



Tradition Meets Trade: An Analysis of the Symbiotic Relationship of Geographical Indications (GIs) and Cultural Conservation in India

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Abstract

The study analysis elaborates on the ethical issues related to Geographical Indications (GIs) in India, more specifically, the tension of economic usage and cultural appropriation. It looks into the two-fold function of GIs as instruments of trade and revenue and as shields of identity and tradition including commodities such as Darjeeling Tea, Basmati Rice, etc. The paper covers the legal structures with regards to GIs in India with focus on ethical issues such as commercialisation, cultural imperialism, and social justice. Thus, the study also aims to cater policy implications to improve the ethical handling of GIs and state that concentration of benefits along with safeguarding of the cultural assets is critical. In conclusion, the author calls for the need to adopt a balanced perspective in analysing the factors that underlie the conflict of economic and cultural values and in doing so, the paper posited to advance knowledge in the area of Intellectual Property Law as a field of study as well as in the field of policy. Sources of the study include legal documents and articles. In that light, the author notes that even though GIs are economically rewarding, their use must be regulated in order not to adversely affect the cultural values that define a particular product.

Keywords: Geographical Indications, Ethical Considerations, Cultural Preservation, Commercial Exploitation, IPR

1. Introduction

GIs are a special form of IPRs that protect that product with reference to a place where the quality, reputation or characteristic of the product is associated or related to the place of origin. While trademarks are related with a certain economic factor, GIs are connected with cultural and geographical identity of a region. This link with territory makes GIs not only geographical signs of origin but also of cultural and ancestral asset of the producers. The use of GIs is thus twofold. In the first instance they are used to safeguard the interests

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of producers in a certain region from other producers who may wish to use the name but may not meet the set quality standards. This guarantees that only those who follow the laid down methods of production, and location restrictions can be associated with the GI label. In addition, GIs create market value and a brand image that can be associated with premium pricing, thus helping to create economic viability for rural and indigenous peoples' producers.¹

The regulation of GIs at the international level is based under Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement under the World Trade Organisation (WTO). According to the TRIPS Agreement, member countries are required to offer protection to GIs, so that they cannot be exploited or duplicated in international markets. Article 22 of the TRIPS Agreement sets out the minimum standard of protection that must be afforded to GIs and Article 23 contains further protection for GIs used in relation to wines and spirits.²

GIs India have strong historical and cultural connection in the country's cultural and historical context. These GIs are more than just products as they represent the traditional agriculture and rural innovation practices, traditional skill and knowledge, cultural heritage, that has developed and evolved within communities over generations. These products are living memorials of the regions that they originate from and they help in the retention of the cultural heritage of these regions. Every product that carries a GI mark is a symbol of the environmental factors, skills and tradition of the particular geographical region of its origin and therefore a cultural product in addition to being a commercial commodity.³

Due to the growing problems of imitation and dilution, the legal protection of GIs is essential in preserving the integrity of this cultural asset. Traditional products and practices are endangered in a world where globalization is seen to be causing cultural standardization. GIs

¹ Tushar Arora & Akshatra Sharma, Emergence of Geographical Indication in India, 4 *Indian Journal of Law & Legal Research*. 1 (2022-2023).

² Lucas S. Michels, A Blueprint for International TRIPS plus Geographical Indication Protections? An Analysis of Geographical Indication Protection Proposals in the European Union - India Bilateral Trade and Investment Agreement, 15 *Gonzaga Journal of International Law*. 112 (2012).

³ Abhishek Kumar & Ajeet Kumar, Geographical Indication (GI): An Overview, 3 *Nyaayshastra Law Review*. 1 (2022).

also serve as a safeguard that guarantees that such special cultural commodities retain their purity and are sustained. In as much as GIs recognize and protect the individual characteristics and history of these products, their use assist in the passing on of these products' cultural characteristics to subsequent generations. This retention of cultural differences is important given the fact that the world economy has become a place where similarity seems to rule the roost.

On the economic front, GIs bring about a revolutionary change in the concerned producing regions especially in the rural and tribal belts of India. The benefits that flow from a GI are in many cases reflected in a higher market value of these products, as consumers are willing to pay a premium for the so-called "original", "genuine", or "high-quality" goods. Such economic upliftment is particularly important in the rural areas as the traditional ways of making a living are becoming more and more endangered by modern industrialization and economic exclusion.⁴ But this has not been without some ethical dilemmas in the commercialization of GIs. One important issue of debate is whether economical utilization of these products is a way of eradicating them or merely a way of compromising them and their social and cultural significance. Ethical concerns are inevitably generated when the corporate imperative to feed the global market at the doorsteps of people who have long been crafting products for export.

The ethical issues are further magnified when we discuss them in the context of India that is diverse and economically differentiated society. There is also the need for the rightful owners of the GI products which include the various communities to exercise control over their use as well as gain fairly from the commercialization of the products. Ethical management of GIs cannot allow the erosion of cultural values and heritage while at the same time denying those who stand to benefit from the protection of such products fair share of the returns.⁵

Scholars have increasingly viewed Geographical Indications (GIs) not only as legal and economic tools but also as cultural signifiers that embody the living traditions of communities. Literature emphasizes

⁴ Sania Gupta, Geographical Indication: An Indian Outlook, 3 *Indian Journal of Law and Legal Research*. 1 (2021).

⁵ *Id* at 4.

that GIs function as “cultural capital”, preserving intangible heritage such as artisanal practices, agricultural wisdom, and regional identity. By tying products to their place of origin, GIs serve as instruments for transmitting collective memory and sustaining community pride. They are often described as a meeting ground between intellectual property and cultural rights, ensuring that culture is not reduced to folklore but remains a dynamic, market-recognized asset. This perspective strengthens the theoretical foundation of GIs as more than protective legal labels, they become carriers of identity, authenticity, and cultural survival.

2. Conceptual and Legal Framework of GIs

India has the Geographical Indications of Goods (Registration and Protection) Act, 1999 which is the main legislation relating to GIs. Being implemented to implement India’s obligations under the WTO’s TRIPS Agreement, the Act is one of the most important tools to protect and promote distinctive features of products that are arguably associated with the identity of specific territories. The Act also gives a framework through which GIs are registered and protected to safeguard the economic rights of the real owners and curb unfair use of such unique products.⁶

The procedure of obtaining protection for a GIs under this Act is elaborate and involves several steps to bar men of any tricks in claiming protection for a particular product. Firstly, an application has to be filed by an association of persons, producer, organization or authority for the producers interested. This application must therefore include a description of the product together with specific features that entitle the product to the GI status. Besides, it must state the geographical location where it produces the product, and this must be closely associated with the characteristics of this location. Once the application is submitted the same is examined and if it complies with the requirements, the GI is published in the Geographical Indications Journal. At this stage, the public is allowed to lodge an objection within a set period of time as was seen in the case study. If there are no objections or if the objections are withdrawn or deemed withdrawn, then the GI is registered. This registration provides the rightful owners the supreme authority to use the GI concerning the product and the

⁶ Abhishek Kumar & Ajeet Kumar, *supra* note 3.

ability to limit the usage of the GI to only those who meet the laid down requisites.⁷

Darjeeling Tea known as the 'Champagne of Teas' is the first product to be Geographical Indication in India. Grown in the hilly terrains of Darjeeling in the West Bengal of India, this tea has a characteristic flavour which is due to the soil, climate and the method of cultivation of this tea. GI status of Darjeeling Tea not only has strengthened the position of Darjeeling Tea in the international market but also has a great contribution to maintain the indigenous process of the regional people.

Kanchipuram Silk is another Indian GI product which is famous for its fine craftsmanship, bright colours and the quality. They are complimented with pure silk fabrics known as 'Kanjeevaram' which is hand-woven by skilled weavers living in the town of Kanchipuram in the state of Tamil Nadu. The motifs and the craftsmanship required to weave a Kanchipuram Silk saree are unique, and has become synonymous with the tradition of the area. The GI tag for Kanchipuram Silk helps in bringing these ancient techniques of weaving to a halt for imitation or weakening by low-cost imitations.⁸

Basmati Rice grown in the nutrient rich area of the Indo-Gangetic plains, it has long and slender grains with an aromatic flavour and taste. GI status of Basmati Rice is very important in preserving the quality and origin of rice that can be sold in the market as Basmati Rice and to ensure that rice with a different quality or origin cannot be labelled as Basmati Rice and therefore posing a threat to the high premium price commanded by Basmati Rice. Thus, by gaining the GI tag, India also saves the qualities of this rice and spirituality and history, strengthening the image of Basmati rice as a part of the country's agricultural legacy. This protection also has economic impact on the farmers cultivating Basmati they get premium price for their produce and their conventional farming techniques are appreciated and valued in the international market.⁹

⁷ Sheheen Marakkar, Maglin M. Raja & B. J. Abjith, Registering a Geographical Indication in India: Procedures and Requirements, 3 *Indian Journal of Integrated Research in Law*. 1 (2023).

⁸ Nandika Mehta, A Tool of Differentiation: Geographical Indication, 4 *International Journal of Law Management & Humanities*. 4869 (2021).

⁹ Harsh V. Chandola, Basmati Rice: Geographical Indication or Mis-Indication, 9 *Journal of Worlds Intellectual Property* 166 (2006).

3. Ethical Implications, Commercial Interests, and Cultural Preservation of GIs

(a) Ethical Theories

In deontological ethics, which derive from the work of Immanuel Kant, the focus is made to duty, rules, and obligations. If applied to GIs, this theory would state that there is a prima facie moral obligation towards the safeguarding of cultural assets, regardless of the outcome. The ethical imperative here is to provide for the liberty of communities to protect their indigenous information and cultural works. From deontological perspective, the registration of GIs has the moral appeal of preventing people's culture and associated products from being exploited in wrong ways. This approach emphasises the legal requirements for protection of cultural heritage by seeing GIs as ways of fulfilling these obligations.¹⁰

On the other hand, there are theories such as utilitarianisms as advanced by Bentham & Mill, which emphasize on the principle that emphasizes on the greatest good for the largest number. In GIs, then, utilitarianism would assess the act of using GIs on the effects they create, especially on effectiveness and the common good. From a rational egoist viewpoint, it might be possible to justify GIs on the grounds that they are ethical when they result in improved economic performance of the target community and the welfare of the society. However, this approach also brings into question the identification of whose welfare is of paramount importance, if benefits accrued to the community are a share for all the members of community or they reaped by the few.

(b) Cultural Preservation

GIs are central to safeguarding and promoting as they are instruments that have been developed by WIPO to protect traditional knowledge and cultural heritage. In this way, GIs act as a tool that connects products with the regions, thus ensuring protection of cultural values, identity and purity of the residents of these areas. They work so that a cup of Darjeeling tea, silk sarees of Kanchipuram or Basmati rice are not just identified for their quality but also for the tradition they bear.¹¹

¹⁰Tripathi, S.M., Vedula, S. (2022). *Managing Geographical Indications: Challenges and Opportunities*. In: Bhattacharya, N.S. (eds) *Geographical Indication Protection in India*. Springer, Singapore. available at: https://doi.org/10.1007/978-981-19-4296-9_8.

¹¹ Harsh V. Chandola, *supra* note 9.

That GIs are an ethical way to protect cultural identity is grounded in the understanding that culture is not an individual property. It is owned by the community as a whole in reflecting a part of the society's history, culture and heritage. Safeguarding these assets under GIs guarantees that they are not watered down or assimilated by other outside parties but are passed on in their original state for future generations' use. This ethical obligation is in consonance with the principles of cultural rights which state that every group of people has a right to their cultural identity.

However, the process of commercializing GIs poses some serious problems to the integrity of these products and their cultural value. In some cases, the process of commercialization of a GI product may involve changes that are required by the market, which may include altering a traditional practice of manufacture or the use of symbols that are culturally sensitive. This brings in to question the ethical stand of the two objectives; does the drive for economic gains trump the cultural value of the commodity? For example, demand for a GI product may rise across the globe and this will compel producers to produce more and more of it, thus eradicating the 'special' aspect of the product and hence the GI. The ethical issue here is how to preserve cultural resources while at the same time maintain commercial relevance.¹²

(c) Commercial Exploitation

GI brings about mainly economic returns to the local people in that they afford the people an opportunity to monetize on the distinctiveness of their geographical area products. The commercialization of GI products ensures that the producers make more income, people are employed and in the long run the economy of the region is boosted. For instance, the GI status of Darjeeling tea has helped in the branding of the product and the consequent increase in prices and better life of the tea growers. The economic value of GIs therefore makes them very useful in the development of rural areas and eradicating poverty.¹³

But the protection and commercialization of cultural products through GIs also have its ethical implications. Another problem is the

¹² Sania Gupta, *supra* note 4.

¹³ J. Devi, Critical Analysis of Natco versus Bayer: An Eye Opener in India, 5 *International Journal of Law Management & Humanities*. 2502 (2022).

risk of the reification of culture and cultural identity, which is the transformation of culture into mere market goods. This commodification can lead to a rather reductive use of cultures where the cultural meanings of objects are ignored in favour of their commercial values. For instance, the process of commercialization of a GI product may lead to the dilution of the cultural attributes linked to a product since the business advantages of a particular product are valued more than its cultural value. This raises some ethical issues, where by the economic benefits of GIs are viewed as being very important while cultural losses might be viewed as not being very important.

Commercial Interests and Cultural Preservation

The communities face the dilemma of being true to themselves or being true to their adaptive selves. It is not easy to sustain the originality of an item during the process of adaptation to the market. For example, methods of production could be costly and time consuming compared to the current methods. However, going against these methods dilutes the character and the cultural significance of the product and thus questions the real essence of the cultural representation.¹⁴

Another considerable ethical issue can be associated with the fair distribution of economic gains. Although GIs can bring significant revenues, the problem of how those revenues would be equitably allocated among the members of the community is quite challenging. Sometimes, the economic benefits derived are not balanced which creates internal contradictions and social injustices in the society. The ethical dilemma here is to develop structures that would guarantee that all the actors especially the vulnerable or the weaker members of society benefit from the gains that come with GIs. Most communities are organized with many groups and each group has its own interest and view in any given task. Selecting who has the mandate to speak for the community and make decisions on how cultural commodities are commercialized is always a contentious issue. This is an ethical principle that is very hard to accomplish: every voice must be valued, and the decision reached must reflect the genuine desire of the community.

¹⁴ *Id.*

4. Conclusion and the Way Forward

The ethical issues connected with GIs mainly arise from the conflict of interest between the maintenance of cultural identity and the opportunities that come with the commercialisation of such identification. GIs are aimed at preserving the distinctiveness of products and cultural heritage of indigenous people; however, the marketing of such indications may have negative implications and undermine the essence of cultural beliefs. The growth of market demand for products with a GI often leads to an emphasis on the production of goods with a GI-tag, which may lead to the loss of the distinctive features that are the basis for obtaining such a status. Furthermore, the distribution of economic values from GIs is an issue of equity since it appears that some disadvantaged groups may be excluded from the benefits or they get little share from the revenues thus deepening social inequalities.

The tension between maintaining the cultural integrity of a place and the need to make money out of it should therefore be handled with careful consideration of both values. On the one hand, GIs can be effective instruments for the economic growth and can provide communities with opportunities to profit on their cultural resources. On the other hand, there is an ethical approach to the commercialization process which should not distort the idea of cultural heritage. Such balance can be attained through an effective legal system, communities, and policies that respects sharing of benefits. More studies are required to understand how these factors work across the regions and products in India especially concerning the GIs effects on cultural conservation and equitable economic development. Such research could also analyse the part that international trade relations play in the fashioning of ethical GIs and provide probably the best understanding of how global and local stakeholder interests may be aligned.

Hence, the story of GIs is where tradition meets trade. They symbolize the convergence of inherited practices with modern markets, carrying the dual promise of economic vitality and cultural preservation. For GIs to realize their full potential, policies must ensure that the “trade” component does not eclipse the “tradition” that gives these products their meaning. By aligning ethical commercialization with cultural integrity, GIs can stand as a model of how heritage can thrive within global trade without being commodified beyond recognition.