

LEGALFOXES LAW TIMES

UNDERSTANDING GEOGRAPHICAL INDICATIONS AND THE ECONOMIC RATIONALE

-By Samaasinee Shreevastava

A geographical indication (hereinafter referred to as GI) is a sign that identifies a product as originating in a given place. Since the qualities depend on the geographical place of production there is established a clear link between the product and its original place of production. A 22 of the TRIPS agreement defines GI as “Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

In the late 1990s, after the ‘*basmati rice*’ controversy, India realized the importance of its vast and unique geographical advantage and its potential in the market worldwide. TRIPS is not applicable unless GI is protected in the country of its origin. Thereafter, two legislations were enacted governing the GI: Geographical Indication of Goods (Registration & Production) Act, 1999 and Geographical Indication of Goods (Registration & Production) Rules, 2003. These Acts are ‘*sui generis*’ as unlike other Intellectual Property it is a public property and hence can’t be licensed, sold or assigned. The registration is granted for a period of 10 years and can be renewed for more. If two or more authorized users get the GI registered then they will have co-equal rights. The first registered GI of India was granted to ‘*Darjeeling Tea*’ in 2004.

GI is primarily granted to agricultural, natural, manufactured, handicraft originating from a definite geographical territory. It is a collective and intellectual heritage that need to be protected and promoted. It represents the collective goodwill of geographical region which built itself over centuries. For example from years we all have heard about the Kashmiri Pashmina, Agra Petha, and Kanchipuram Saree etc. All these products highlight the hard work and efforts that have been put into these products for centuries by the people of these region. The techniques and procedure that they have developed should be protected and promoted for better economic gains.

By protecting the knowledge and community rights it will lead to fair competition in the market. When the product is given market recognition of a region the price of the product increases to premium price. The most famous example in Indian market is that of '*Kadakhnath Chicken*' from Chhattisgarh. After getting the GI its price increased from Rs. 500/kg to Rs. 1000/kg.

The main purpose of granting GI are-

1. To protect the interest of producers of such goods
2. In the exclusion of unauthorized persons from exploiting GI and to protect consumers from deception
3. To boost products bearing Indian GI in the export market

Understanding the added value produced from these resources leads to a differentiation based on product "qualities" and, as a result, to the establishment of niche markets is necessary to comprehend the growing significance of geographical indications and its economic justification. Producers in niche markets with origin labels have the chance to preserve and grow their markets as well as turn the value added into an economic rent thanks to the collective monopolies that emerge as a result of the institutionalisation process. Despite the possibility of a tiny premium, geographical indications have the potential to be effective marketing tools that open up new markets by differentiating products based on their place of origin, limiting supply, and raising barriers to entry. The GI's "reputation's effect," which is quite comparable to the trademark's effect, is what determines the economic impact. Because of the money spent promoting the brand, buyers are aware of the name before they learn about the product's quality and confidence that they will receive the required quality when they purchase it. The combination of "product-quality-certification-brand" is raising consumer willingness to pay. Offering good quality products, not misleading customers, and spending money on branding and advertising have a "return on investment" that creates a cash flow that returns back to the producers. By improving the income effect, establishing a legal framework with the goal of avoiding the theft of origin-based products and safeguarding their reputation may have a significant positive impact on development. This in turn directly contributes to boosting a country's economy. But unlike affluent countries, the GI regime in developing countries is still in its infancy. Therefore, claiming the same has economic ramifications in various countries is fairly complicated. These nations do not depend on niche markets for survival, other from institutional and legal efficiency.

India currently boasts a distinguished pedigree of more than 350 authorised GIs. The capacity of a nation to implement effective enforcement strongly influences the ability of increased revenue through GI protection. Both the product and its quality must be influenced by the location of production in order to receive the GI label. The Geographical Indication Rights forbid any makers, illegal users, or third parties from utilising the indication in goods that do not meet the relevant standards.

Textiles, handicrafts, paintings, agricultural and horticultural products, beverages, and other items have been granted GIs in India. Contrast this with the situation in Europe, where GIs typically refer to wines and spirits or other food and agricultural products.

In a country like ours where there is diversity the most potential benefit of GI will be for local community. They can preserve their knowledge and technique developed for positive benefits. It will also help in preserving the bio-diversity, local know how. Granting more GIs will lead to more economic and soft power for our country. Stronger the GI ecosystem grows, it will attract more recognition in the market. This will also resolve the major issues of India such as poor pay for talent, urban migration and most importantly participation of women in the labour force. The women of our country can gain financial freedom from their regional knowledge adding more in the economy. Another revenue-earner, GI tourism, is typically a by-product of a strong GI ecosystem.

In conclusion, it is clear that the economic case for protecting geographical indications stems from the possibility of using place of origin as a quality indicator or, alternatively, from the possibility of capturing the resources of the region in the origin-labeled product as quality attributes. A geographical indicator offers a special chance to use local resources in regional development strategies because of the system's communal and inclusive nature. Producers who target niche markets with origin labels have the chance to protect and develop the potential of these markets and turn the value added into an economic rent thanks to the collective monopolies that emerge from the institutionalisation process.