

Legal Analysis of Geographical Indications and Their Application in the Agricultural Sector

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Abstract:

Geographical Indications (GIs) constitute a vital form of intellectual property protection aimed at safeguarding traditional knowledge, regional identity, and product authenticity. India, endowed with rich Agro-climatic diversity, has witnessed a substantial rise in GI-tagged agricultural products under its sui generis legal framework. This article examines the origin and evolution of GI protection, its incorporation into Indian law, and its application within the agricultural sector. Through an analysis of selected GI-tagged agricultural products, the study identifies a critical concern: the absence of clear, uniform, and consistently enforced standards for interpreting the TRIPS-mandated criteria of “quality,” “reputation,” and “other characteristics.” The paper reveals that overlapping interpretations, reliance on anecdotal evidence, and inadequate substantiation of geographical linkage often weaken the credibility of GI registrations. Such ambiguities risk diluting consumer trust and undermining producer interests. This paper argues for the need to refine and operationalize these standards within India’s GI regime to ensure authenticity, legal certainty, and sustainable rural development.

Keywords: Geographical Indications; Agricultural Products; TRIPS Criteria; Traditional Knowledge; Indian GI Regime; Quality and Reputation.

INTRODUCTION

Geographical indicators are not the subject of an absolute right that belongs to a single proprietor, in contrast to other intellectual property rights, because “due to their nature, they may not be monopolized” they represent absolute rights intangible property. It is produced in business transactions by using the appropriate symbol. Geographical Indications (GIs) are vital in protecting products whose quality and reputation are intrinsically linked to their place of origin. They preserve traditional knowledge, cultural heritage, and indigenous production practices, especially in the agricultural sector. GIs prevent misuse and misrepresentation, thereby ensuring authenticity and consumer trust. Economically, GI protection enhances market value, enables premium pricing, and supports rural livelihoods through collective rights and equitable benefit-sharing. Legally, GIs strengthen intellectual property regimes by balancing commercial interests with community welfare. Further, they promote environmentally sustainable practices by linking product quality to local ecosystems. In an increasingly globalized and standardized market, GIs function as effective tools for product differentiation, regional branding, and sustainable development.

DEVELOPMENT AND PROTECTION OF GEOGRAPHICAL INDICATIONS IN INDIA

India remains at a relatively nascent stage in the full development and effective utilization of its Geographical Indication (GI) regime. For a considerable period, the economic and cultural potential of GIs remained underexplored, and serious initiatives toward their protection emerged only after India began recognizing the strategic importance of safeguarding region-specific products. This realization was significantly influenced by international disputes surrounding Indian-origin products, most notably the Basmati rice and Darjeeling tea controversies. These disputes exposed the vulnerabilities of Indian geographical names in the absence of a robust domestic legal framework and underscored the urgent need for GI protection at the national level. The Basmati rice dispute was a pivotal moment in India’s GI journey. In 1997, the United States Patent and Trademark Office granted patents for three novel rice varieties developed in the United States, which were permitted to be marketed under the name “Basmati.” Traditionally, Basmati refers to a long-grained, aromatic rice cultivated in the Indo-Gangetic plains, particularly in Punjab. Subsequently, in 1998, the US Rice Federation asserted that the term “Basmati” was generic and merely described a category of aromatic rice rather than a geographically specific product. This position threatened to dilute the geographical and cultural identity associated with Indian Basmati rice. In response, a coalition of Indian and international civil society organizations initiated legal action to prevent the marketing of US-grown rice under the “Basmati” label. However, in May 2001, both the US Department of Agriculture and the Federal Trade Commission rejected the petition, holding that the description “American-grown Basmati” was not misleading to consumers. The authorities classified “Basmati” as a generic term. Strong protests from India and Pakistan eventually led to a partial victory, as the US Patent Office prohibited the patent holder from using the term “Basmati.” The rice varieties could thereafter be marketed only under alternative names such as “Taxmati,” clearly indicating that they were not of Punjabi origin. This dispute highlighted the limitations of international protection in the absence of corresponding national legislation. A similar challenge arose in relation to Darjeeling tea, a product uniquely associated with the Darjeeling district of West Bengal. Numerous companies across the globe were marketing tea under the “Darjeeling” name despite the product neither being grown nor processed in the designated geographical area. These developments prompted Indian policymakers to recognize that effective international protection of Indian GIs could be achieved only if strong domestic legal mechanisms were first put in place. Consequently, India’s GI policy evolved largely as a response to these international misappropriations.

This realization culminated in the enactment of the Geographical Indications of Goods (Registration and Protection) Act, 1999, which came into force on 15 September 2003, along with the Geographical Indications of Goods (Registration and Protection) Rules, 2002. Prior to this legislation, India lacked any law that specifically addressed the protection of GIs or appellations of origin. The enactment of this statute marked a significant shift in India’s intellectual property regime, aligning domestic law with its obligations under the TRIPS Agreement.

Protection of Geographical Indications in India Prior to the GI Act

Before the enactment of a dedicated Geographical Indications statute, India protected geographical names indirectly through trademark law, consumer protection legislation, and common law principles, reflecting its British legal legacy that resisted monopolization of geographical terms. Three principal mechanisms existed. First, consumer protection laws such as the Consumer Protection Act, 1986 and the MRTP Act, 1969 addressed misleading representations and deceptive trade practices, though their focus remained on consumer welfare rather than

collective producer rights. Second, the common law remedy of passing off was used to prevent misrepresentation of geographical origin by protecting the goodwill attached to geographical names. However, passing off was reactive, case-specific, and lacked preventive certainty. Third, certification trademarks under trademark law offered limited GI-like protection, administered by a certifying authority. The “Darjeeling Tea” certification mark, owned by the Tea Board of India, exemplified this approach. Despite partial effectiveness, enforcement limitations led to the eventual adoption of a specialized GI regime.

Role of the Indian Judiciary in GI Protection

In the absence of a dedicated statute, the Indian judiciary played a crucial role in extending protection to GIs through judicial interpretation and application of common law principles. Courts frequently granted injunctions restraining traders from engaging in deceptive practices involving geographical names, thereby indirectly enforcing the spirit of Articles 22 and 23 of the TRIPS Agreement even before India formally implemented them. In *Imperial Tobacco Co. v. Registrar of Trademarks*, the Calcutta High Court elaborated on the nature of geographical terms, holding that while such terms cannot ordinarily be monopolized, they may be protected if used in a fanciful or arbitrary manner unrelated to geographical origin. The court emphasized that well-known geographical names could not be registered as trademarks if such registration would hamper present or future trade. The doctrine of passing off was further clarified through reliance on English jurisprudence. In *Erven Warnink BV v. Townend & Sons*, the House of Lords articulated five essential elements of passing off, later reduced to three by Lord Oliver in the landmark *Reckitt & Colman Products Ltd v. Borden Inc.* case. These elements including goodwill, misrepresentation, and damage were consistently applied by Indian courts in GI-related disputes.

Indian courts demonstrated a strong commitment to protecting geographical reputation in *Scotch Whisky Association v. Pravara Sahakar Shakar Karkhana Ltd.* The Bombay High Court restrained the defendant from marketing Indian whisky using expressions such as “Blended Scotch” or “Blended with Scotch,” holding that such representations constituted deliberate passing off and unfair trading. The judgment underscored that even unintentional misrepresentation could be actionable and affirmed the right of foreign associations to protect the goodwill of geographically identified products in India. These judicial interventions reveal that, even prior to statutory recognition, Indian courts provided substantial protection to GIs. However, such protection remained judge-made, fragmented, and often blurred the distinction between trademarks and geographical indications.

The evolution of GI protection in India reflects a gradual transition from reliance on indirect legal remedies to the establishment of a comprehensive statutory framework. International disputes involving Basmati rice and Darjeeling tea served as catalysts, compelling India to recognize the economic, cultural, and strategic value of GIs. While pre-GI Act mechanisms such as passing off, consumer protection laws, and certification trademarks offered partial relief, they were inadequate to address the unique collective nature of geographical indications. The enactment of the GI Act, supported by progressive judicial interpretation, marked a decisive step toward safeguarding India’s rich regional heritage and strengthening its position in the global intellectual property regime.

GI PROTECTION UNDER GEOGRAPHICAL INDICATION OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999

It became effective on 2003 after the enactment of the legislation in 1999. The Act is administered by the Controller General of Patents, Designs and Trademarks, who is also the Registrar of Geographical Indications. The act provides registration in two parts Part A is related to the registration of GIs. Part B relates to the registration of authorised users/proprietors such as names, addresses and descriptions are indicated.

The Definition included in the GIGA is fairly broad.

Section 2 (1)(e) of the Act defines GI as:

“GI, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.”

The concept of goods under the Act clarifies that ‘goods’ to mean any

- (i) Agricultural goods
- (ii) Natural goods
- (iii) Manufacturing goods or
- (iv) Goods of handicraft and foodstuff.

This definition is just illustrative when compared under TRIPS because its definition refers to “goods as a whole”.

The meaning of Indication defined under the Act is to include:

- (i) Any name (including abbreviation of a name)
- (ii) Geographical or figurative representation or
- (iii) Any combination or suggestion of the geographical origin or goods to which it applies.

The Act separately defines the term indication whereas the TRIPS it is limited.

The delimitation of a geographical area for the purpose of Geographical Indication (GI) protection may be undertaken through various methods, depending on existing political, administrative, and territorial divisions. Importantly, there need not be an exact correspondence between the geographical area identified for GI protection and the administrative unit whose name it bears. What is essential is that, in each case, it is clearly demonstrated that the specified geographical area falls within a recognized region, sub-region, zone, district, or similar territorial unit. The justification for such delimitation must be clearly articulated and supported by objective criteria. The determination of a claimed geographical zone must be clearly linked to the specific characteristics of the product, especially where similar production occurs elsewhere. In such cases, the application should justify the distinctiveness of the designated area and may specify the location of different stages of production such as sourcing, processing, or packaging to strengthen the geographical linkage. The quality of a GI product can be established either through a detailed description of the product itself or by reference to the methods employed in its production. Quality may derive from the nature of the raw materials used, physical characteristics such as shape, weight, appearance, consistency, pH value, or chemical composition, including the presence or absence of additives and residues. Microbiological factors, such as specific fermentation processes, and organoleptic attributes, including taste, aroma, texture, and visual appeal, also contribute significantly to product quality. Furthermore, the form in which the product is marketed whether fresh, preserved, or processed may also be relevant. Reputation, another critical element of GI protection, is closely associated with the historical origin and longstanding association of the product with a particular geographical area. Demonstrating reputation requires a historical account of the product, including early references to its name, production methods, and commercial use. Reputation is ultimately grounded in the product’s distinctiveness and its ability to differentiate itself from similar goods in the market. Consumer perception plays a central role in this assessment, and even a reputation established at the local or regional level may suffice for GI protection.

Finally, the link with geographical origin forms the cornerstone of any GI application. This link must clearly demonstrate how the product’s quality, reputation, or other defining characteristics are attributable to its geographical environment. Establishing this connection in an objective and precise manner is essential, as it forms the legal and conceptual basis for granting and enforcing GI protection.

GI AND THEIR APPLICATION IN AGRICULTURAL SECTOR

To understand the correct interpretation of the terms “quality” and “reputation” within the Indian legal framework, it is essential to examine selected GI applications relating to agricultural products. At present, 128 agricultural products in India have been granted GI registration, and these products collectively comprise:

Category of Agricultural Product	Number of GI-Tagged Varieties
Rice varieties	19
Mango variety	11
Chilli variety	10
Coffee variety	7
Banana variety	7
Orange variety	7
Tea variety	4
Turmeric variety	4
Betel leaf variety	4
Malligae Varieties (Jasmine)	3
Cardamom variety	3
Coconut variety	3
Jaggery variety	3
Onion variety	2
Brinjal variety	2
Lemon variety	2
Pineapple variety	2
Litchi variety	2
Grape variety	2
Ginger variety	2
Wheat variety	1
Pepper variety	1
Guava variety	1
Chikoo (sapota) variety	1
Pomello variety	1
Strawberry variety	1
Kewda Flower variety	1
Coriander variety	1
Maize variety	1
Cashew variety	1
Cumin variety	1
Saffron variety	1
Mehndi plant variety	1
Clove variety	1
Cucumber variety	1
Tomato variety	1
Custard Apple variety	1
Fig variety	1
Kokum variety	1
Raisin variety	1
Beans variety	1
Dal (Pulses) variety	1
Bay leaf variety	1
Betel nut variety	1
Teak variety	1
Rajma variety (Kidney Beans)	1
Oi variety	1
Apricot variety	1
Garlic variety	1

GI-Tagged Agricultural Products: Quality - Reputation Nexus: To understand how the standards of “quality” and “reputation” are applied in practice under the Indian GI regime, selected agricultural GI registrations across fruits, vegetables, flowers, beverages, cereals, pulses, and condiments are examined. These case studies demonstrate how physical attributes, chemical composition, Agro-climatic conditions, historical continuity, and socio-cultural association together justify GI protection.

Fruits and Vegetables: Agro-Climatic Specificity and Sensory Distinction: Several GI-tagged fruits and vegetables owe their uniqueness to a combination of soil characteristics, climatic conditions, cultivation practices, and historical continuity. Products such as Coorg Orange, Vazhakulam Pineapple, Nashik Grapes, and Guntur Sannam Chilli exhibit distinct physical qualities like colour, size, shelf life, pungency, or sweetness, which are directly linked to their geographical environment. In products like Malihabadi Dusseheri Mango and Malda Laxman Bhog Mango, reputation is strongly supported by historical gazetteers, agricultural literature, and long-standing commercial recognition. Conversely, certain products such as Nanjangud Banana and Kamalapur Red Banana demonstrate strong quality characteristics but comparatively weaker documentary evidence to establish historical reputation, highlighting inconsistencies in evidentiary standards.

Flowers: Cultural Embeddedness and Traditional Use: GI-tagged flowers such as Mysore Malligae, Udupi Malligae, and Hadagali Malligae derive their reputation primarily from cultural, religious, and historical associations rather than export-driven markets. Their quality is identified

through aroma, flower structure, and oil content, while reputation is supported by references in ancient texts, regional gazetteers, and long-standing cultivation traditions dating back to the Vijayanagara period and earlier.

Beverages: Process-Based Quality and Historical Trade Links: The GI protection of Monsooned Malabar Arabica and Robusta Coffee illustrates how unique post-harvest processing methods, combined with regional climatic conditions, contribute decisively to quality. The monsooning process specific to the Malabar Coast alters the chemical composition of coffee beans, producing a distinctive flavour profile valued internationally. Similarly, Araku Valley Arabica Coffee reflects how altitude, forest-based cultivation, and colonial-era documentation together establish both quality and reputation.

Cereals and Pulses: Medicinal Value and Indigenous Knowledge: Products such as Navara Rice, Palakkadan Matta Rice, and Bhalia Wheat demonstrate that GI protection extends beyond commercial traits to include nutritional, medicinal, and cultural significance. Navara Rice, in particular, stands out due to its documented use in Ayurvedic texts dating back several centuries, making reputation inseparable from traditional knowledge systems.

Condiments and Spices: Chemical Composition and Global Recognition: Spices like Malabar Pepper and Waigaon Turmeric exemplify how chemical attributes such as curcumin content, aroma, and pungency form the basis of quality. Malabar Pepper's reputation is reinforced by its historic role in global trade routes, while Waigaon Turmeric combines high curcumin levels with organic cultivation practices rooted in community traditions. From this we can analyse that "quality" in GI products may arise from physical traits (colour, size, texture), chemical composition (pungency, aroma, curcumin, sugar content), or a combination of both. Meanwhile, "reputation" is largely established through historical records, gazetteers, trade practices, cultural narratives, and consumer perception.

However, the study also highlights a structural challenge: in several cases, reputation is inferred from oral histories or anecdotal evidence due to the absence of formal documentation, raising concerns about consistency and evidentiary rigor in GI registration.

CONCLUSION

In the knowledge-driven economy, protecting India's indigenous and traditional knowledge has become increasingly important amid widespread imitation and misappropriation. In this context, intellectual property rights, particularly Geographical Indications (GIs), play a vital role. With its rich cultural and ecological diversity, India has developed a substantial portfolio of GI-tagged products across diverse categories.

Article 22.1 of the TRIPS Agreement defines a geographical indication as a sign identifying goods whose quality, reputation, or characteristics are essentially linked to their geographical origin. This study examines whether Indian GI registrations conform to these TRIPS standards, particularly in interpreting "quality," "reputation," and "other characteristics." Fundamentally, GIs function as certifications of origin and market signals that enable product differentiation, build consumer trust, and support premium pricing. India's GI regime is notable for its wide product coverage, encompassing agricultural goods, textiles, handicrafts, and beverages. TRIPS requires a demonstrable link between the geographical origin of a product and at least one of the defining criteria including "quality," "reputation," or "other characteristics". While Indian law has incorporated these standards through a sui generis framework under the Geographical Indications of Goods (Registration and Protection) Act, 1999, inconsistencies remain in their practical application. Case studies reveal overlaps in the assessment of quality and other characteristics, vague evidentiary standards, and reliance on informal or anecdotal sources to establish reputation. Several products that can be cultivated outside their claimed regions continue to enjoy GI status, weakening the essential geographical link. This highlights the need for greater clarity, consistency, and transparency in evaluating GI applications, along with improved public awareness to prevent reputational dilution. Although India has established a robust sui generis GI framework, its effectiveness depends on clear and uniform interpretation of "quality," "reputation," and "other characteristics." Strengthening GI protection therefore requires legislative refinement, stricter evidentiary scrutiny, and procedural coherence to ensure authenticity, protect producer interests, and align with TRIPS objectives.

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