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PROTECTION OF TRADITIONAL FERMENTED FOOD PRODUCTS UNDER THE GEOGRAPHICAL INDICATIONS FRAMEWORK IN INDIA: A DOCTRINAL STUDY

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Abstract

Geographical Indications (GIs) protect products whose quality is linked to a place. India's Geographical Indications of Goods (Registration and Protection) Act, 1999 was written with products such as tea and rice in mind, where the soil and climate explain the character of the product.[1] Traditional fermented foods are different. Their value lies mostly in the way they are made, and that knowledge is held by communities and passed on by practice. This paper asks whether the GI Act protects the fermentation process or only the registered name. It follows the doctrinal method and studies Section 2(1)(e) (definition), Section 11 and Rule 32 of the GI Rules, 2002 (registration), Sections 16, 17, 21 and 22 (authorized users, rights and infringement), and the absence of any benefit-sharing provision. The study finds that the Act does not shut out fermented foods, but it explains distinctiveness through geography and not through community skill; that it protects the name and not the technique; that its association-led structure favours organized communities; and that it has no benefit-sharing mechanism. A brief look at the European Union's system is used only to draw design lessons. The paper concludes that targeted legal and policy reforms are needed to make the GI system work for India's fermentation traditions.

Keywords

Geographical Indications, Traditional Fermented Foods, GI Act 1999, Traditional Knowledge, Benefit-Sharing.

[1] The Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48, Acts of Parliament, 1999 (India) [hereinafter GI Act].

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Introduction

Background and Significance of the Research Area

Fermentation is one of the oldest ways of preparing and preserving food. In India it appears in everyday foods such as dahi and the batter used for idli and dosa, and in regional products such as fermented bamboo shoots and toddy.[2] In Asia and Africa many such foods are still made by spontaneous fermentation, which means that no defined starter culture is used, and they are rarely produced on a large industrial scale.[3] The knowledge behind them therefore sits with households and village communities and is passed on through practice, not through written specifications.

GI law is the part of intellectual property law that comes closest to protecting this kind of knowledge. Article 22(1) of the TRIPS Agreement defines a geographical indication as an indication that identifies a good as coming from a territory, region or locality, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.[4] India gave effect to this through the GI Act, 1999, which treats food as "goods" and so allows food products to be registered.[5] The products most often linked with the Indian GI system, such as Darjeeling Tea and Basmati Rice, are agricultural goods whose character depends on soil, climate and a defined growing area.[6]

A traditional fermented food is a different kind of product. Its character often comes from the way it is made: the microbes that are allowed to grow, the timing, the vessel and the habits of the community. A GI, however, is a sign. Its legal job is to tell the buyer where a product comes from and to stop others from misusing that sign. This paper begins from the difference between protecting a name and protecting the knowledge behind it.

The subject matters for three reasons. First, fermented foods have real cultural and economic value. They are nutritious and well preserved, and they can support livelihoods, especially in

[2] Jyoti Prakash Tamang et al., *Fermented Foods in a Global Age: East Meets West*, 19 Compr. Revs. Food Sci. & Food Safety 184 (2020), https://doi.org/10.1111/1541-4337.12520 [hereinafter Tamang et al.]; Dhiraj Kumar Nanda et al., *Indian Chilika Curd – A Potential Dairy Product for Geographical Indication Registration*, 12 Indian J. Traditional Knowledge 707 (2013) [hereinafter Nanda et al.] (describing dahi as among the oldest Indian fermented foods).

[3] Tamang et al., *supra* note 2.

[4] Agreement on Trade-Related Aspects of Intellectual Property Rights art. 22(1), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299 [hereinafter TRIPS Agreement].

[5] GI Act § 2(1)(f) (defining "goods" to include "food stuff").

[6] Teshager Dagne, *Law and Policy on Intellectual Property, Traditional Knowledge and Development: Legally Protecting Creativity and Collective Rights in Traditional Knowledge Based Agricultural Products Through Geographical Indications*, 11 Estey Ctr. J. Int'l L. & Trade Pol'y 68 (2010) (citing Basmati rice and Darjeeling tea as examples) [hereinafter Dagne].

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poorer regions.[7] Secondly, empirical work suggests that registration alone has not delivered much. In a study of seventeen registered processed-food GIs, only a few showed notable economic effects, and producers faced counterfeiting and weak marketing.[8] Thirdly, very little doctrinal writing asks whether the GI Act, as worded, can accommodate a product whose value lies in its process. This paper reads the provisions closely and tests them against the features of fermentation practice.

Literature Review

This part discusses five peer-reviewed works on GIs, traditional knowledge and food products in India. Each is summarized for what it argues, and the part ends with a synthesis.

Datta, Manchikanti and Bhattacharya, "Beyond Gastronomic Traditions: Analysis of Foodstuffs GI in India" (2025)

The authors study seventeen registered processed-food GIs and ask how registration has affected the products and the communities behind them. They interviewed eighty right holders between 2019 and 2023.[9] They show that the registered proprietor differs widely: a producer association, a trust, a temple trust or a government body. The number of authorized users also varies, from one for Dharwad Pedha to 152 for Joynagar Moa, and the trust holding Dharwad Pedha's knowledge treats it as a trade secret. Common problems are low consumer awareness, counterfeiting and weak marketing. The authors suggest that the People's Biodiversity Register could be used to document the practices behind these foods. The study rests on the actual experience of GI holders, but its focus is commercial outcomes after registration. It does not ask whether the text of the Act suits process-based products, and the products studied are mostly sweets and snacks.

Dagne, "Law and Policy on Intellectual Property, Traditional Knowledge and Development" (2010)

Dagne asks whether GIs can protect agricultural products that are based on traditional knowledge. He argues that GIs suit such products better than most other intellectual property rights, because they rest on collective tradition, reward reputation built over time, allow methods of production to change, and cannot freely be transferred.[10] He also accepts the limits:

[7] Tamang et al., *supra* note 2.
[8] Sayantani Datta, Padmavati Manchikanti & Niharika S. Bhattacharya, *Beyond Gastronomic Traditions: Analysis of Foodstuffs GI in India*, 30 J. Intell. Prop. Rts. 428 (2025), https://doi.org/10.56042/jipr.v30i4.15699 [hereinafter Datta et al.].
[9] Datta et al., *supra* note 8.
[10] Dagne, *supra* note 6.

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a GI does not cover intangible knowledge such as medical methods or dyeing techniques, it does not fully answer biopiracy, and small producers often lack market access. He therefore recommends using GIs together with other protective strategies. The article is a good starting point, but it is general. It does not test specific sections of the Indian Act against a process-based food, or ask how a community that is not an association can use a system that works through associations.

Nanda and others, "Indian Chilika Curd: A Potential Dairy Product for Geographical Indication Registration" (2013)

This is a scientific study of one fermented product, Chilika curd of Odisha, made in bamboo baskets from the milk of buffaloes grazing near Chilika lake. The authors isolated sixty-four microbes, found that some Lactobacillus isolates showed antifungal activity, and recorded that the curd stayed stable for about seven days.[11] They suggest possible reasons for the long shelf life, such as the culture, the buffalo diet and the bamboo, but say these need further study, and they conclude that the curd is a candidate for GI registration. The paper shows how distinctiveness is spread across place, process and microbiology, and how hard it is to prove that a characteristic is "essentially attributable" to geography. The authors do not ask whether the Registry would accept their evidence, who would hold the right, or how benefits would be shared.

Tamang and others, "Fermented Foods in a Global Age: East Meets West" (2020)

This review is not a legal work, but it supplies the factual background that a legal study needs. It reports that producers in Europe, North America and Australia usually use defined starter cultures, while producers in Asia and Africa often rely on spontaneous fermentation.[12] This matters for GI law. A product made with a defined culture and a fixed recipe can be described in a specification fairly easily. A product made by spontaneous fermentation, where the microbial community changes with place, season and household, is much harder to describe. The review does not deal with intellectual property, so the legal consequences are left to others.

Govindrajan and Kapoor, "Why the Protection of Geographical Indications in India Needs an Overhaul" (2018)

The authors argue that the Indian GI framework has not delivered what the Act promised. They point to low awareness among producers, widespread violation of GI rights and weak marketing, and they compare India with the branding of Parma Ham to draw lessons for

[11] Nanda et al., *supra* note 2.
[12] Tamang et al., *supra* note 2.

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implementation.[13] Its concern, however, is implementation and enforcement. It does not question whether the substantive provisions suit products defined by process, and it does not address fermented foods or benefit-sharing.

Synthesis

Read together, the works agree on three points. GIs are collective rights tied to place and tradition (Dagne). Registration in India has produced uneven results for food products, mainly because of organization, awareness, marketing and enforcement (Datta et al.; Govindrajan and Kapoor). Fermented products are distinctive, but their distinctiveness is hard to isolate and prove (Nanda et al.; Tamang et al.). There is also a quieter point of agreement: these writers treat the name and the place as the main object of protection, and treat the knowledge behind the product as something that registration will indirectly support. None of them tests that assumption against the wording of the Act.

Research Gap

The literature on Indian GIs concentrates on the commercial results of registration, on enforcement, and on the general policy case for GIs as a tool for traditional knowledge. It does not examine the provisions of the Act one by one against the features of a process-based product. The definition in Section 2(1)(e) has not been tested for its capacity to accommodate process knowledge. Section 11 and Rule 32 have not been examined to see whether they protect a method or only use it as evidence. The reach of Sections 21 and 22 against copying of a technique under a different name has not been analyzed. The collectivization requirements have not been assessed from the point of view of informal communities, and the absence of benefit-sharing in the GI Act has not been set against other Indian laws on community knowledge. This study attempts to fill these gaps through a section-by-section doctrinal analysis.

Statement of the Research Problem

The GI Act protects a registered indication against certain kinds of misuse. On its face, it gives the community that developed a fermentation technique no right over the technique itself. Yet for traditional fermented foods it is the technique, and not only the place, that gives the product its character. The problem is therefore this: when a traditional fermented food is brought into the GI system, does the law protect the community's process-based knowledge, or does it

[13] Gautami Govindrajan & Madhav Kapoor, *Why the Protection of Geographical Indications in India Needs an Overhaul*, 2 NLIU L. Rev. 22 (2018).

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protect only a name, leaving the knowledge open to copying and leaving the community with burdens (registration through an association, documentation, standards) that it may find hard to meet? A related problem is that the Act has no provision for sharing the benefits of registration with the wider community that sustains the knowledge. The problem is practical because India has many fermentation traditions held by informal communities, and the GI Act is the main tool now available for them.

Research Objectives

The objectives of this study are:

a) to examine whether the definition of a geographical indication in Section 2(1)(e) of the GI Act can cover the process-based and community-held knowledge found in traditional fermentation;
b) to analyze whether the registration provisions (Section 11 and Rule 32) and the infringement provisions (Sections 21 and 22) protect the fermentation method itself or only the registered name;
c) to assess whether the collectivization, authorized-user and evidentiary requirements suit informal communities, and whether the Act provides any mechanism for sharing benefits with the traditional community; and
d) to suggest reforms that would make the GI system work better for process-based knowledge, using a brief look at the European Union's system for design lessons.

Research Questions

The study is guided by the following questions:

1) Is the definition of "geographical indication" in Section 2(1)(e) of the GI Act, 1999 adequate to capture the process-based, community-held knowledge that characterizes traditional fermented foods?
2) Do the registration provisions (Section 11 read with Rule 32) and the infringement provisions (Sections 21 and 22) protect the fermentation method itself, or only the registered name?
3) Are the collectivization and evidentiary requirements of the Act and Rules suited to informal, orally transmitting communities, and does the Act provide any mechanism for benefit-sharing with the community that developed the knowledge?
4) What reforms are needed to reconcile the geography-based GI model with the

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protection of process-based knowledge, and what, if anything, can India learn from the European Union's approach?

Scope and Limitation of the Study

The study is confined to the protection of traditional fermented foods under the GI Act, 1999 and the GI Rules, 2002. It concentrates on Sections 2(1)(e), 11, 16, 17, 21, 22 and 24 of the Act and Rules 32 and 56 of the Rules. The Biological Diversity Act, 2002 and the Protection of Plant Varieties and Farmers' Rights Act, 2001 are mentioned only briefly, to explain the absence of benefit-sharing in the GI Act. The European Union's system is used in a short outline and only for features that bear on process-based products.

The study has some limitations. It is purely doctrinal and uses no field data, so statements about the Registry's practice and producers' experience rest on the statutory text and published secondary studies. Whether a particular fermented product would satisfy Section 2(1)(e) depends on facts and scientific evidence about that product, which are outside this paper. Indian case law on GIs is thin, and *Tea Board v. ITC* is the main reported dispute discussed. The law is stated as available on the date of submission.

Research Methodology

This paper follows the doctrinal method. The method looks at the law as stated in statutes, rules, judicial decisions and authoritative writing, and asks what the law means and how far it achieves its purpose. It suits this study because the research problem is about the content and reach of legal provisions: what Section 2(1)(e) says, what Rule 32 requires and what Section 22 prohibits. These questions are answered by reading legal texts and not by collecting data from respondents. For the same reason, no hypothesis has been framed, and the inquiry is guided by the research questions.

The primary sources are the GI Act, 1999, the GI Rules, 2002, the TRIPS Agreement, the Biological Diversity Act, 2002, the Protection of Plant Varieties and Farmers' Rights Act, 2001, Regulation (EU) No 1151/2012 and the reported judgment in *Tea Board v. ITC*. The secondary sources are peer-reviewed articles and one practitioner commentary, found through online searches of journal repositories and publisher websites. The material was analyzed by interpreting the text of each provision, testing it against the features of fermentation practice described in the scientific literature, and noting where the law is silent. The European Union's system is not studied as a full comparison. It is referred to only to see whether it offers design

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lessons. The main weakness of the method is that it cannot show how the Registry works in practice.

Findings

The Statutory Definition of a Geographical Indication

Section 2(1)(e) is the gateway to the Act, because a product that does not fit the definition cannot be registered. The definition requires an indication that identifies goods as originating in a territory, region or locality, where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin. For manufactured goods, at least one of the activities of production, processing or preparation must take place in that area.[14]

Three features of this wording matter for fermented foods. First, the definition does not exclude process. The words "quality, reputation or other characteristic" are wide, and the requirement that one stage of production take place in the area shows that the law accepts a link to place through the way goods are made. A fermented food can therefore qualify in principle if its reputation is attributable to its place of making.

Secondly, the test of eligibility is geographical. The characteristic must be "essentially attributable to its geographical origin", following Article 22(1) of TRIPS.[15] The definition does not mention the skill of the producing community. Rule 32 does ask for particulars of "special human skill" or the uniqueness of the geographical environment, but a rule cannot widen an eligibility test laid down by the Act.[16] Where a technique is practiced in many places, the link to one place becomes hard to show.

Dahi is an obvious example. To argue that Chilika curd is distinctive, Nanda and others pointed to a combination of buffalo diet, local basket and microbial culture, while admitting that the link was not scientifically established.[17]

Thirdly, names raise a problem. The Explanation to Section 2(1)(e) allows a name that is not the name of a place to qualify if it relates to a specific area, which helps products with local names. But Section 9 bars registration of generic names.[18] Many fermented foods have names

[14] GI Act § 2(1)(e) (defining a geographical indication 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 and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be").
[15] TRIPS Agreement, *supra* note 4, art. 22(1).
[16] Geographical Indications of Goods (Registration and Protection) Rules, 2002, r. 32(1) (India) [hereinafter GI Rules].
[17] Nanda et al., *supra* note 2.
[18] GI Act §§ 2(1)(e) explanation, 9.

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used all over the country, and a claim for such a name may face a genericness objection unless it is tied to a specific local name or form.

Finding 1. Section 2(1)(e) does not shut out fermented foods, but it is built on geography as the explanation for quality. It gives no express room for community skill as the source of distinctiveness, so a fermented food qualifies only if its makers can show that place, and not just technique, explains its character.

Registration and Infringement: Protection of the Name, Not the Method

An application for registration may be made by an association of persons or producers, or by an organization or authority established by law.[19] Rule 32 sets out what the application must contain, including the class of goods, a map of the territory, particulars of the producers, the standard for use of the indication, the mechanism to maintain that standard, particulars of the special human skill or environment involved, and any inspection structure.[20] The fermentation method therefore enters the application. The question is what legal work the description does. It serves as evidence that the product's quality is attributable to the place, and, after registration, it acts as a condition on use: under Section 21(2) the exclusive right is subject to the conditions of the registration.[21] A producer who departs from the registered standard uses the indication outside the registration.

In neither role does the description become something the community owns against outsiders. The exclusive right under Section 21(1)(b) is a right to use the indication in relation to the goods.[22] Nothing in the Act lets the proprietor stop another person from following the same method. There is also a risk of disclosure, because applications are advertised for objections and the standard filed may come into public view. Protection of the method is, in effect, protection of the name by reference to the method. The trust that holds Dharwad Pedha treats the underlying knowledge as a trade secret and uses the GI only for the name, which shows that producers sometimes treat the two as separate.[23]

The infringement provisions confirm this. Section 22(1) provides that a registered GI is infringed by a person who is not an authorized user and who either (a) uses it in a way that suggests the goods come from a place other than their true origin, so as to mislead the public, or (b) uses it in a way that amounts to unfair competition, including passing off.[24] Unfair

[19] GI Act § 11(1).
[20] GI Rules, *supra* note 16, r. 32(1).
[21] GI Act § 21(2).
[22] GI Act § 21(1)(b).
[23] Datta et al., *supra* note 8.
[24] GI Act § 22(1)(a)–(b) and explanations.

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competition includes use likely to mislead the public about the nature, manufacturing process or characteristics of the goods. Section 22(3) gives extra protection against uses such as "kind", "style" or "imitation", but only for goods that the Central Government has notified under Section 22(2).[25] Action for passing off remains available under Section 20(2).

The common thread is that infringement needs the use of the indication, or of something that works as one. The reference to "manufacturing process" covers an indication that misleads about the process. It does not cover copying of the process. If a producer outside the registered area learns the traditional method and sells the product under a different name, no part of Section 22 is engaged, because no indication is used. The one reported dispute fits this reading. In *Tea Board v. ITC,* the Tea Board, which holds a certification mark and a GI registration for Darjeeling Tea, failed to obtain relief against ITC's use of "Darjeeling Lounge" for a hotel lounge. According to published commentary, the Calcutta High Court dismissed the suit on grounds including limitation and the fact that the certification registration did not cover services.[26] The dispute was fought over a name, and not over any process.

Finding 2. The Act requires the method to be described, but uses the description as evidence and as a condition of use. Sections 21 and 22 protect the name. A person who copies a fermentation technique and sells the product under a different name is not caught by the Act, and the community's remedies lie outside it, for example in trade secret protection where secrecy can be kept.

Collectivization, Evidence and Benefit-Sharing

The Act works in two stages. The indication is registered on the application of an association or an organization established by law and is entered in Part A of the register. Individual producers are then registered as authorized users in Part B.[27] Section 16 allows registration of the indication together with the authorized users named in the application, and Section 17 allows any person claiming to be a producer to apply later to be registered as an authorized user, with examination, advertisement and opposition applying again.[28] Rule 56 requires a statement of case showing how the applicant claims to be a producer.[29] Only the authorized user has the exclusive right to use the indication, and registration lasts ten years and is then

[25] GI Act § 22(2)–(3); *see also* GI Act § 20(2).
[26] *Tea Board, India v. ITC Ltd.*, C.S. No. 250 of 2010 (Cal. High Ct. Feb. 4, 2019) (India); *see Certification Trade Marks and GI versus "Regular" Trade Marks: The Calcutta High Court Ruling in Tea Board v. ITC*, SpicyIP (Feb. 2019), https://spicyip.com/2019/02/certification-trade-marks-and-gi-versus-regular-trade-marks-the-calcutta-high-court -ruling-in-tea-board-v-itc.html.
[27] GI Act § 7 (Part A and Part B of the register).
[28] GI Act §§ 16–17.
[29] GI Rules, *supra* note 16, r. 56(1).

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renewable.[30]

This structure suits organized communities with records. The Rules ask for a map, particulars of producers and a written standard. A household community whose knowledge is held in practice may have no legal association, no list of members and no fixed boundary, and must translate its practice into a written specification. This is hard for spontaneous fermentation, which varies with place, season and household, since a fixed standard may leave out real variation. The Indian experience suggests that process-based foods are registered when a state agency or trust steps in to organize the community. Datta and others report that proprietors of food GIs include a government body, a temple trust and a family trust, and not only producer associations.[31] On the other hand, the text of the Act does not require any particular form of evidence of tradition, and Section 11 permits an organization established by law to apply. The barrier is therefore one of practice and institutional capacity more than of the wording of the law, and this inference should be confirmed against the Registry's actual practice.

Benefit-sharing is the second concern. The right to use a registered indication vests in the registered proprietor and the authorized users. Section 24 prohibits assignment, transmission and licensing of the right, which keeps it within the community of producers.[32] But nothing in the Act requires a proprietor to share the benefits of registration with the wider traditional community or with producers who are not authorized users, or to account for the income of the collective. Where the proprietor is a government body or a trust, the Act does not require it to channel benefits to the community whose knowledge is registered.

Two other Indian laws contain such provisions. Under the Biological Diversity Act, 2002, approvals for access to biological resources or associated knowledge must secure equitable sharing of benefits with local bodies and benefit claimers.[33] Under the Protection of Plant Varieties and Farmers' Rights Act, 2001, claims may be made on behalf of a village or local community for its contribution to the evolution of a variety.[34] The GI Act has nothing comparable. The Biological Diversity Act may also be relevant for another reason. Microbial cultures kept by communities are likely to fall within its meaning of biological resources, and Nanda and others isolated sixty-four microbes from Chilika curd.[35] Whether that Act would apply to any particular use depends on the facts, and this is offered only as a tentative reading.

[30] GI Act § 18(1).
[31] Datta et al., *supra* note 8.
[32] GI Act §§ 2(1)(n), 21(1), 24.
[33] The Biological Diversity Act, 2002, No. 18, Acts of Parliament, 2002, § 21 (India).
[34] The Protection of Plant Varieties and Farmers' Rights Act, 2001, No. 53, Acts of Parliament, 2001, § 26 (India).
[35] Nanda et al., *supra* note 2.

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Datta and others themselves suggest that People's Biodiversity Registers could document practices behind food GIs, which shows that the two systems can be linked.

Finding 3. The two-stage, association-led structure and the documentary requirements favour organized communities, and informal communities are likely to need an intermediary, which the Act does not provide for. The Act also has no mechanism for sharing benefits with the wider community, so where the proprietor does not itself represent that community, the benefits of registration may not reach those who developed the knowledge.

A Brief Look at the European Union's System

The European Union's scheme for agricultural products was set out in Regulation (EU) No 1151/2012, which has since been replaced by Regulation (EU) 2024/1143, applicable from 13 May 2024.[36] This part uses the 2012 Regulation only to see what lessons it may hold. Four features are relevant.

First, the definition of a protected designation of origin refers expressly to a quality "essentially or exclusively due to a particular geographical environment with its inherent natural and human factors" and requires all production steps to take place in the area. A protected geographical indication needs only one step in the area.[37] The Indian definition resembles the second more than the first, and has no express mention of human factors. Secondly, every application must include a product specification that describes the method of obtaining the product, and it must name the bodies that verify compliance.[38] In India, an inspection structure is needed only "if any".[39] Thirdly, registered names are protected against misuse, imitation and evocation even where the true origin is stated or expressions such as "style" or "type" are used.[40]

Fourthly, and most relevant here, the European system has a category that is not tied to territory. A name may be registered as a Traditional Speciality Guaranteed where the product results from a traditional mode of production or composition, and "traditional" means proven use for a period that allows transmission between generations, at least thirty years.[41] It recognizes that some products are valuable because of how they are made and not where.

[36] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on Quality Schemes for Agricultural Products and Foodstuffs, 2012 O.J. (L 343) 1 [hereinafter Regulation 1151/2012]; Regulation (EU) 2024/1143 of the European Parliament and of the Council of 11 April 2024 on Geographical Indications for Wine, Spirit Drinks and Agricultural Products, Traditional Specialities Guaranteed and Optional Quality Terms, 2024 O.J. (L 2024/1143); *see Geographical Indications for Wine, Spirit Drinks and Agricultural Products*, Legislative Observatory, Eur. Parliament, https://oeil.europarl.europa.eu/oeil/en/document-summary?id=1783992 (last visited Oct. 11, 2026).
[37] Regulation 1151/2012, *supra* note 36, art. 5(1)–(2).
[38] Regulation 1151/2012, *supra* note 36, art. 7(1)(e), (g).
[39] GI Rules, *supra* note 16, r. 32(1).
[40] Regulation 1151/2012, *supra* note 36, art. 13(1).
[41] Regulation 1151/2012, *supra* note 36, arts. 3(3), 18(1).

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Finding 4. The European system is not better at protecting techniques as such, but it is more accommodating to process: it names human factors in the definition, makes the method and the control body a compulsory part of the file, protects names against evocation, and offers a category not dependent on territory. These are lessons for design and not models for direct adoption.

Discussion

The findings point to one idea: the GI Act protects a name, while the value of a fermented food often lies in a process. On the first research question, the answer is a qualified yes. Nothing in Section 2(1)(e) excludes fermented foods, but community skill has no express place in the test, so a product qualifies only if its character can be traced to the place. For widely made products such as dahi, that is a real difficulty.

On the second question, the Act does not protect the method. The method is described in the application, but it works only as evidence and as a condition for using the name, and because infringement under Section 22 needs the use of an indication, copying a technique under another name falls outside the Act. This does not make the Act useless for fermented foods, since a registered name still protects a community's reputation against misleading use. It means that the common claim that GIs protect traditional knowledge needs to be qualified for products defined by process.

The third question concerns who can use the system and who benefits. Here the problem lies less in the words of the law and more in its structure. Registration through associations, written standards and individual authorized-user applications are manageable for a body such as the Tea Board but harder for scattered households, and the missing benefit-sharing provision means that a trust or government body may hold a registration without any duty to the wider community. The fourth question is answered by the European outline and the suggestions below.

Conclusion

This study examined whether India's GI framework adequately protects traditional fermented foods, and in particular whether it protects the fermentation process or only the registered name. On the basis of a doctrinal analysis of the GI Act, 1999 and the GI Rules, 2002, the answer is that it protects the name.

In answer to the first research question, Section 2(1)(e) does not exclude fermented foods but

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explains quality through geography and has no express place for community skill. On the second, Section 11 and Rule 32 use the method as evidence and as a condition of use, and Sections 21 and 22 do not reach the copying of a technique sold under another name. On the third, the association-led structure and documentary requirements favour organized communities, and the Act has no benefit-sharing mechanism, unlike the Biological Diversity Act, 2002 and the Protection of Plant Varieties and Farmers' Rights Act, 2001. On the fourth, the European system also protects names and not techniques, but it offers design lessons that can inform reform.

The findings on the practical burden on communities are inferences from the text and from secondary studies, and should be tested against the Registry's records and through fieldwork. The law can be made to work better for fermentation traditions, and the next part suggests how.

Suggestions and Future Directions

1) Registry guidelines for process-based and orally transmitted products. The Registry should issue guidelines explaining how the link under Section 2(1)(e) may be shown for such products, accepting community declarations, historical references and scientific studies. This needs no amendment.
2) Recognition of human factors. An Explanation to Section 2(1)(e) should state that the skill, knowledge and practice of the producing community may form part of the characteristic attributable to the geographical origin.
3) Facilitated collectivization. State GI cells, universities and similar institutions should be supported to help informal communities form producer bodies, prepare applications and register authorized users in groups, with reduced fees under Rule 56.
4) A duty of accountability and benefit-sharing. Every registered proprietor should be required to keep a list of the traditional community, to account for income from the indication and to apply a stated share of benefits for the community. Section 21 of the Biological Diversity Act, 2002 and Section 26 of the Protection of Plant Varieties and Farmers' Rights Act, 2001 may serve as models.
5) Flexible specifications. Rules and guidelines should allow a specification to record accepted variations and to be amended as practice changes.
6) Wider protection against imitation. The Central Government should consider using Section 22(2) to notify fermented foods for the additional protection in Section 22(3), and Parliament may consider a non-territorial category for traditional specialities, modelled on the European Traditional Speciality Guaranteed.

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Future Directions for Research

Further research could take three directions. First, an empirical study of the Registry's records would test the inferences made here about the evidentiary burden. Secondly, field studies with fermenting communities would show who benefits from registration. Thirdly, as Indian courts decide more GI disputes, a study of how they read Section 22 would show whether the law is changing through interpretation.

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