

GEOGRAPHICAL INDICATIONS: AN EMERGING IPR

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Abstract

Every region has its name and fame. In the case of certain goods attributable its characteristics and qualities indicate some geographical locations and reputable to “as created of a particular region” come under geographical indications. It can be considered that an emerging trend in Intellectual Property is “Geographical Indications”. The present research work has reflected the knowledge and understanding of the current scenario of geographical indications in India.

INTRODUCTION

At the point when a business or an individual has a thought that they need to shield themselves from being utilized by others without their consent, it is ideal to look for lawful assurance of that intellectual property. By looking for property rights over your intellectual property — a property that is a making of the brain, like an innovation, image, or even a name. You set up legitimate possession and forestall the unlawful utilization of your property. Additionally, building up intellectual property rights can assist with powering the economy and animate further development.

Geographical Indication (GI) is a significant intellectual property right utilized in the domain of exchange to feature the beginning of an item that is restrictive to the region or district where it is delivered. Geographical indications (GIs) are utilized to distinguish products beginning from a specific district as a signifier of value. In this manner, the topography, quality, and notoriety of the merchandise are inseparably interlinked. This empowers the maker to pass on the certifications of their items to the shoppers concerning data unevenness.

A sign that is used on goods is a geographical indication (GI) which involves possess qualities or specific geographical origin or reputation that has been achieved from the origin. In a given place of origin, a sign must identify a product, in order to function as a GI. Due to the place of origin essentially product have characteristics, qualities or reputation additionally. However, the production geographical place is considered on the quality of product, there is clear link between original place of production and the product. In everyday life, the common feature

from Mexico's Tequila to Switzerland's Gruyere cheese, is geographical appellations and indications. The opportunities offered by it are majorly informing and attracting consumers as well as a way for business to leverage the value of their geographically unique products. The major relevant treaties that are administered by WIPO are as follows:

- Lisbon Agreement
- Paris Convention
- Madrid Agreement
- Madrid Agreement for the deception and false indications of repression of the source of products
- The TRIPS Agreement
- The Madrid Agreement related protocol

A comprehensive search tool namely, WIPO Lex database that enables or allows in relation to intellectual property to search international treaties and national laws.

The major challenges that the TRIPS Council under Doha mandate that was debated are: beyond spirits and wines extending the higher level of protection (Article 23) and creating a multilateral register for spirits and wines.

THE PRESENCE OF GEOGRAPHICAL INDICATIONS (GIS) IN INDIA

The issue of Geographical Indications (GIs) has been bantered in India and universally at different discussions like the World Trade Organization (WTO)¹. The World Intellectual Property Organization (WIPO) accommodates the insurance of GIs at a worldwide level. 'Geological Indication' alludes to a sign of products that have begun from a distinct topographical domain, utilized for recognizing a horticultural, regular or fabricated great.

GIs have quickly acquired significance, and the WTO has started activities to authorize the enlistment of merchandise as GIs with regards to an expanding coordinated worldwide system.

Significant goals of this examination are:

¹ Huysmans, M., & Swinnen, J. (2019). No terroir in the cold? A note on the geography of geographical indications. *Journal of agricultural economics*, 70(2), 550-559.

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- To comprehend GIs in India through the outline of GIs insurance, enrolment and the difficulties looked by GIs ensured farming, normal and made merchandise in the Indian setting.
- The effort has been had to distinguish the effect among GIs and Trademarks through this examination.
- An outline of not many GIs enlistsments of merchandise in India has been directed to realize how GIs have been secured and further extension for GI enrollment for additional products has been investigated.

In the current examination, endeavours have additionally been made to discover the advantages and difficulties of GI certificates for different products in the Indian setting.

The significant difficulties looked at by-merchandise applying for GI status are Origin of the products for recognizing a geographic area; Registration of GIs; Monitoring and controlling indicated cycles, methodology and nature of GI secured products; Protection of GIs from encroachment; and requirement of intellectual property rights.

An all-around secured GI, when favourable to effectively utilized, can be a compelling advertising instrument as it passes on to the shoppers of specific labour and products an ensured level of value, notoriety, and unique attributes of those labour and products. If not concurred insurance, any individual can utilize any topographical sign to any merchandise or administrations which may not be at standard with the norms of the first labour and products and can create turmoil among the customers and delude them. The absence of mindfulness among the partners of GIs, and the presence of value control instruments are the explanations behind the disappointment in accomplishing the targets. Also, the Act which is formed at standard with the brand names law will in general be more merchant driven than maker driven.

CHALLENGES FOR GI IN INDIA

India may have unconsciously made it harder for its makers to get GI insurance for their rural items. Area 9 of the Act, which denies enlistment of GIs which are resolved to be nonexclusive names or signs of products, says that a sign becomes conventional when it returns to the public space and isn't or has stopped to be secured in their nation of beginning, or which has fallen into neglect in that country.

It ought to be noticed that TRIPS leave it only to the carefulness of the nation of beginning to choose whether a specific geographical name has gotten nonexclusive or not. Accordingly, it is the legislatures/courts of WTO individuals that will choose whether or not a specific GI has gotten nonexclusive or should be ensured. It is presented that India should have kept the extent of genericide as restricted as could be expected, i.e., it ought to have permitted its courts to figure out which term is conventional and which, did not depend just on the circumstance in India (the nation of beginning) and not founded on the status in the space of utilization. The more regions and circumstances we consider, the more probable that the term is nonexclusive, particularly considering the drive with which ventures in the 'New World' are endeavouring to abuse GIs.

CHALLENGES FACED BY GI INTERNATIONALLY

On new occasions, IPR insurance has become the dominant focal point. Created nations that have the most intellectual properties as far as high information-based advancements, look to ensure their responsibility by the IPR shows and frequently whine about the insufficiency of IPR security in agricultural nations and blame them for IP theft. Created nations, specifically those which have GI items, have authorized laws to secure their hereditary assets². Thailand with its sui generis GI security framework desires to alleviate the issue of misusing beginning-based names. The Thai GI Act was established not just because of the necessities of the multilateral exchanging system yet additionally because of biopiracy identified with its broadly known Thai jasmine rice. The biopiracy issue was viewed as the primary main impetus speeding up the cycle for instituting the GI law.

Notwithstanding expanded exchange progression through two-sided FTAs and RTAs with economies like the United States and the endeavour to ensure its public "resources" by acquiring a patent for the rice qualities in the USPTO have caused a circumstance that has begun to challenge GI insurance in Thailand. This is because of the restricted assurance time frame for licenses enlisted in the United States (simply as long as 20 years). Besides, licensing living things was never a place of Thailand at the multilateral exchange dealings on patent insurance.

² Marie-Vivien, D., & Biénabe, E. (2017). The multifaceted role of the state in the protection of geographical indications: A worldwide review. *World development*, 98, 1-11.

Ideas on the best way to tackle such issues do exist, for example, opening dealings that go a lot farther than the current solicitation of broadening GI security or redesigning its public sui generis framework for GI insurance by including assurance of hereditary assets of GI plants. Notwithstanding, there is an expense for such ideas and the normal result is uncertain. Raising the issue of programmed assurance on hereditary assets of GI plants inside the extent of GI insurance is considerably more testing, while there is an analysis of the sui generis arrangement of GI security by adversaries in a progression of reciprocal FTAs and RTAs. Questions like whether the nation would be in an ideal situation by utilizing its assets on different features of advancement that are bound to yield reasonable results. While making customer mindfulness about GIs, for instance, is for the most part recommendable, it should likewise be viewed as that GI advancement is costly and maintainable advantages are not ensured. All things considered, given the social, social, and monetary significance of GIs for Thailand, it is fundamental and worth attempting to look for mutual benefit arrangements which are helpful for the two sides, the adversaries and defenders of GI security. Numerous Thai GIs are horticultural by nature and include a wide range of entertainers from poor country families to GI exporters. Losing "GI resources" because of deficient security may contrarily affect a considerable lot of the million poor in the rustic regions.

RESEARCH SCOPE/ RATIONALE

The research rationale of this work is dealing with Indian laws in context to geographical indication. The study has overviewed the current situation of geographical indications in India and also compared with other countries.

RESEARCH AIM AND OBJECTIVES

The research aims to understand "the importance of geographical indication in context to intellectual property.

The objectives of the research are as follows:

- To study the current existence of GI in IPR.
- To analyse the requirements of modifications in the existing laws in context to IPR.
- To observe the previous case laws about the GI in IPR.

RESEARCH QUESTIONS

The research questions are as follows:

RQ1: What is the existence of GI in the current laws of India?

RQ2: Is the existing laws are sufficient to handle challenges caused by GI?

RQ3: What are the modifications required in the existing laws for handling GI?

RQ4: What are the liabilities attached to GI?

LITERATURE REVIEW

A mechanism for helping the creators or producers to distinguish their goods from competing goods at the marketplace and offers the opportunity to create goodwill and reputation for the producers around their goods that will fetch a higher price is referred to geographical indication (GI). The potential economic advantages are attested in several studies of GI registration. In 1999, in the European Union, a consumer survey had undertaken which presented that 40% of the total clients for the origin-guaranteed goods would pay a premium of 10%. The concept of GI even though now matured in India, the study of UNCTAD has presented that agricultural products that are registered in GI fetches the higher premium prices of 10% while other goods are tune below 10%.

In the 19th century, in Europe, the concept of GI was originated and evolved considerably since then. Under Article 22 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement has laid down the current international framework that creates compulsory to the member countries to provide for the protection of all GIs, where members must provide the 'legal means for interested parties to secure protection of their GIs. GIs has been defined by the TRIPS as 'indications which identify a good as originating in the territory of a member, or a locality or region in that territory, where a given quality, reputation or another characteristic of the good is essentially attributable to its geographical origin' (Article 22)³.

The three aspects are composed for the scope of protection under Article 22:

- The misleading usage of indications are protected to the public which are also deceptive;
- Form the unfair competition protection is to provide to the usage of indications;

³ Sharma, S. (2017). Geographical Indication In India: Current Scenario And Their Product Distribution. International Journal Of Social Science And Economic Research, Issn.

- Invalidation or refusal of trademarks that consist or contain indications, where it may mislead the public.

The prohibitions have been provided under Article 22.2 (a) for the use of indications that will deceive or mislead the public about the product's geographical origin⁴. The prohibitions have been presented under Article 22.2 (b) for any use of GI that includes an act of unfair competition as introduced in Article 10 (b) of the Paris Convention. The indication of the Article 10 (b) language is to prohibit acts that involve unfair competition, it has to establish that it will generate confusion to the public or their use is misleading, and that damages outcome or there is the likelihood of damages resulting from such use of GI. The TRIPS, states under article 22.3 states as trademark registration of GI shall be invalidated or refused on interested party request if there are chances of misleading the public in reference to origin's true place. Especially developing countries and mostly countries presents the disagreement of geographical registrations names as trademarks otherwise received meaning secondary.

The two levels of protection are provided by the TRIPS Agreement for GI. The basic level or minimum standard of protection is provided by Article 22 where protection is offered by GI for the act of unfair competition which would deceive the public. Higher standard of protection is provided in the second type of protection in article 23 specifically for spirits and wines⁵.

Protection on GIs on spirits and wines is conferred in Article absolute or per se terms, where likelihood or confusion test is not required of deception to be considered. Article 23.1 has provided in the special case of spirits and wines of TRIPS, the use of translations is prohibited of GI or attachments of expressions like 'style', 'kind', 'type', 'limitation' to goods not originating from the place indicated, even where the clear indication of the true origin. Even though evidently 'Champagne-style sparkling wine, made in the USA' was not misleading but had been prohibited.

THE LEGAL FRAMEWORK IN INDIA

The TRIPS Agreement's party, India is bound to safeguard GI and therefore the obligations are fulfilled with the Geographical Indications of Goods (Registration and Protection) Act, 1999 was enacted⁶. The high potential advantages have been observed by India from GI registration for some of its products and the necessity of presenting the place is legislation

⁴ Blakeney, M. (2019). The protection of geographical indications: law and practice. Edward Elgar Publishing.

⁵ Radhika, A. M., Thomas, K. J., & Raju, R. K. (2021). Geographical indications as a strategy for market enhancement-lessons from rice GIs in Kerala. *The Journal of World Intellectual Property*, 24(3-4), 221-236

⁶ Saputra, R. (2020). Development of Creative Industries as Regional Leaders in National Tourism Efforts Based on Geographical Indications. *BESTUUR*, 8(2), 108-120.

which is comprehensive for offering adequate protection and the registration for GI. For unless the country of origin protects a geographical indication, there is no requirement under the TRIPS Agreement for other countries to extend reciprocal protection. Under the Act, the major advantages which accrue from registration are presented below:

- In India GI confers legal protection.
- The registered GI unauthorized usage is prevented by others
- Legal protection is enabled in other WTO member countries.

From a developing country's perspective, the Indian Act has the best feature that is related to the comprehensive definition provided of GI, whereby natural, agricultural and manufactured goods all come under the ambit of GI. In the Indian context, it is especially essential as it considers the wide array of products that deserves protection ranging from agricultural products like Kolhapur chappals, brass sari, chanderi silk and many more. Under section 11 of the Act states that any associations of producers, authority, persons, or organizations established by or under the law can apply for registration of a GI. The possibility of protecting a GI is another important aspect of the Act indefinitely by renewing the registration when it expires after ten years. Domestically, the additional protection is extended by the Indian Act for spirits and wines mandated by TRIPS to involve products of national interest on a case to case basis. The Act presents that the central government with the authority to give additional protection to certain products or categories of products under section 22.2.

INDIA'S EXPERIENCE WITH GI PROTECTION

Since the first GI of India was registered in the year 2004 172 GIS have been enrolled with the GI registry of India. More than 50% of these are handicrafts, more than a quarter of these are agricultural commodities and the remaining ones are manufacturing and food products. GI registration trend has been upward mostly with the maximum number of commodities registered in the 2008 2009 year. While the most registered GIS have been handicraft consistently manufactured and agricultural commodities are being protected increasingly under the act of GI over the past years. For food products, the protection was first granted from 2008 to 2009 which is a more recent addition in the GI registration basket of India. The recent enhancement in the manufactured commodities being registered as can be attributed partially to more foreign commodities being registered at the registry of Indian GI.

In India, in geographical distribution terms of GIS, most of them have been registered from the region of southern wine from Peruvian pisco Portugal and Proscuitto di Parma from Italy.

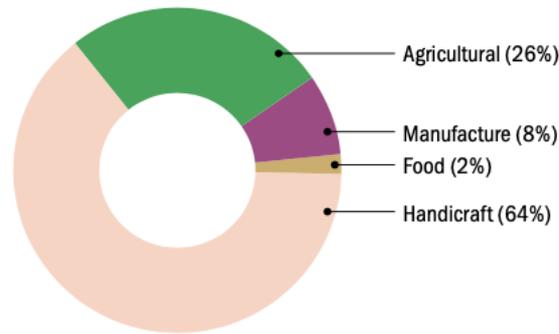


Figure 1 GIs registered in different categories

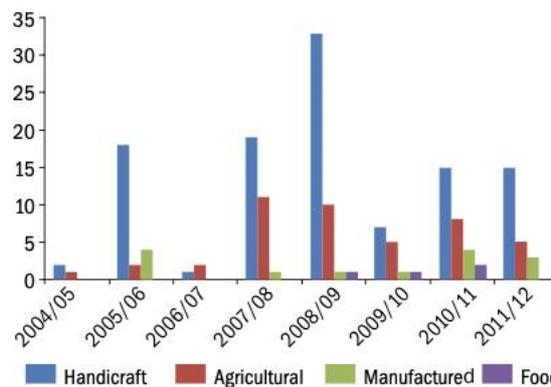


Figure 2 Registrations in different categories from 2004-12

IMPACT OF THE REGISTRATION IN INDIA: SOME CASES

It has been pointed out by several observers that all of the distinct types of intellectual property rights, GI might be amenable bold to the specific context of countries that are developing. GI might facilitate especially the protection of collective rights of the indigenous and rural communities in their indigenous information ensuring that the complete community which is reserved the information knowledge and has passed it on with refinement over generations tend to advantages from the information and that this is not locked up as one individual's private property. Other benefits of GIs are that knowledge remains the domain of the public the protection is scope is limited to two people location who might utilise the protected indication and the rights can hold potentially in perpetuity as long as maintenance of place product link is there. Also, GI holders do not have the right to assign the indication and that is why it prevents its transfer to non-local producers.

Proof on the impact which also shows the economy of GIs in the context of India is however limited although anecdotal proof suggests that significant implications are there of GIs for producers in developing and developed nations. Interestingly the collective nature of GIs also brings to the fore importance of collective actions related issues across several governance and

organisation stages. For example, a producer group might take initiative in the procedure of the registration while others who do not want to join initially might join later thereby attempting to free ride on the forerunner's efforts. In India, there is Registration of various GIs in the names of some state or central government bodies or departments yet no home agility is there among those involvements and initiatives across the states. It has also been found by several studies that GIS could result in the exclusion of various from enjoying the advantages. Companies with better positions of bargaining might also end up mocking share which is disproportionate to the economy generated value from securing protection.

Muga silk of Assam

From the state of Assam, Muga silk is a registered GI. It has been suggested by historical proof that the silk industry of awesome had attained the perfection pinnacle by the 7th century. Muga silk constitutes the most popular export commodity of the state in the current day after dirty of Assam. The Information Centre of paint all the science technology and environment council of Assam secured Muga registration in 2006, Which is first register GI incidentally from the region of North East. while the registered proprietor is ESTEC of Muga GI, No registered users are there to date. One to one interview with silk traders and weavers in the Sualkuchi town revealed very little awareness about GI Muga protection⁷. While the Muga price had been increasing over the last years that has very little to do with the registration of GI. That is not the reason behind the increased prices of yarn of Muga according to several stakeholders are decreasing area under the cultivation of Muga owing to the cultivation of rubber diseases at the stage of Cocoon, loss because of outdoor nature of rearing of Muga and so on. Nevertheless, increased prices have not been able to motivate the farmers to hold on to the cultivation of MUGA. As a consequence, it has become expensive almost three times more compared with other same silk varieties.

This silk is blended often where do some imported cells from China all good other silver yards like pat. Meanwhile in the field, as observed power loop is getting enhancing famous for weaving dealing a further blow to weavers.

Banaras saris and brocades

Under the act of GI in 2009, Banaras sarees and brocade are Secured registration with the filed application by nine companies. The community of Weaver predominantly constitutes the lists and Muslims who are poor and the production structure is based on wholesale dealer's

⁷ Kishore, K. (2018). Geographical Indications in Horticulture: An Indian Perspective.

hierarchy other weavers and master weavers. With the motive of understanding the real effect of registration, TERI Researchers conducted a consultation of multi-stakeholders at Varanasi interacting with users who are registered. It has been indicated by consultations that the industry of Banarasi saree is affected by a variable post in terms of labour problems and raw material that region aspect which is social economic and to some extent the excessive legislation and liberalisation pitfalls. The changing market and economic scenario have resulted in decreased weaver income who cannot even fulfil their basic requirements causing widespread poverty and malnutrition throughout the community of traditional weaver.

Such despondency and destitution among the community of weavers has forced them to take suicidal steps or has precipitated a shift of employment. It could be collected from the fieldwork dead geographical indication protection promise has not curbed the menace of the fake. Cheap product imitations which are machines based continued to be sold and the imports of cheap raw materials have led to the sale of what are referred to as Kela saris. They utilise banana tree racing to form threads that are polished than to provide the look of gold or silver thread. saris which are Chinese imitations are flooding the market because of much lower prices. In addition to this, there is an increase in the number of power looms operating in the Varanasi district itself although various other researchers put higher estimates. Most owners of power loom have been producing imitation commodities that are cheap in huge numbers so that growing demand can be met with computerised designs. Under the legal regime, enforcement is further frustrated through real absence on the part of holders of geographical indication to act against those imitators⁸. Despite the awareness are stakeholders of the deleterious effect of sales of fake commodities complicated dynamics of the market and forces silence among everyone who is concerned.

Malabar pepper

Malabar pepper is popular for its high quality and it is categorised under two grades ungarbled and garbled. It is said by many that the exorbitant pepper price during the Middle Ages a trade which was Italian monopolise forced the people of Portuguese to seek a root of the sea to reach India. Pepper is utilised as a espies and it also has some medicinal properties. The cultivation of Malabar paper takes place in the regions included in the Malabar region of the madras presidency. Now, these areas are included in the states of Karnataka Kerala and Tamil Nadu. Around a quarter per cent of the whole world, paper supply is accounted for by Malabar pepper.

⁸ Lalitha, N., & Vinayan, S. (2019). Regional products and rural livelihoods: a study on geographical indications from India. Oxford University Press.

This pepper is popular and unique for its hot sharp and biting taste. As the export of pepper takes place in bulk quantities there was all feeling that the tag of GI would give or provide better legal protection against counterfeit commodities⁹. None of the participants which were interviewed by the research has acknowledged any action of infringement initiated against any counterfeit commodities. The general refrain was that no extra advantage was delivered to farmers from the tag of GI.

Vazhakulam pineapple

There was interest demonstrated among the practising and academic lawyers about the tag of GI for vazhakulam pineapple. TERI researchers conducted some interviews because of this. In India, the production of pineapple is done as a commercial fruit crop and the major states which produce pineapple are West Bengal Kerala Tripura and Assam. The city of Vazhakulam known as pineapple city is situated in Mucattapuzha. The cultivation of pineapple in that region was initiated in the 40s and a variety named Mauritius is cultivated in that region. The produced pineapple in this region has a different taste as it is very sweet but not very juicy and because of these characteristics, the demand for this type of pineapple is very high. Various farmers initiated taking up huge scale cultivation of this type of pineapple from 1985. As the juice content of this pineapple is less it is majorly Consumed as a fruit. These different characteristics gaining notice in pineapples cultivated in an area falling roughly within 60 kilometres around an in Vazhakulam. In this region, the farmers attribute the different tastes of pineapple to the soil and the major demand for these pineapples comes from Kerala state only. The market of export is majorly the gulf nations. Pineapple is the fruit that has to be consumed within five to six days of harvesting, there is not much sense in exporting them commercially¹⁰. To protect the name of the brand application of GI was filed jointly by the Pineapple farmers association kerala agricultural university and the nadukarra agro-processing company.

The solution of pineapple farmers is a society which is registered under the charitable societies act and was formed in 1990 majorly to address the issues of marketing. More than 500 farmers of pineapple are members of the pineapple farmers association and the major motive of the association are to strengthen and to unite the farmers of pineapple to assist in seeking technical and financial help from various non-government in government agencies to create awareness on marketing and farming problems and to engage in activities of promotion. The

⁹ Ay, J. S. (2021). The informational content of geographical indications. *American Journal of Agricultural Economics*, 103(2), 523-542.

¹⁰ Lalitha, N., & Vinayan, S. (2018). Geographical Indications and Farmers' Welfare Role of State in Strengthening Governance. *Journal of Public Affairs and Changes*, 1(2).

reason behind going for the registration of GI was the value of the brand. No infringement case has come to the tension so far and the office builders of the association were quite a candidate in demonstrating the main advantages of registration of GI was the huge brand visibility. Most of the farmers are huge partners by whom the land is taken for lease. The land for lease majorly comes from the plantations of rubber during the time of replantation. In the initial three to four years of replantation, the cultivation of pineapple is as an intercrop. By stretching of these plantations would be from 52 around 100 acres. The cultivation of it is as an intercrop in the farms of coconut too. Farmers are there have resorted to the cultivation of pineapple as the major crop. A feeling was there among the farmer's representatives of the association that as GI is expected to help the product marketing as it brings in more visibility of brand the farmers are not benefited After the interaction the general feeling to be collected was that direct advantage for farmers was not observed as the purpose of the tag of GI.

FINDINGS OF SURVEY

The survey findings conducted by TERI Indicated that among the users who are present users of the registered GI only 31% are registered under the act of GI with the greatest number of users which are registered being for Banarasi sari¹¹. It has been indicated by the survey that the survey GIS the major destinations of export are Europe followed by UAE USA and Australia. However, the international sales volume is relatively low over raging about 15% of the whole volume of sales for the survey GIS. That analysis of the legal framework, as well as experience, is concerned with register GIS both from the survey and from the case studies demonstrate the presence of several complexities.

A significant GI dimension is that technology or knowledge is not protected by it as such as only indication or name gets protection by it. This implies that the popular Banarasi saree can be manufactured anywhere in the globe but the name Banaras sari cannot be given to it. For the consumer who is price conscious, it may not make much sense to purchase GI certified commodities at a premium if similar commodities are available elsewhere. Various other challenges are defining the characteristics defining geographical boundaries, registration in foreign nations, post-registration follow up, involvement of stakeholders, appropriate determination of products, and the question of beneficiaries.

¹¹ Vinayan, S. (2017). Geographical indications in India: Issues and challenges—An overview. *The Journal of World Intellectual Property*, 20(3-4), 119-132

RESEARCH METHODOLOGY

The traditional approach namely, methodology “Black Letter” has collected reference from the legalistic approaches tendency to solely concentrate on the “letter of the law”. This method of legal research will have goals to deduct the study of law especially considering to descriptive analysis of a huge count of technical and coordinated legal rules to be found in primary sources. The initial objective of selecting this method for the research is that it allows the organise, collate, and explain rules legally and significance and emergence to present commentary of the sources legally authoritative where few rules are given consideration, particularly, vase law, to identify an underlying system.

The interpretation of each case is required under such follow which is based on that it manufactures a system of interrelated rules rather than a stand-alone decision¹². The generalisation is required after a rule has been identified, coherently taking its place. This research method presents the existing laws and conducts the legal arguments to demonstrate the modification requirements.

The primary sources are focused under the black letter analysis, namely statute and case law and to a lesser extent, academic commentary. The law ‘in action’ is not considered rather the focus is presented on the law in books, thereby overlooking the political and sociological implications¹³.

A sociological approach can be adopted as an alternative methodology, that involves both quantitative and qualitative research methods, to analyse the effects of the role played and the law in action by public policy. The empirical knowledge is gained by the sociological approach and the knowledge of the procedure of legal and law proceedings effects on the included parties. It often fills a gap in the knowledge of ‘law in action’ found in the black letter methodology perspective.

A single and conclusive definition is an immediate issue of this approach of the nature and scope of the research, the sheer volume of studies is the issue that arises out that have been undertaken within this tradition. There are possibilities of ethical challenges that can be raised under such approaches as confidentiality and informed consent. A methodology awareness of a high level is required in socio-legal research in more sophisticated forms. Such researches

¹² Langbroek, P., van den Bos, K., Thomas, M. S., Milo, M., & van Rossum, W. (2017). Methodology of legal research: Challenges and opportunities.

¹³ Nayak, J. K., & Singh, P. (2021). Fundamentals of Research Methodology Problems and Prospects. SSDN Publishers & Distributors.

involve the interaction with the affected parties from interviews, public opinion polls commissioned by lawyers' organizations and reports from lawyers' disciplinary studies¹⁴.

The other approach is a comparative analysis where the title of the research to researcher has pre-existing knowledge¹⁵. There is an increase in popularity with this particular methodology as there in high chances of availability of statutes, cases and articles on other legal systems. This approach is preferable in cases where the areas for potential reform are as diverse as the introduction of no-fault compensation schemes or the impact of technology on conveyancing. While in the human rights field a comparative historical approach is used, considering for example changing attitudes to slavery in economic and social history. Some knowledge of the past is however presupposed under such research.

The research methodology that has been preferred for this legal research work is a selection of both qualitative and quantitative methodologies namely the sociological approach. It will help the research to explain and understand the role played by public policy as well as the law in action.

RESEARCH APPROACH

The research approach that has been adopted based on the nature of the problem of the research is inductive as it starts with the observation of the current situation, simply doesn't apply to the theories. It helps in learning about the title of the research by gaining experience from the secondary data. The steps included in this approach are observation, pattern and development of data or theory.

RESEARCH DESIGN

An exploratory research design approach has been selected to identify the data of the research to be included it also helps in determining the location of research and method used to analyse the data. This approach has been applied to the research because studying only laws and legal systems of a particular location is not enough for the research work to be completed, therefore it is required to study the other countries legal systems as it will help in clearly defining the research title problems and issues. This approach helps in analysing and evaluating a problem. Knowledge and understanding are achieved from such research design. It allows flexibility and helps in adapting to the changes.

¹⁴ Bairagi, V., & Munot, M. V. (Eds.). (2019). Research methodology: A practical and scientific approach. CRC Press.

¹⁵ Kumar, R. (2018). Research methodology: A step-by-step guide for beginners. Sage.

RESEARCH PHILOSOPHY

Positivism research philosophy has been utilised here to demonstrate the view that factual knowledge has only been gained. This research philosophy only takes data that is reliable which is very important in law and throughout the time of data gathering, the complete research can be manipulated by this research philosophy. The major reason behind selecting this research philosophy is because it provides a flexible working environment for the researcher and this research philosophy is also very economical and quick. Validity is provided to the research through this research philosophy.

DATA ANALYSIS TECHNIQUE

The descriptive technique of data analysis has been utilised in this research because this technique describes what the data demonstrates or what it simply explains. This technique of data analysis also helps researchers to simplify a huge amount of data in sorted form so that it becomes easy for the reader to analyse the data presented in the research¹⁶. This technique also helps the researcher to provide in-depth meaning to the research because this technique makes sure that only data which is relevant is included in the research. Legal researchers require the highest level of relevancy and accuracy and this technique of data analysis provides that level to the research or thesis. This technique organises the data first and then summarises it so that data can be effectively understood by the reader and it becomes easy for the reader to extract conclusions from the research.

¹⁶ Tyler, T. R. (2017). Methodology in legal research. *Utrecht L. Rev.*, 13, 130

ANALYSIS AND FINDINGS

Geographical indication has formed an important type of issue of Indian IPR. It offers the utilisation power or right of the product indication to their producers or manufacturers from that specific region. It also implies that they have the right legally to prohibit the utilisation of the name or side which does not have particular characteristics and qualities ensured by the geographical indication of that specific commodity. A geographical indication is a sign utilised on commodities that have a specific geological origin and a different and unique because these commodities are manufactured or produced only in a certain region and have a quality that is assured¹⁷. A GI which is a geographical indication might be utilised for a broad variety of agricultural commodities because particular local factors of geography influence them like climate and soil and that can be derived from their origin place. But the utilisation of geographical Indication is not prohibited to agricultural commodities only they also pay attention or emphasise particular individuality of a commodity that is because of human factors like some particular manufacturing skills and traditions of a specific commodity in the origin place. Before the agreement of TRIPS, there were majorly 3 international conventions associated with the protection of indications of geographical origin the Madrid agreement the Paris convention for the protection of industrial property and the Lisbon Agreement for the protection of populations of origin and their international registration. However, the issue of hierarchy in protection level remains based on a specious and then arbitrary goods categorisation under the agreement of TRIPS. But geographical indication was included finally in the agreement of TRIPS And it can be accredited to the negotiating capacity of the European Union notable. The act of Geographical indication of goods was acted in India in 1999 which is the first particular law that provides the protection and registration of the geographical indication. On 15th September 2003, the act came into force. Under this act, the Indian central government has established the registry of geographical indications at Chennai under the controller general of designs patents and trademark registered geographical indications.

According to the organization of the World Trade geographical indication means indications that determine a commodity as originating in a territory of a nation or a locality or region in that territory where of given reputation quality or other features of the commodity is attribute table essentially to its origin geographically. A geographical indication is assigned utilise on commodities that have particular geographical origin and them on straights reputational quality

¹⁷ Sharma, S. (2017). Geographical Indication In India: Current Scenario And Their Product Distribution. International Journal Of Social Science And Economic Research, Issn

that is due to that specific origin. To function as a geographical indication a sign must determine a commodity as originating in a given region also the qualities or reputation of the features of the commodity should be due to the origin place. Since the dependency of qualities is on geographical production place there is a direct link between the original production place and the product.

THE PROCEDURE OF GI REGISTRATION IN INDIA

An application for the geographical indication registration is made to the geographical indication's registrar by any producer's individuals association organisation or authority representing the producer's interest of the concerned commodities. Every application will be made in the form which is prescribed geographical indication 1A to 1D and will be signed by the applicant in triplicate along with the other three copies of the case statement or complete with the fee¹⁸. It should be specified by the applicant the producer interest in the concerned commodities is to be registered.

By examination of the application will be initiated by an expert group to verify or to a cheque for any deficiencies or any objections and if there is any objection arises raising of appeal can be done and then the applicant must act in response to a hearing of public within two months. If acceptance is there of the application then it will be published in the journal of geographical indication within three months and after that, if any opposition is there then a notice must be filed by the opponent within the prescribed¹⁹. Opposing the commodity application when it was published in the journal. The same has to be defended by the applicant by counteracting within two months of communication time with the important and required counterstatement and if the statement has been filed both defender and opponent will provide their proof by supporting documents. That geographical indication registration is valid for 10 years and if it is wished by the applicant to renew it is doable for further 10 years and if not then it will be removed from the register of geographical indication.

¹⁸ Meloni, G., & Swinnen, J. (2018). Trade and terroir. The political economy of the world's first geographical indications. *Food Policy*, 81, 1-20.

¹⁹ Biénabe, E., & Marie-Vivien, D. (2017). Institutionalizing geographical indications in southern countries: lessons learned from Basmati and Rooibos. *World Development*, 98, 58-67.

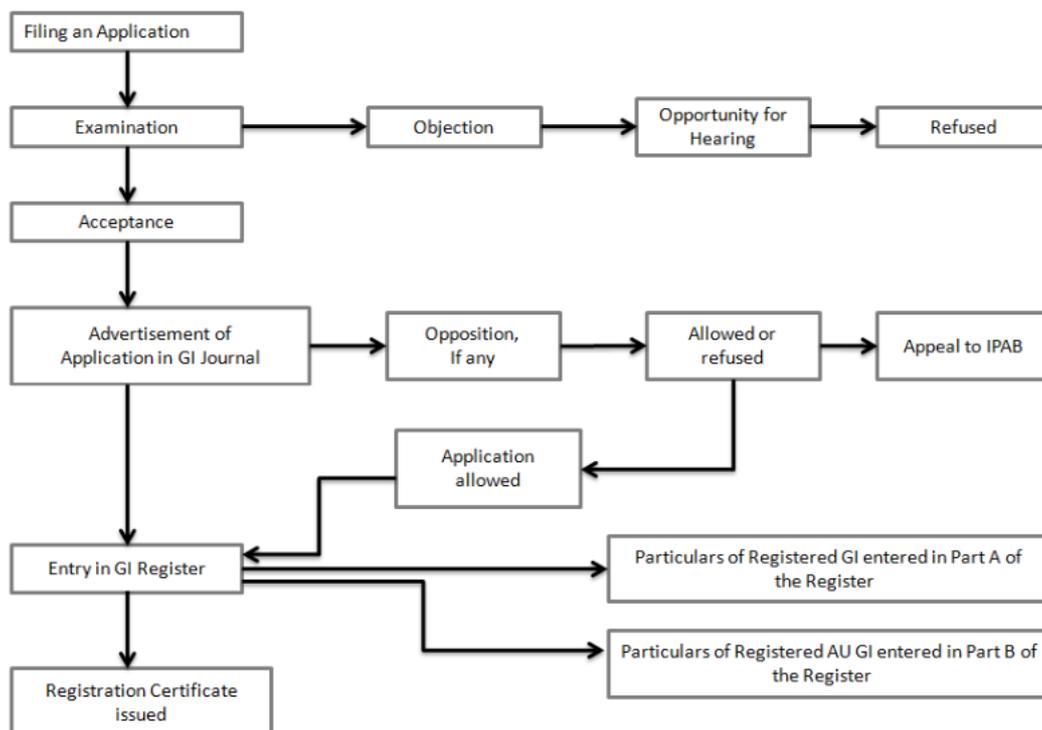


Figure 3 Registration Process Flow Chart

GI IN FORCE 2018-WORLDWIDE

The geographical indication can be protected through various means of law that is international agreements trademark laws sui generis systems and other legal means at the worldwide level. Such data of geographical indication protection is shared often among various national intellectual property offices at a national level. All this data is gathered by WIPO from several sources.

National / Regional Authority	Sui generis	Trademarks	Agreements	Regional System	Other National Legal Means	Unknown	Total
Germany	7276	1	3752	4537	--	--	15566
China	2380	4867	--	--	--	--	7247
Hungary	25	--	3224	3434	--	--	6683

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National / Regional Authority	Sui generis	Trademarks	Agreements	Regional System	Other National Legal Means	Unknown	Total
Czech Republic	62	--	2789	3434	--	--	6285
Bulgaria	111	--	2493	3434	--	--	6038
Italy	36	--	2545	3434	--	--	6015
Portugal	20	--	2544	3434	--	--	5998
Slovakia	20	--	2542	3434	--	--	5996
France	7	--	2543	3434	4	--	5988
Austria	--	--	1723	3434	--	--	5157
Netherlands	--	--	1570	3434	--	--	5004
Poland	35	--	1534	3434	--	--	5003
Greece	16	--	1534	3434	16	--	5000
Romania	23	--	1534	3434	--	--	4991
Ireland	8	--	1534	3434	--	--	4976
Luxembourg	--	--	1534	3434	8	--	4976
Estonia	6	--	1534	3434	--	--	4974
Croatia	3	--	1534	3434	--	--	4971
Latvia	3	--	1534	3434	--	--	4971
Belgium	2	--	1534	3434	--	--	4970
Malta	--	2	1534	3434	--	--	4970
Slovenia	1	--	1534	3434	--	--	4969
Cyprus	--	--	1534	3434	--	--	4968
Denmark	--	--	1534	3434	--	--	4968
Finland	--	--	1534	3434	--	--	4968
Lithuania	--	--	1534	3434	--	--	4968
Spain	--	--	1534	3434	--	--	4968

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National / Regional Authority	Sui generis	Trademarks	Agreements	Regional System	Other National Legal Means	Unknown	Total
Sweden	--	--	1534	3434	--	--	4968
United Kingdom	--	--	1534	3434	--	--	4968
Republic of Moldova	18	--	4714	--	--	--	4732
Bosnia and Herzegovina	13	--	4486	--	--	--	4499
Georgia	48	--	4378	--	--	--	4426
Armenia	8	--	3220	--	--	--	3228
Ukraine	25	--	3090	--	--	--	3115
Australia	116	76	1872	--	--	--	2064
Mexico	16	--	1671	--	--	--	1687
Viet Nam	69	1061	--	--	--	--	1130
Costa Rica	4	--	1117	--	--	--	1121
Peru	10	--	1062	--	--	--	1072
Serbia	81	3	936	--	--	--	1020
Cuba	25	5	971	--	--	--	1001
Israel	1	--	999	--	--	--	1000
Canada	651	--	184	--	--	--	835
United States of America	--	779	--	--	--	--	779
Turkey	395	--	3	--	--	--	398
Iran (Islamic Republic of)	30	--	355	--	--	--	385
India	330	--	--	--	--	--	330
Russian Federation	184	--	101	--	--	--	285
Chile	40	--	116	--	--	--	156
Colombia	151	--	--	--	--	--	151
El Salvador	96	30	13	--	--	--	139

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National / Regional Authority	Sui generis	Trademarks	Agreements	Regional System	Other National Legal Means	Unknown	Total
Morocco	66	54	1	--	--	--	121
Thailand	119	--	--	--	--	--	119
Guatemala	3	--	113	--	--	--	116
Argentina	108	--	--	--	--	--	108
Japan	73	--	7	--	10	--	90
Malaysia	84	--	--	--	--	--	84
Indonesia	74	--	--	--	--	--	74
Brazil	68	--	--	--	--	--	68
Ecuador	5	--	48	--	--	--	53
Kazakhstan	47	--	--	--	--	--	47
Honduras	--	45	--	--	--	--	45
China, Hong Kong SAR	--	43	--	--	--	--	43
Azerbaijan	--	--	--	--	--	35	35
Belarus	31	2	--	--	--	--	33
Norway	29	--	--	--	--	--	29
New Zealand	21	--	--	--	--	--	21
Albania	--	--	--	--	13	--	13
Bhutan	--	11	--	--	--	--	11
China, Macao SAR	2	9	--	--	--	--	11
Andorra	4	2	1	--	--	--	7
Jordan	--	5	--	--	--	--	5
Sri Lanka	--	4	--	--	--	--	4
Bangladesh	3	--	--	--	--	--	3
Jamaica	2	1	--	--	--	--	3

National / Regional Authority	Sui generis	Trademarks	Agreements	Regional System	Other National Legal Means	Unknown	Total
Lao People's Democratic Republic	--	--	--	--	--	2	2
Botswana	--	--	--	--	1	--	1
Cambodia	1	--	--	--	--	--	1
Iceland	1	--	--	--	--	--	1
Mongolia	1	--	--	--	--	--	1
Trinidad and Tobago	1	--	--	--	--	--	1
Kenya	--	--	--	--	--	--	0
Total	13088	7000	82795	97255	52	37	200227

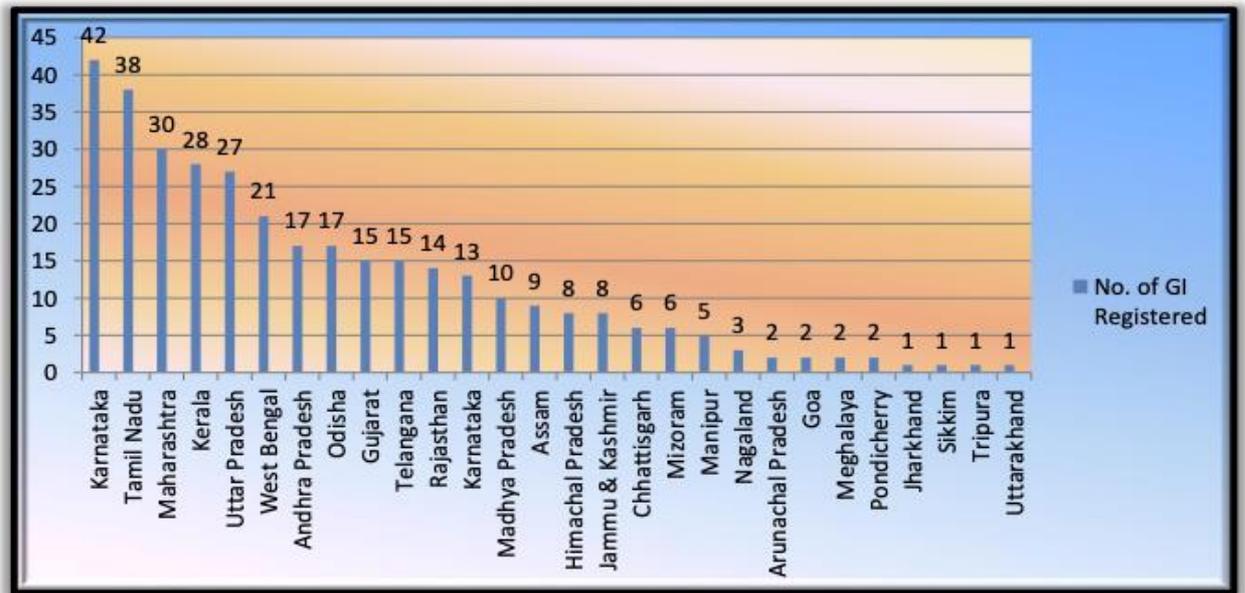
REGISTRATION STATUS GEOGRAPHICAL INDICATION IN INDIA

The procedure of registration of geographical indication commodities has been initiated in India since 2003. Three products were reduced stored in its inception under the category of agriculture commodity the Darjeeling tea was registered first followed by Aranmula Kannadi, Handicraft commodity of karela, and Pochampalli Ikat from Andhra Pradesh. Peruvian Pisco A Brandy under manufactured commodities was the initial product registered in 2009 by Peru Followed by France champagne and Cognac USA, United Kingdom whiskey Scotch, Italy Proscuitto di Parma, Parmigiano Reggiano, Prosecco and asiago, Grana Padano, Portugal Douro and Porto Mexico tequila and Ireland Irish whiskey²⁰.

Sr. No.	State	No. of GI Registered	%
1	Karnataka	42	11.35
2	Tamil Nadu	38	10.27
3	Maharashtra	30	8.11
4	Kerala	28	7.57
5	Uttar Pradesh	27	7.30
6	West Bengal	21	5.68
7	Andhra Pradesh	17	4.59
8	Odisha	17	4.59
9	Gujarat	15	4.05
10	Telangana	15	4.05
11	Rajasthan	14	3.78
12	Karnataka	13	3.51
13	Madhya Pradesh	10	2.70
14	Assam	9	2.43
15	Himachal Pradesh	8	2.16
16	Jammu & Kashmir	8	2.16
17	Chhattisgarh	6	1.62
18	Mizoram	6	1.62
19	Manipur	5	1.35
20	Nagaland	3	0.81
21	Arunachal Pradesh	2	0.54
22	Goa	2	0.54
23	Meghalaya	2	0.54
24	Pondicherry	2	0.54
25	Jharkhand	1	0.27
26	Sikkim	1	0.27
27	Tripura	1	0.27

²⁰ Vandecandelaere, E., Teyssier, C., Barjolle, D., Jeanneaux, P., Fournier, S., & Beucherie, O. (2018). Strengthening sustainable food systems through geographical indications: an analysis of economic impacts. European Bank for Reconstruction and Development (EBRD).

28	Uttarakhand	1	0.27
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CONCLUSION

Topographical Indicator in the global field is still to be accomplished, fundamentally because of the way that Article 23 of TRIPS gives great insurance to Wines and Spirits, yet at present not for different items. India should look for augmentation of GI security to different items alongside Wines and Spirits by changing Article 23 of the TRIPS.

An enrolled G.I. tag denies the holder from utilizing the enrolled characteristic of G.I. or on the other hand its name in any item which is like or misdirecting the enlisted item. Since the appropriation of the TRIPS Agreement, there has been expanded familiarity with the requirement for satisfactory assurance of geographic signs for all items²¹. Furthermore, the dealings by the World Trade Organization (WTO) in the field of modern and farming items exhibit the expanding significance of expanding the degree of protection of geological signs for wines and spirits to all items. Countries need to comprehend the way that assurance for GIs is best given under public laws since it's anything but the arrangements of the deal, however the genuine public laws that give insurance comparable to GIs. Such assurance is an important promoting device and an additional incentive for trades since it improves the probability of market access for such products. The GI tag is a fundamental part of making and keeping up

²¹ Bonanno, A., Sekine, K., & Feuer, H. N. (2020). Geographical Indication and Global Agri-Food: Development and Democratization (p. 254).

with edited compositions and creativity of the result of specific basics and qualities. India isn't a long way behind to legitimately seek after this part of intellectual property.

As per article 22.1 TRIPS agreement, three conditions for the protection grant of geographical indication has been described. There are (a) The indication should determine essentially the commodity and can be non-geographical iconic symbols names phrases or words, (b) The commodities must necessarily possess if given reputation or quality or other features that are attributed essentially to the designated origin area geographically, (c) The designated area must be determined by the indication. The present situation of geographical indication in India and the registered geographical indication list was started and it was noted that the can your product has been selling around the globe as Darjeeling tea which denotes originally the fine aromatic commodity of north Bengal. Companies in the United States and France have been producing varieties of basmati rice in those nations and registering trademarks that refer to basmati thereby striving to gain from this renowned geographical name. The patent of the United States on Basmati rice grains and lines granted to Texas-based rice tech incorporation is an example of exploitation of a renowned geographical indication from India. Distinct geographical indication has been discussed which could be considered for GI registration under the category of handicraft. It was also discussed that local human resources should be supported by the government to take up handicrafts on professional lines for the generation of revenue. The present registry of geographical indication has total reliance on the location for geographical education registry instead of the personal skills. Hence it is unjust and unfair in cases where protected commodities are merely the product of human skills or factors. If a Chanderi saree Weaver might migrate to another geographical location for a better living he might use his skills for Chanderi sarees in a new location but the recognition of that region is not yet as a weaver of chanderi sarees.