hl=&cd=1&source=gbs_api

accordance with the procedure outlined in Article 4 and 7 of the 1999/468/EC EU decision if the circumstances fail to satisfy the stipulations.

- **Objection procedure.**

By submitting a statement to the Commission that is adequately supported, any Member State or third country may raise an objection to the proposed enrolment within six months from the date of distribution in the Official Registry of the European Union. Furthermore, the Regulation affords the opportunity to protest to any lawful or non-lawful individual who possesses a legitimate interest. Nevertheless, in the case of ordinary or legal persons residing in the third country in question, this expression ought to be transmitted to the Commission via the authorities of that third country or another intermediary. The Commission will extend invitations to the interested parties to participate in suitable interviews, should a protest be granted permission, with the intention of reaching a resolution through agreement. The outcomes of meetings would be communicated to the Commission, which would then commence its current analysis or distribute the components that facilitated the agreement. If a consensus cannot be reached, the Commission will render a decision in accordance with the procedure specified in Articles 5 and 7 of the 1999/468/EC EU directives. The decision rendered by the Commission shall be published in the Official Registry of the European Union.

- **Name registration and dissemination of the registered name.**

The title shall be registered and appended to the European Register of Protected Geographical Indications and Designations of Origin ("TSG") in the absence of objections or in the event that the Commission receives invalid allegations. The allocation of enrolments will occur within the Official Registry of the European Union.

- **Ensure Compliance via Official Control and Verification.**

For our utilization of a product associated in possession of a Traditional Specialty Guaranteed (TSG), Protected Geographical Indication (PGI), or Planted Designation of Origin (PDO), it is imperative that it conforms to the precise criteria specified in the registration. The applicant must possess the ability to differentiate between the products and attest that all registration requirements have been met. Protection is exclusively bestowed upon an object that can demonstrate adherence to the geographical boundaries and GI status of the third country. This is achieved through a procedure referred to as:

- i. A few governmental entities appointed by the third country
- ii. A few organizations responsible for certifying products

PROTECTION GRANTED

- Utilization of a registered name for commercial purposes, either directly or indirectly, for items that are not included within the scope of the registration. The act of using, copying, or invoking the name on a product that is not officially registered. This also applies to terms like "style," "type," "method," etc., which imply that the translated version of the protected term is equivalent to or associated with the original, regardless of whether the product's real origin is disclosed.
- Dissemination of inaccurate or deceptive information on the source, characteristics, or attributes of items on packaging that might potentially provide a misleading perception regarding their source.
- "Genericity". After being registered, the GI name is unable to attain generic status.
- Authorities have a crucial role in enforcing the rights of the GI holder.
- A country's own government is responsible for providing a sui generis system of protection, much as the European Union. If the state does not provide enough protection, the authorities are legally responsible.
- The concept of "first in time, first in right" is not automatically applicable to Geographical Indications (GIs) in the European Union (EU). If all the conditions for a Geographical Indication (GI) are fulfilled, it is possible to register a GI and have it coexist with an already existing trademark. Conversely, it is not possible to register a trademark if a Geographical Indication (GI) name is already safeguarded.¹²
- According to Articles 3.4 of Regulation 510/2006, 23.3 of Regulation 110/2008 (pertaining to spirits), and 118k of Regulation 1234/2007, it is not permissible to register a designation of origin or geographical indication if such registration has the potential to deceive consumers about the actual identity of the product. This determination is based on the reputation, fame, and duration of use of a trademark.
- The protection typically persists as long as the characteristic of the geographical indication maintains. An important aspect of the EU system is that it does not impose a certain time limit for the protection of an EU, and there is no need for renewal.
- Registration prices are frequently restricted. At the European Union level, the registration of Geographical Indications (GIs) does not incur any charges.

¹² Joosse, S., Olders, P., & Boonstra, W. J. (2021, October 7). Why are geographical indications unevenly distributed over Europe? *British Food Journal*, 123(13), 490–510. <https://doi.org/10.1108/bfj-01-2021-0107>

The expense of enforcement is significantly lower. Public support significantly decreases the individual's enforcement expenses

THE US, EU, AND INDIAN INTELLECTUAL PROPERTY REGIMES: A COMPARATIVE ANALYSIS

In the aftermath, India was not able to provide adequate protection. The GI Grant Of GI Status As a result of not having the authority to revoke the designation, GI holders are able to prohibit its sale to non-local producers. Nevertheless, the socio-economic consequences of Geographical Indications (GIs) in India remain poorly documented. Nevertheless, anecdotal evidence indicates that GIs exert substantial influence on producers across developed and developing nations alike. Significantly, the communal character of GIs also raises noteworthy concerns regarding collective activities throughout various stages of administration and organization. For example, some individuals may proactively initiate the GI enrollment process, while others who initially decline to participate may eventually connect in an attempt to exploit the efforts of the pioneers. A number of geographical indications (GIs) in India are incorporated into the names of departments or organizations of the central or state governments. Nevertheless, a lack of consistency and uniformity exists among these associations and activities across various states. Additionally, a number of studies have revealed that geographical indications (GIs) could potentially lead to the prohibition of a substantial number of individuals from obtaining the benefits associated with them. Additionally, firms in stronger negotiating positions may be positioned to receive an unequal share of the financial value generated from obtaining assurance. In light of this, the purpose of this article is to evaluate the circumstance regarding a number of enlisted GIs on the ground. An extensive examination of the subject matter is achieved via field-level case studies and a foundational study utilizing a standardized survey for this evaluation. Several obstacles are exposed through interactions with registered GIs and the legal system. The lack of security for information or innovation, which only guarantees the preservation of title or indication, is a significant issue. This implies that it may not be logical for cost-conscious consumers to pay a premium for GI-certified products when identical products are available elsewhere. An additional obstacle arises from the lack of clarity surrounding the definition of "producer" as it pertains to the GI Act. This ambiguity fails to distinguish between the legitimate producer, retailer, or merchant. As is evident with Banarasi sari and Muga silk, this prevents the advantages of registration from trickling down to the actual producer. By granting PDO certifications to primary producers (farmers, for instance) and distinct protection to "manufactures," the EU has effectively differentiated the two. In the jurisdiction of the United

States, an individual or entity is classified as a "producer" if they possess the appropriate certification for that specific product. Presently, governmental efforts pertaining to GI are concentrated on the enlistment of GI items; however, this absence of attention to detail results in inadequate identification and enlistment of GI-based products. The United States employs a five-step procedure to ascertain the geographical territory of application for products:

1. Establish the product's objectives and scope;
2. Prepare list of confirmative local products;
3. Identification of origin-linked quality;
4. Each product with an origin-linked quality is evaluated in consultation with local partners to determine its relative merits in fostering the growth and preservation of domestic assets.

An integrated approach to GI security may inspire territorial or national case studies of successful outcomes at the destinations of stakeholders. Activity plans are coordinated within the context of a regional or national strategy, and a pilot action plan is defined for each product in its respective zone. The aim is to implement sector-specific strategies by investing in ventures that generate benefits for the designated area and surrounding region, thereby serving as prototypes for other sectors. It is particularly critical to define the attributes of GI status for non-agrarian products. Banarasi saris, for instance, are woven not only in urban areas but also in rural regions of the same locality and certain adjacent areas. Determining the initial locale for GI enrollment can be a significant challenge, particularly when considering non-agrarian items. In consideration of four fundamental criteria—physical criteria, local-domestic honours, local-domestic history and notoriety of the GI, localization of the GI producers (genuine and prospective), and other variables—the United States has established a delimitation process and set of criteria to combat such issues. Analysis of the United States' delimitation procedure could be beneficial to the Indian system. Difficulties associated with GI security consist of information gathered during the enlistment process in various remote countries, the exorbitant expenses associated with establishing a watchdog office to compile data on misappropriation, and the financial resources necessary to pursue legal disputes. In certain nations, GI enrollment can be essentially delegated to an association of manufacturers; however, in India, government agencies claim the majority of GIs. It is crucial to engage stakeholders such as manufacturers, product distributors, agriculturalists, artisans, and others during the pre-application phase in order to guarantee that the principal objectives of the Act are fulfilled; otherwise, registration may fail to achieve the intended outcome.

CONCLUSION

India's Geographic Indications (GI) system provides GI protection to its applicants before the

majority of other nations. GIs are esteemed and instill producers and consumers with a sense of pride; they establish benchmarks for originality and innovation. The most fortunate, however, are destitute artisans who safeguard global quality. Numerous nations and international organizations have implemented a comprehensive framework for the preservation of geographical indications (GIs), and India has not fallen behind France in this regard. Achieving GI assurance is primarily regulated by the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications. While the majority of nations have acquiesced and signed, the United States has yet to ratify the agreement. This demonstrates the progress India has made in granting GI protection to its applicants.

The purpose of this research is to highlight the significance of geographical indications (GIs) on traditional products in India for the purposes of social advancement and rural progress. This statement underscores the present condition of geographical indication (GI) registration in India and stresses the importance of producers contributing to the benefits. The study proposes that in order to facilitate the entry of small rural and semi-urban artisans into international markets, the Indian government should provide export subsidies, complimentary legal aid, and other incentives. Additionally, it is vital to establish and fortify producer organizations and institutional frameworks. A robust national regulatory framework is required to safeguard and guarantee the protection of GIs. To safeguard GIs, the study emphasizes the need for a robust regulatory framework.

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