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## GEOGRAPHICAL INDICATIONS IN INDIA: STRENGTHENING LEGAL PROTECTION AND EMPOWERING RURAL COMMUNITIES

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### ABSTRACT

Geographical Indications prove to be a very important measure to protect the individual identity of regional goods at the same time as boosting economic growth and, in the process, improving rural development. This paper critically assesses the legal framework for the protection of GIs in India and their impact on rural communities. The research shall bring out the role that GI plays in creating wealth while maintaining indigenous knowledge and cultural heritage, and increasing the standard of living of the rural producers, farmers, and craftsmen. It also unearths competitive benefits that GIs bring back function both in the internal markets and at a global level, in addition to making for economic empowerment and sustainable development. It is a study on the Geographical Indications of Goods (Registration and Protection) Act, 1999, evaluating its effectiveness to go ahead and protect products that have a GI tag, matching it with other international agreements like TRIPS. While checking the GI protection and enforcement challenges, the research also includes problems relating to the weak level of awareness on the part of the rural producers and the unauthorized entity carrying out exploitation using GI products. It compares the approach used in other global systems of GI protection, especially that of the European Union, to make recommendations for the best practices which India can adopt. In Darjeeling Tea, Pochampally Ikat, and Madhubani Paintings: A Case Study of Successful GI Products, this dissertation tries to review the socio-economic benefits accruing from the process of GI registration. Results will be presented herein to show that although GIs are known to have immense benefits, their potential still remains under-utilized due to poor implementation and no proper marketing strategy. In the end, it suggests some recommendations on policies for improving the laws of GIs, increasing awareness within the rural communities, and mechanisms to enforce the same.

**Keywords:** Geographical Indications, rural development, intellectual property, economic empowerment, legal framework.

### CHAPTER-1

#### INTRODUCTION

Geographical indications (GIs) are an important part of intellectual property under which proper laws and protection are ensured for products whose origin is from a specific area of production to maintain and assure authenticity, quality, and distinctiveness of the products. Geographical indications bear invaluable potential in the sphere of traditional knowledge

protection, rural development encouragement, and channels through which enhanced economic prospects extend to local communities and countries. In many countries, including India, GI registration is fast becoming one of the mechanisms through which indigenous products can be protected as well as used in socio-economic improvements and driving rural economies forward. It offers the right to prohibit the use of the name by any other producer on a product not conforming to the product specification wherein it involves

misrepresentation and misleading commercial conduct<sup>1666</sup>.

Over the last two decades, GI protection has been picking up worldwide momentum quite strongly in agriculture as well as in handicrafts, textiles, and processed food products. In the EU, the importance of products that are GI-tagged has been recognized for a long time within the well-established systems of Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI), while the legality of keeping certain products only in one specific region is maintained<sup>1667</sup>. Taking its inspiration from that model, India has enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999, which came into effect in and after 2003, giving preference to preserving aspects of culture and economics in marketing region-specific products<sup>1668</sup>.

Some leading examples Darjeeling Tea, Mysore Silk, Pochampally Ikat, Banarasi Sarees, Madhubani Paintings, and Alphonso Mangoes have deep-rooted cultural relevance in Indian culture. Indeed, such examples prove how much these products cherish cultural significance and simultaneously ensure considerable facilitative benefits for several groups of people such as artisans, weavers, and even farmers. But there are several issues that the legal structure of GI faces in India. Most countries apply for Food GI under strict challenges of the dual economy and delayed community benefits. This situation comes when the value of the economic protection of the GI is far less than the costs of social exclusion. One of his first arguments about the limitations of price competition is that in developing countries, branding is not able to withstand price competition, and this is the basic motive why it is approachable.

GI protection offers an opportunity for uplifting rural economies through provisions of higher market value for traditional products. It

differentiates such products from the generic alternative, which in turn builds consumer confidence and the ability to price premiums. For instance, it was one of the first products to receive the GI status in India with international recognition of Darjeeling Tea, and continues to fetch higher prices compared to those from none GI areas<sup>1669</sup>. It would also mean GI recognition for handicrafts, such as Channapatna Toys and Kutch

### Background of the study

Intellectual Property Rights (IPRs) play an important role in the innovation mechanism, ensure protection of traditional knowledge, and safeguard the rights of the communities for which unique production practices are essential. Out of the many forms of intellectual property, Geographical Indications (GIs) have emerged as a major legal instrument that connects products with their place of origin thus ensuring their genuineness, quality, and economic worth. Geographical Indications offer a very effective way to achieve rural development mainly by giving legal recognition and monetary benefits for the producers engaged in agriculture or handicraft activities. Emerging from the acknowledgment that certain products draw their distinctiveness and fame from where they come from, is the principle of GI protection, perhaps through natural, herbal, or human factors to this uniqueness and fame. Natural factors include the composition of the soil, water, climate, and even quality of water. Human being factors may be the ways of production, significant labor, and cultural heritage<sup>1670</sup>. Many countries have put in place legal mechanisms to guard GIs against any unwarranted use by producers from that area and for the promotion of fair trade practice. At the global level, it is the European Union that has taken a lead role in GI protection with very strong legal frameworks,

<sup>1666</sup> Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48, Acts of Parliament, 1999 (India).

<sup>1667</sup> Council Regulation (EC) No 510/2006, 2006 O.J. (L 93) 12 (EU).

<sup>1668</sup> Geographical Indications of Goods (Registration and Protection) Act, 1999, supra note 1.

<sup>1669</sup> WTO Appellate Body Report, European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs, WT/DS290/AB/R, adopted 20 April 2005.

<sup>1670</sup> Justin Hughes, "The Philosophy of Intellectual Property," 77 Georgetown Law Journal 287 (1988)

known as the systems of Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI). They are a source of economic advantages for local producers who are granted the right to use a specific geographical name. Motivated by this model, India has come up with the Geographical Indications of Goods (Registration and Protection) Act, 1999 which was brought into effect from 2003. The main objective of this Act relates to the protection of such products that have obtained distinctiveness due to the place of their production and/or traditional processing method. India has a very rich heritage of GI-tagged products, such as Darjeeling Tea, Banarasi Sarees, Mysore Silk, Alphonso Mangoes, Pochampally Ikat, and Madhubani Paintings. All these are deeply rooted in cultural heritage and provide very high economic returns to the people of the area. GI tagging also catalyzes not only better markets but also creates more employment opportunities and saves skills and keeps the rural economy running. It also helps producers to charge premium prices for their products, keep their products exclusive, and also sell in the international markets. In its benefits, GI protection in India also faces a plethora of challenges. Most small producers and artisans are not aware of the rights of GI; even though they know it, they go for registration yet they do not benefit because legal provisions are cumbersome there, there is a lack of finance marketing is not well established and they are not able to benefit out of registration. Also, there is trouble from pirated products and the unauthorized use of GI tags to diminish the strength of value of the real GI products affecting both the producer and the consumer class. Weak enforcement further compounds this issue, wherein misuse and commercial exploitation become incredibly hard to prevent. GI protection plays a very critical role in its influence on rural development. With local producers provided the rights of exclusivity, GI protection will be strengthening the rural economy and further pushing sustainable

development. Many of the GI-tagged products have environmental sustainability resulting from the use of methods of production passed down through generations, which are typically eco-friendly and therefore do not harm the environment. For example, Naga Chilli in Nagaland and Kiwi Fruit in Arunachal Pradesh are grown using organic farming, thereby ensuring sustainability in the development of value. On the other hand, not all economic gains of GIs are equitably distributed among the stakeholders. In some cases, more benefits accrue to large corporations and intermediaries through the protection of GIs than to small-scale farmers and artisans. This then questions to what extent GI laws are successful in empowering the rural community genuinely. Moreover, the dual economy structure in most developing countries implies that branding advantages by GI protection do not necessarily lead to increased income among the primary producers amidst price competition and the dynamics in the market. To address these challenges, the question thus arises of having a comprehensive legal and policy framework under which the protection of GI will contribute meaningfully towards rural development. This involves conducting awareness campaigns, legal aid for small producers, financial incentives, marketing support, and strict enforcement of GI laws<sup>1671</sup>.

### **Research Problem and Objectives**

The GIs provide major cover for proper systems associated with traditional products, considering proper authenticity and economic value regarding regions<sup>1672</sup>. Though the general promotion of GIs as rural development has been legally accepted worldwide, its practical exploitation still faces many challenges in the developing economies of Asia such as India. The rights are still unknown to most of the producers despite being legally recognized by the Geographical Indications of Goods

<sup>1671</sup> Ministry of Commerce and Industry, "Policy Measures for Strengthening GI Protection in India," Government of India, 2018.

<sup>1672</sup> See WIPO, *Geographical Indications: An Introduction*, available at <https://www.wipo.int/publications/en/details.jsp?id=346>.



(Registration and Protection) Act, 1999; weak enforcement of the law is also advantageous for the unscrupulous producers. The rewards do not always reach the best needs since the corporate business and intermediaries mostly take the substantial economic gains, leaving small-scale artisans and farmers with little benefit; again, counterfeit commodities and illegitimate use weaken the value of labeled goods through diluting potentialness in the market. Therefore, the current study is an exploration of the issue that concerns whether laws regarding GIs empower rural producers in India, or whether they primarily serve commercial interests.

**Research Objectives:** To analyze Geographical Indications in and from the perspective of their contribution to rural economic development, to conduct a legal and economic analysis. The evaluation will be based on the protection available under the GI provisions in India and the enforcement mechanisms and level of awareness amongst producers, respectively. Challenges of getting registered and reaping benefits under the GI protection for rural artisans and farmers will be critically evaluated.

### Significance of the Study

Geographical Indications is usually one of the driving forces that push economic development, development of disadvantaged rural areas, and maintenance of cultural values. As an IPR, GI protects “products and prevents unauthorized exploitation of the resource of the geographical area under which it is registered”<sup>1</sup> while providing registered producers exclusive rights that can yield benefits economically to communities.<sup>2</sup> The central objective of the Geographical Indications of Goods (Registration and Protection) Act, 1999 was the protection of the traditional knowledge embodied in the product from commercial exploitation and spurring the rural producers towards economic gains from registration.<sup>3</sup> However, the real impact of GI protection on rural communities would be a

matter of controversy. The present study is of importance as it tries to evaluate critically the role of GIs in creating sustainable rural development by studying the legal, economic, and social dimensions of GI protection. A major contribution of this study will be made by finally arriving at the economic empowerment through GI protection<sup>1673</sup>. While the registration of GIs intends to give economic advantages to rural producers, research suggests that this benefit is usually skewed more towards big corporate houses and intermediaries than small-scale artisans and farmers.<sup>4</sup> It, through an analysis of case studies – one where the GI-tagged products have done well and another where they have not in India – will help trace the factors that determine the economic outcomes of GIs and suggest ways to ensure that the benefits are distributed equitably. The paper will also look into legal challenges in the enforcement of GIs. Many producers of GIs are faced with ineffective enforcement provisions and this has created opportunities for massive counterfeiting and unauthorized use of GI tags. The paper, to be precise, will address the protection factor of the GI in India, its effectiveness, and then find the loopholes that need to be mended. In addition, rural producers need to be informed about their rights regarding GI registration. Most of the small-scale artisans and farmers do not have knowledge of their rights; consequently, they do not derive the full benefits from GI protection. This paper will discuss how knowledge gaps can be filled using awareness campaigns and legal aid programs. Another very significant part of this research is GI protection felt as a very effective tool in the preservation of cultures. Many of the GI-tagged products, such as Banarasi Sarees, Madhubani Paintings, and Pochampally Ikat, have rich histories of culture. Protecting such products reserves cultural values and would support sustainable tourism and local employment. However, commercialization

<sup>1673</sup> See S. Gupta, *Challenges in GI Registration and Protection for Small Producers in India*, 10 Int'l J. Rural Dev. 89, 95 (2022)

often leads to exploitation of traditional knowledge for corporate profit at the expense of the interests of indigenous communities. The study critically considers whether or not the GI laws of India actually preserved cultural heritage with fair economic returns to the local artisan. It is in this light that this research remains pertinent to discussions about international commercial relationships and international adherence to GI regulation. The Agreement of World Trade Organization relative to aspects of the intellectual property rights contract mandates the regulation of GI, but the implementation of enforcement varies from country to country.<sup>9</sup> For this reason, the study will make a comparison of the existing framework in India to that of European Union with its PDO and PGI systems, respectively, to draw inspiration for good practices from which India will be able to improve its GI regime.<sup>10</sup> The study is thus very significant. It gives a wide evaluation of the contribution of GIs to rural development, economic empowerment, legal protection, cultural preservation, and even world trade, placing key policy recommendations that will see to it that small producers and artisans in India make to what is legally and economically theirs of the economic benefits. Through a legal and economic analysis, the study contributes to on-going debates over the role that GI laws can play in promoting sustainable rural development.

### **Research Methodology and Scope**

**Methodology of Research** The present study applies a doctrinal and empirical research methodology to critically analyze the role that Geographical Indications can play in promoting sustainable rural development in India. **Doctrinal Research:** The study mostly depends on primary legal materials such as the Geographical Indications of Goods (Registration and Protection) Act, 1999 and relevant provisions in the TRIPS Agreement, and

judicial precedents<sup>1674</sup>. **Secondary sources** will be books, journal articles, reports of the World Intellectual Property Organization (WIPO), and reports of government and nongovernmental organizations to gain an understanding of the economic, legal, and social dimensions of GI protection. **Empirical Research:** The researcher will study and present the cases of successful and unsuccessful products having a GI tag in India to be able to assess their contribution to economic empowerment and cultural preservation. **Data from stakeholder interviews, surveys, and producer communities, as well as policymakers and enforcement agencies will be evaluated for the challenges of GI enforcement and awareness to understand the different aspects of the issue.** **SCOPE OF THE STUDY** It will include the following: **Economic Impact:** Income distribution, market access, and financial benefits for rural producers will be the subject of discussion. **Legal Framework:** Indian GI laws will be evaluated concerning challenges related to enforcement and compared to WTO-TRIPS, EU's PDO & PGI systems, and other international standards. **Social and Cultural Aspects:** How GIs Contribute to Protection of Cultural Heritage and Community Identity. **Policy Recommendations:** Measures to Enhance Enforcement of GIs, GI Awareness in Rural Areas, and Benefits for All Equitably Distributed<sup>1675</sup>.

### **Conclusion**

Geographical indications are one of the most important mechanisms through which Traditional Knowledge (TK) is protected. The provisions of GIs also broadly contribute toward rural development, particularly in providing economic opportunities to local producers. This is achieved by ensuring the communities to which the specific geographical indication applies have the right to exclusive use of the product, ensuring

<sup>1674</sup> Geographical Indications of Goods (Registration and Protection) Act, 1999, § 1 (India).

<sup>1675</sup> Report of the GI Committee, Ministry of Commerce, Government of India (2023).

authenticity, possible recognition in the market, and premium pricing of the traditional product. This is what the Act of 1999 on the Geographical Indications of Goods (Registration and Protection) is intended to do, but its implementation has been fraught with several constraints. The potential of GIs in India has not been fully utilized due mainly to poor awareness, weak enforcement, and inequitable distribution of economic benefits. The burden of the cost of GI registration falls more heavily on the small farmer, artisan, or rural producer while bigger corporations and intermediaries accrued most of the benefits. However, for the small farmer, artisan, or rural producer, it is very difficult to take full advantage of the benefits of GI registration. Strengthening legal enforcement and awareness campaigns, and ensuring direct market access for GI producers must be the main ways of ensuring due shares of benefits for all stakeholders. The commercialization of traditional knowledge without adequate protection for indigenous communities also raises some ethical and legal questions. But actually, besides economic empowerment, GIs play a more important role in cultural preservation and sustainable tourism. Darjeeling Tea, Pochampally Ikat, and Madhubani Paintings show how products can be used under the protection of GIs to preserve heritage and give economic opportunities. In the absence of adequate protection, commercial exploitation shall be considered both an ethical and a legal issue towards indigenous communities. Global best practices should be analyzed and adopted to improve the functionality of India's GI system, one such example being the PDO and PGI frameworks as set by the European Union. The synthesis of policy measures, institutional support, and impetus to join GI protection with rural development programs might dramatically upgrade its impact. In conclusion, though the prospects of Geographical Indications are huge in terms of economic growth, cultural preservation, and international trade unless the proposed GIs are properly implemented,

along with some reforms in laws along with effective participation from rural communities, all will be in vain can India unlock them. In the full potential to empower small-scale producers and enhance its global trade presence.

