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GEOGRAPHICAL INDICATION: EMPOWERING LOCAL INDIA

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ABSTRACT

The Intellectual Property Rights is one of the most essential kinds of rights which protects the intangible property of the people. There are various forms of properties that exist viz., Copyright, Trademark, Patent and Geographical Indication, but out of all properties GI does not get that much glamorization or gets less recognition compared to others. This leads to various challenges and difficulties faced by artisans and producers of the product from specific geographical locations which result in backfoot or less development in GI field.

Such problems need to be identified and tackled swiftly . It is very important to promote the indigenous product and support the producer to boost the economic conditions of the country.

This paper will discuss what are the challenges or difficulties faced by local products and producers to get a GI tag and also the difficulties they face even after their products get recognized with a GI tag. This paper also analyzes the existing legal framework for Geographical Indication and finds out what gaps are present and suggest what changes are needed in it with proper explanation of some case studies. This study combines through doctrinal and empirical research by referring various academic articles, books, observation, expert opinions and various related case laws.

Keywords

Geographical Indication, Intellectual Property Law, Indigenous Products, Legal Framework, Producer, Agriculture product, Handicraft product

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INTRODUCTION

In India there is vast cultural diversity along with availability of products which have geographical significance and craftsmanship from particular location for example, Banarasi sari, Kolhapuri chappals, kashmiri Saffron, Darjeeling Tea and many more and for protection of these products and rights of the producers there is Geographical Indication Goods (Registration and Protection) Act 1999 which helps to promote GI tagged products at national and international level. Geographical Indication represents the product that not only has demand in the market but also the story behind it, the techniques and craftsmanship. It is needed to be protected and conserved for future generations. The recent Prada case highlights how the marginalized group who make a certain product with their hand face problems and do not even get recognition at the world stage. This article's main motive is to showcase the problems faced by the creators of these GI products to get recognition at domestic level and at international levels and how the government should handle it.

²Intellectual Property Rights includes various IPs but 'Geographical Indication' is one of the most important and beneficial ones to the Indian state because here we have various indigenous products and crafts are made with resources which are available at particular geographical locations only and they need to get recognized. In India there are 658 GI registration products which is very less compared to countries like China and needs to be increased which would automatically boost the country's economic strength. For this aforementioned purpose the Indian government should take major initiative to register the products as GI mark as other IPs such as patent, copyright, etc.

³As per the 'Trade Related Aspects of Intellectual Property Rights (TRIPS)' agreement, which comes under the World Trade Organization(WTO) and India is part of it, makes sure that it

² Lalitha, N., & Vinayan, S. (2019). Regional products and rural livelihood: Study on geographical indication from India. Oxford University Press.

<https://books.google.co.in/books/publisher/content?id=ivqNDwAAQBAJ>

³ Ashwathi, T. M. (2020). Geographical indications in India: Major issues and challenges (Dissertation). National University of Advanced Legal Studies, Kochi, India.

protects the interest and safeguard the indigenous products. Despite this protective existing legal framework there are infringement cases, lack of awareness, etc. causing familiar names issues and related product problems. Hence, there is a great need for observation of difficulties faced in pre-registration and post-registration processes in the GI regime which helps to protect traditional knowledge, artisans interest and indigenous product creation and ultimately helps with the country's growth.

INTELLECTUAL PROPERTY RIGHTS AND GEOGRAPHICAL INDICATION

Intellectual Property Rights is a legal right given to the creators which protects their ideas as intangible property. It protects the creative works, artistic work, design work, symbols which are used in a commercial manner. IPR helps to protect the original work of the creator from unauthorized use, distribution and reproduction from other parties without permission and make sure that it benefits its own creator. Geographical indication is one of the Intellectual Property which refers to a name or sign used to point out a particular geographical location and have specific identity and uniqueness. Geographical Indication makes sure to protect the traditional knowledge and heritage of the region where specific products are produced. It assures the authenticity and quality of the products to the consumer since the product came from the source they claim to be. It is similar to other IPs including Copyright and Patent IPs, which connects the product to its original place where it is manufactured. Geographical Indication plays a very important role in India compared to other countries because India is a diversified country and has bundle of natural resources and potential to make valuable product from those resources by manually at local level and selling it at national and global levels and subsequently earning from it, so there is an urgency and we need to safeguard such resources and at same time increase the number of GI registration products. This would mean buyers get more premium quality goods domestically and don't have to import them from outside, which helps with saving taxes and increasing their own economy, employment opportunities and helps with migration problems.

Some examples of GI are

- Darjeeling Tea which is India's first GI registration product belongs to Darjeeling region
- Kolhapuri Chappal from Kolhapur which has the uniqueness that it is purely handmade.

LEGAL FRAMEWORK OF GEOGRAPHICAL INDICATION

INDIAN LEGAL FRAMEWORK

After becoming a member of TRIPS agreement India may become more active towards the Geographical Indication regime like other Intellectual property rights. For instance, India introduced the new Geographical Indication of Goods (Registration and Protection) Act, 1999 and which got into force on September 15, 2002. This gives overall legal provisions and safeguard to GI products and producers of goods like agricultural products and protection of Craftsman rights but there is still certain ambiguity in act and needs to be solved.

⁴AS PER SECTION 2(E) OF GEOGRAPHICAL INDICATION ACT

Geographical Indication is the sign or name given to products which belong to a particular location i.e. there is a connection between the good and where it is from, the region.

It includes natural and agricultural goods, handicraft products from certain locations and recognised by that location. But in the case of manufactured goods there are some different rules, for example, at the stage of production process at least preparation or processing should be at that location. Even if the name of the goods does not belong to that area then too they shall have a chance to get a GI tag for their product. We can observe that in definition it's all talk about products which have been registered but do not provide any kind of safeguard to the non registered product because the act does mention anything about compulsion of registration, so there is threat to the unregistered products and can cause infringement issues. Then there is section 66, which

⁴ Intellectual Property India. (n.d.). Official portal of the Geographical Indications Registry. Government of India.
<https://www.ipindia.gov.in/>

talks about penalties and fines for infringement, but can only be leveraged by the manufacturers or producers who have successfully registered under the GI tag. Due to unregistered GIs marginalised groups are being exploited at large. This leads to the need to get a more modern and inclusive legal framework towards marginalized groups in the current era. After 3 years, there was an introduction of Geographical Indications of Goods (Registration and Protection) Rules, 2002 which was more advanced compared to 1999 GI Act but still needed to be updated as per current needs and trend, like inclusion of some digital literacy, modification of act as per digital world so the GI registration increases in India and reach to globally. One more backlog or problem in existing legislature is that, act includes the ambiguous definition of “producers” which leads to even “non-producers” and intermediaries benefiting from GIs, the lower degrees of protection, vis-à-vis the TRIPS Agreement, weak post-registration enforcement, among others and need to be clear and concise. For this there should be proper enforcement of law and proper definition of producers.

INTERNATIONAL LEGAL PERSPECTIVE

First International recognition or protection related Geographical Indication was introduced through ⁵Trade Related Aspects of Intellectual Property Rights(TRIPS) agreement which came into force under World Trade Organization (WTO) in 1995 as one of Intellectual Property Rights. There are articles which protect the interest of GI regime under TRIPS agreement -

ARTICLE 22

This article talks about definition of Geographical Indication and protection from misuse of GI tag.

⁵ World Trade Organization. (1994). Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm

ARTICLE 23

Talks about higher protection of GI registered products such as Wines and Spirit and strong prohibition towards misleading and infringement of product name use.

ARTICLE 24

This provision or article talks about certain kinds of exceptions which cannot be registered as GI marks for example, the name of a product is so generic that cannot be used as identity or sign or name toward goods.

After the TRIPS agreement there was the introduction of 'World Intellectual Property Organization(WIPO) 1967 which talks about GI as a kind of IP right and should get protected world wide. Under the WIPO there is the Lisbon Agreement which talks about the International registration and protection of GI.

Along with all such treaties and agreements there are various bilateral treaties under which India is part of and is trying to get protection for their GI products world wide.

Countries like China had 10,0000 GI registration products and India is not even close to it. This is serious since even after having a bundle of resources, manpower and being blessed with naturally available agricultural resources we are lagging behind. Along with domestic problems which also includes less number of registrations there is another challenging issue which is weaker enforcement abroad.

There were cases which highlighted the weak policies and regulation of India to compete with other states in relation to GI registration and protection.

⁶ World Intellectual Property Organization. (1958). Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

<https://www.wipo.int/portal/en/>

For example, Basmati Rice case where America was claiming for GI tag but factually Basmati Rice is Indian origin product, GI Protection in High Spirits in the Chile-Peru Pisco Saga and Prada case highlights how India is on backfoot on legislature and to compete with other developed nations.

India introduced the GI act to comply with the TRIPS agreement but still in the 21st century it lacks in many ways. Along with weak legislation and problems with abroad law enforcement we also have to deal with the following hurdles - international recognition to indigenous products, no proper pay to workers, digital illiteracy among producers which creates a big barrier for the products to reach the global market. It's more surprising that a country like India where resources are available in abundance and with skills and traditional knowledge from ancestors cannot make optimum utilisation of it and succeed in becoming a part of countries with a large number of GI registration globally.

JUDICIAL INTERPRETATION AND CASE STUDIES

India does have cases where we were successful in registration of Geographical Indication tags to the products and gaining the advantages over competitors. However, at the same time there are cases where court plays an important role as interpreter to solve the GI disputes which arise within India and outside.

SUCCESSFUL GI CASE STUDIES

⁷DARJEELING TEA

Darjeeling Tea is one of the first products registered with GI product tag in India after enforcement of the Geographical Indication Act. It benefited and allowed them to sell tea at premium price and provided protection to the unique qualities of the tea linked to its geographical origin in the Darjeeling region. GI tags ensures that Darjeeling tea will be produced only in particular locations and gets protection under the law from other misleading products and also helps in maintaining original quality and authenticity. This helps the fragile community who are

⁷ Sourcetrace. (n.d.). Protecting Darjeeling tea: The tea from the queen of the hills. Sourcetrace.

<https://sourcetrace.com/>

involved with this product in the region to boost their living standard and ultimately increase the economic condition.

⁸ALPHANSO MANGO:

So, the story about this food product is different because the name of the product is not really connected to the region but is famous for its name. Alfonso Mango is also popularly known as 'Hapus' in Maharashtra, cultivated in the Konkan region, particularly in Ratnagiri, Sindhudurg, Devgad, and Raigad. The name Alphanso originated from the Afonso de Albuquerque, a Portuguese nobleman credited with introducing advanced grafting techniques to India in the 15th century. This shows how product does not belong to certain geographical location and is still recognised by that place as per the section 2(f) of GI Act 1999 defines "goods" to include any agricultural, natural, or manufactured item, as well as handicrafts, and this inclusive definition is a key part of the law's ability to protect products like handicrafts.

OTHER IMPORTANT CASES

⁹TANDUR RED GRAM (TUR DAL)

Although Tandur Red Gram is a prominent traditional crop from Tandur region in Telangana state famous for the cultivation process of Dal, received the GI tag in December 2022, but most of the farmers who cultivate that crop are unaware about the benefit they will get from the GI tag due to less awareness. They still sell their product at a lower price as they were selling early before getting a tag and earn less. The Red Gram Board who registered the GI on behalf of them failed

⁸ Khan, S. A. (2022). Current scenario of GI certified mango varieties in India. *Economic Affairs*, 67(4).
<https://doi.org/10.46852/0424-2513.4.2022.34>

Intellectual Property India. (2024, July 26). State-wise registered geographical indications of India. Government of India.
https://ipindia.gov.in/writereaddata/Portal/Images/pdf/State_wise_Registered_GI_of_India_26_07_2024.pdf

⁹Press Trust of India. (2023, November 17). Telangana farmers wait for a red gram board a year after receiving the GI tag. *Business Standard*.
<https://www.business-standard.com/>

to promote and create awareness among them related to GI tag benefits. On the other side, traders who take the product in bulk and sell it at national and international level earn more than the actual producer of the product. This shows huge gaps in price distribution among the creator or producer of the goods.

This case highlights that even when GI recognition is granted to the product but due to lack of awareness there are still problems among the original producers.

¹⁰BASMATI RICE(1997)

This case highlights how India's struggle against cultural misappropriation started from 90's when a US based company filed for a patent for "Basmati" and marketed it in US but India objected it on the ground that Basmati is not a generic term and belongs to the product with unique geographical and cultural origins. In fact, Basmati rice is one of the prominent GI products mostly cultivated in India and Pakistan region; this led the US to take the Patent down and nullify it. This case shows us the challenges of protecting traditional products in the global market and a crucial role in strengthening India's legal statute.

¹¹PISCO GI CASE (CHILE VS. PERU IN INDIA)

The Pisco dispute between Peru and Chile in the Delhi High Court was highlighted about the GI registration controversy in India. Pisco is a grape brandy made in both the countries but Peruvian Embassy first registered it as "Peruvian Picasso" the IPAB later allowed it to be simply called as "Pisco", to which Chile opposed. This case was related to the homonymous GIs under section 10 of the GI Act 1999 . In this case the court held that, because both the countries are producers of the grape brandy they both are eligible to register in India. It ruled that the GI must be recognized as "Peruvian Pisco" and "Chilean Pisco" to avoid confusion and ensure fair treatment to the

¹⁰Vajiram & Ravi. (2025, July 1). Safeguarding culture: The role of geographical indication tag India in preventing cultural misappropriation. Vajiram Current Affairs. <https://vajiramandravi.com/current-affairs/geographical-indication-tag-india>

¹¹Goswami, T. (2025, July 14). GI protection in high spirits in the Chile–Peru Pisco saga. SpicyIP. <https://spicyip.com/>

producers. In this case the court also noticed that there is wrongful use of the rule “Prior use” from Trademark Law, which does not apply to GI because it depends on geographical location and not on who used the term first. The Court also pointed out gaps and mistakes in the process: the Registrar changed Peru’s application from “Pisco” to “Peruvian Pisco” without proper notice or consent. This case highlights how the process or administration work negligently and need to avoid it for future conflicts.

¹²**PRADA - KOLHAPURI CHAPPALS**

This recent case shows cultural misappropriation and need for protection of India's traditional crafts. Prada, an Italian luxury fashion house, launched footwear similar to ‘kolhapuri chappals’ which have GI tag in 2018 for artisans of Maharashtra and Karnataka. Although Prada did not sell their product under the name Kolhapuri Chappals, hence there was not any kind of infringement issue. Still, the controversy highlights how global brands profit from traditional Indian designs and local original creators and artisans get less benefits. This case spoke to us on how the Indian legislature is weak in dealing with international brands and compared how wines and whiskies enjoy the whole protection internationally and we lack in this segment.

These cases help us to understand that there is great progress in registration of GI but at the same time there are many issues related to pre and post registration process. Indian legal framework is lagging behind or is not adequately sufficient to tackle GI controversy with International level and with international brand.

¹²Goswami, T., & Aggarwal, S. (2025, July 4). The devil wears Kolhapuri or Prada? Understanding GI law, cultural appropriation & more. SpicyIP.

<https://spicyip.com/>

CHALLENGES IN CURRENT GEOGRAPHICAL INDICATION REGIME

1. As per GI Act 1999 section 2(k), the definition of "Producer" is very broad which creates confusion. It covers farmers, artisans, manufacturers and even traders which makes it difficult to understand who are the actual producers, consequently small and marginalised individual producers may get excluded and registration benefits may be received by large associations, and cooperatives. This problem may create inequality and limit protection towards genuine creators.
2. There is great difficulty in maintaining balance between Intellectual Property Rights with traditional knowledge and cultural heritage because legislation can protect the product name but not the design or cultural story behind it.
3. Indian GI law fails to compete legally with international brands like Prada and maintaining interest of indigenous products like Kolhapuri Chappals which ultimately harm the rights and potential benefits of the local artisans. This is not always illegal but unfair towards artisans.
4. The existing law had only territorial protection towards GI products, so when someone copies the design or product outside India, local artisans are unable to take any legal action against them.
5. Many agricultural or village artisans who have already gotten a GI tag for their products are not really aware of the benefit and don't know how to apply it or use it to sell their products.
6. Need to facilitate training programmes, financial help and infrastructure support to the communities to get GI tags and promote their products.
7. Due to the increase in modernization and changing lifestyle, people are mostly preferring international brands which impact the demand for the indigenous products created by marginalized and small groups. This is a big challenge to help with their livelihood because their source of income depends only on the products they manufacture/create and adding to that, traditional crafts and practices are also disappearing from the market.

8. Maintaining good quality products with proper standardisation is important, especially food items that can harm the reputation of GI products if quality is not maintained.
9. Today's world is rapidly drawing with digitization, i.e. people are shifting from traditional to modern approaches like e-commerce for selling, so GI products are being sold online, but there are no proper regulations in law about how to regulate and protect GI products on such a platform.
10. Many genuine local artisans are not officially registered as “authorized users” of the GI tagged product. They are then left unprotected and cannot claim legal benefits and also lose the benefits or face challenges during legal battles.

SUGGESTIONS

1. The urgent need to amend the existing GI Act and add provisions related to protection of design, methods and cultural heritage linked to the products and not just the name of the product. Also, there's great need for proper explanation of definition “Producer” in the Act which clears the confusion related to who is the actual producer or creator of the products.
2. Increase the number of bilateral and multilateral treaties with the developing nations which would benefit in establishing a market for indigenous products in other states too and lead to the protection of Indian GI's abroad.
3. Various government agencies and NGOs should take initiative to conduct workshops and training sessions to help artisans understand the benefits and process of GI registration.
4. Initiative to support marginalized communities through various programs for financial help, marketing supports and infrastructure availability to artisans who produce GI goods.
5. Setting up certain quality standards for food item products which had GI recognitions such as Food Safety and Standards Authority of India(FSSAI) to maintain quality and trust among the consumers.
6. Setting up rules and provisions for digital protection by making necessary changes in law, this would help in increasing the sale of the goods through e-commerce platforms.

7. Collaborating with other states to build more platforms where they would showcase International products, to help market it and get premium prices for them. Also, coordination between government departments, producers, enforcement authorities and local communities to implement GI rules effectively is a plus.
8. The government should actively and directly collaborate with local communities in the Pre and Pro registration process of Geographical Indication to ensure they benefit fairly and their cultural heritage is preserved.

CONCLUSION

Geographical Indication is one of the most important part of Intellectual Property Rights as it protects various traditional products which not only represent Indian products at world stage but also gives various kinds of opportunities to the artisans who create them and also helps in economic stability. GI plays an important role in the communities who produce the product such as finding employment opportunities, getting recognition for their region worldwide because of their product and this also helps with reduction in migration of people from rural to urban areas or from one state to another in search of a job. The government needs to promote or create a friendly atmosphere with regards to GI compared to other IPR's and that should be changed by changing laws, inclusion of digital rules and regulations, increase in the number of bilateral and multilateral treaties at international stage. GI has a huge role in helping communities by preserving culture, and promoting cultural heritage at international level and it should be treated in a serious manner and need to be boosted up at a very large level. Indian government and non government organizations should take steps to increase the number of GI registration and try to open the market for several hidden products and arts. With proper attention, GI can become a powerful tool to safeguard India's heritage and support sustainable development.

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