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# GEOGRAPHICAL INDICATIONS – BALANCING THEIR PROTECTION AND PRESERVING CULTURAL HERITAGE

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### ABSTRACT

*This article provides a critical examination of Geographical Indications as a vital tool for protecting traditional knowledge and preserving cultural heritage. Geographical Indications have become a significant form of intellectual property, specifically designed to safeguard and promote traditional methods and products that are intrinsically linked to specific geographical regions. In India, the Geographical Indications of Goods (Registration and Protection) Act of 1999, forms the cornerstone of the legal framework governing the registration and protection of such products. The Act not only ensures that products linked to specific regions are appropriately recognized and protected but also serves multiple other essential functions. Geographical Indications play a crucial role in indicating the origin and quality attributes of products, thereby preserving traditional knowledge and production methods. Additionally, they offer economic advantages to local producers by enabling them to command premium prices for authentic, region-specific goods. Furthermore, Geographical Indications contribute to the protection of cultural identities and foster a sense of pride in local traditions, as illustrated through numerous examples pertinent to the preservation and protection of Geographical Indication-registered goods. The article also delves into a comparative analysis of international legal frameworks, highlighting the challenges faced in the preservation of Geographical Indications in the context of globalization. Factors such as commercialization, market pressures, and the global spread of similar products pose significant threats to the integrity and sustainability of Geographical Indications. Through this*

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*comprehensive examination, the article underscores the need for robust legal mechanisms and international cooperation to ensure that GIs continue to serve their intended purpose of preserving cultural heritage and promoting traditional knowledge.*

**KEYWORDS:** Geographical Indication, Traditional Knowledge, Protection, Cultural heritage, Geographical Indications of Goods Act 1999.

## INTRODUCTION

The concept of ‘Geographical Indications’ was first introduced by the TRIPS Agreement. The World Intellectual Property Organization defines a Geographical Indication (herein thereafter referred to as GI) as a label that identifies goods originating from a specific location, with certain qualities or a reputation linked to that origin. Within the realm of Intellectual Property Rights, GIs are gaining increasing prominence. A GI tag is highly valued by both producers and consumers, as it signifies quality, ensures uniqueness, and protects the rights of all stakeholders involved. Furthermore, GIs contribute to the development and preservation of skills and cultural identities, while also benefiting society as a whole<sup>3</sup>.

As per Section 2(e) of The Geographical Indications of Goods (Registration and Protection) Act, 1999, a "Geographical Indication" refers to an indication that identifies goods—whether agricultural, natural, or manufactured—as originating or being produced within a specific country, region, or locality. The distinctive quality, reputation, or other unique attributes of these products must be closely tied to their geographical origin. For manufactured items, at least one phase of production, processing, or preparation must take place within the designated area. Moreover, Section 2(f) of the Act broadens the definition of "goods" to include agricultural, natural, or manufactured products, as well as handicrafts, industrial goods, and food items.<sup>4</sup>

"Geographical Indications are not just about protecting names and preventing misuse but about valuing the collective reputation of a community's know-how and cultural heritage."

*-Sudhir Ravindran, Indian IP lawyer and GI expert*

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<sup>3</sup> Nidhi Suhag and Dr. Neeraj Rawat Sharma, "Assessing the Impact of GI on Kota Doria: Weaver's Viewpoint" 6(2) *International Journal of Trend in Scientific Research and Development* 1314-1315 (2022).

<sup>4</sup> The Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act 48 of 1999).

## **DIFFERENTIATION BETWEEN GIS AND OTHER FORMS OF INTELLECTUAL PROPERTY**

A GI, in the context of goods, refers to a sign that identifies products as originating from a particular country, region, or locality. The distinct quality, reputation, or other characteristics of these goods are fundamentally linked to their geographical origin. For manufactured goods, it is required that at least one stage of production, processing, or preparation occurs within the specified territory, region, or locality.

Patents are legal rights granted to inventors to safeguard their inventions for a specific period. These rights prevent others from reproducing, utilizing, or profiting from the invention without the patent holder's explicit consent. In return for granting a patent, the issuing authority requires the inventor to disclose details about the invention, including its construction and purpose.

Trademarks, on the other hand, are legal protections for words, phrases, designs, or symbols that distinguish a particular product or service. As a form of intellectual property, trademarks play a crucial role in shaping the image and reputation of the associated product or service, as well as the company that owns it. Beyond their symbolic value, trademarks can be a significant asset for a company, often factoring into the company's overall valuation. Trademarks enjoy perpetual protection, provided they remain in use and the owner actively defends them.<sup>5</sup>

While GIs are an important instrument for preserving cultural heritage, they also present complex challenges in balancing tradition with economic realities and global market forces. Successful preservation often requires ongoing dialogue between producers, regulators, and consumers to navigate these challenges. GIs serve as indicators that connect a product's unique qualities, characteristics, and reputation to its specific geographical origin. They highlight and affirm the distinctive attributes of products from a particular region.

GI indicate the origination of a good, the environment it requires or the role played by the environment in creation of that good giving it the required local qualities, the goods have social practices or cultural practices / methods attached with them which is represented in the final goods. When such masterpieces of our country are looked upon it could be clearly seen, for example even in buying a saree, let us say Banarasi saree the traditional shop owners will give multiple information which includes the process through which it is created, the threads used, the method

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<sup>5</sup> Will Kenton, "What Is a Patent in Simple Terms? With Examples" *Investopedia* available at <https://www.investopedia.com/Terms/P/Patent.asp> (last visited on 31<sup>st</sup> August, 2024).

of weaving, the special quality or process unique to it, and other qualities referring to it. This experience is the one of kind which everyone has encountered in their daily life.

GI contribute to local economies and cultural identities as the producers are made aware about the need for registration as authorized users, helping them in creating an authentic GI then consumers are made aware of the authenticity of the GI of registered goods; making aware of the quality methods the goods pass or basically the quality control mechanism before placing them in the market.

‘Reputation as suggested by Carl Shapiro operates as a signalling device which transmits information about a certain quality to the consumer’s thereby reducing search costs.’<sup>6</sup>

## **LEGAL FRAMEWORK FOR THE PROTECTION OF GIS IN INDIA AND CHALLENGES OF GI PROTECTION**

In recent years, GI have become an important instrument for safeguarding the quality, reputation, or distinctive characteristics of goods that are inherently linked to their geographical origin<sup>7</sup>. These unique characteristics, qualities, or reputation can arise from a variety of factors. These may include natural elements like raw materials, soil, regional climate, temperature, and moisture, or the method of production or preparation, such as traditional techniques<sup>8</sup>. Additionally, human factors like the concentration of similar businesses in a region, specialization in producing or preparing specific products, and adherence to certain quality standards also contribute to these distinct attributes<sup>9</sup>. Under the TRIPS Agreement, countries were not morally obligated to protect GIs. Prior to 1999, India lacked specific legislation to safeguard these indications. It was only in 1999 that the Indian Parliament enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999.

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<sup>6</sup> Hetvi Trivedi, “The Law of Geographical Indications — It is Time to Protect the Protector” 89 *PL (IPR)* (2019).

<sup>7</sup> United States Patent and Trademark Office, USA, available at <http://www.uspto.gov/web/offices/dcom/olia/globalip/geographicalindication.htm> (last visited on August 17, 2024).

<sup>8</sup> Nat Ram Meena and Dr. Krishna Kishor Trivedi, “Impact of Geographical Indication Tags on Handicraft Industry of Rajasthan” 7(12) *Journal of Critical Reviews* 4895 (2020).

<sup>9</sup> Surekha Vasishta and Amar Raj Lall, “Geographical Indications of Goods (Registration and Protection) Act, 1999” in A.K. Koul and V.K. Ahuja (ed.), *The Law of Intellectual Property Rights: In Prospect and Retrospect* 248 (Delhi, 2001).

## **THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999**

The Geographical Indications of Goods (Registration and Protection) Act, 1999, is designed to offer registration and enhanced protection for GIs linked to various products. This Act prevents unauthorized parties from exploiting GIs, thereby protecting the rights of producers and manufacturers while ensuring consumers are not deceived by counterfeit goods. Moreover, it supports the promotion of authentic products tied to these indications. By facilitating the registration of GIs, the Act provides legal protection for products that have a unique geographical origin.

Sections 3 to 19 of the Act outline the procedures for registering Geographical Indications (GIs). Section 9 specifies the conditions under which registration applications may be refused. Registration can be applied for by producers, organizations, or associations that represent the interests of the producers. Although registering a GI is not compulsory, it provides prima facie evidence of the GI's validity in legal disputes, thereby offering enhanced legal protection to authorized users against infringement. Without registration, a GI cannot be defended under the Act, making it impossible to initiate legal action to prevent infringement or claim damages.

Section 20 to 24 deals with infringement and its legal remedies. The Act provides protection against unauthorized use of registered GIs, preventing others from exploiting the reputation of the products associated with the GI without permission. Legal actions can be taken against infringement, including seeking an injunction, damages, or account of profits.

Sections 31 to 37 of the Act address Appeals. The Act establishes an appellate board to handle appeals against decisions made by the Registrar concerning the registration, opposition, or infringement of GIs. Appeals against the Registrar's orders or decisions, or the rules made under the Act, can be made to the Intellectual Property Appellate Board (IPAB), which was created under the Trademark Act of 1999. An aggrieved party may file an appeal with the Appellate Board generally within three months from the date the order or decision is communicated. Appeals filed after this period will not be accepted<sup>10</sup>.

Section 39 to 45 deal with offenses and penalties. The Act imposes penalties for falsely applying GIs, selling goods with false GIs, and other related offenses, including imprisonment and fines. The Act penalizes individuals who falsely apply a registered GI to goods, intending to deceive

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<sup>10</sup> Ms. Karabi Dihingia, "Protection of Geographical Indications (GIs) From Infringements- An Indian Perspective" 5 *LAW MANTRA* (2018).

consumers or misrepresent the origin of the goods, with imprisonment or fine. The Act also allows for the forfeiture of goods bearing a false GI, which may be destroyed or otherwise disposed of to prevent their distribution. These provisions collectively reinforce the protection of GIs by penalizing actions that undermine their value and authenticity, thereby safeguarding the rights of genuine producers and consumers.

## INTERNATIONAL AGREEMENTS AND INDIA'S COMMITMENTS

International agreements play a very significant role in shaping the protection of GIs around the globe. the concept of GIs has its origin dated back to the Paris Convention, 1983, even though it was not exclusive mentions it, Art. 1(2) used the expression 'appellation of origin' and 'indication of source'. The scope of the aforesaid expression has been delineated in Lisbon and Madrid agreement<sup>11</sup>. The TRIPS agreement under Art. 22 defines GIs as indications that identify a good 'as originating in a specific place where a given quality, reputation, or other characteristic is essentially attributable to its geographical origin'<sup>12</sup>. Requires member countries to provide protection against any use of GIs that misleads the public or constitutes unfair competition. The protection is meant to prevent the use of GIs that would be misleading or deceptive about the origin of the goods. Basically, Art.22(2) sets out two key requirements to establish a violation. Firstly, legitimate users must demonstrate that the public is misled by the false use of the GI. Secondly, it must be shown that this misleading use constitutes 'unfair competition.' The concept of unfair competition is to be interpreted in accordance with Article 10bis of the Paris Convention (1967)<sup>13</sup>. While Article 22 of the TRIPS Agreement provides basic protection for Geographical Indications (GIs), Article 23 offers enhanced protection specifically for GIs related to wines and spirits. This provision requires member countries to prevent the use of such GIs, even if there is no likelihood of confusion<sup>14</sup>.

The absence of consistent international protection for GIs under the TRIPS Agreement, coupled with the failure to achieve global consensus on addressing this issue, has left many GIs vulnerable to becoming generic. A GI becomes generic when it evolves into a common term for a type of product, losing its ability to signify a specific origin. Names like "French Fries," and "Rasgulla"

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<sup>11</sup> Suresh C. Srivastava, "Geographical Indications and Legal Framework in India" 38 *Economic and Political Weekly* (2003).

<sup>12</sup> Andrea Zappalaglio, "The Transformation of EU Geographical Indications Law - the Present, Past and Future of the Origin Link" 52 *International Review of Intellectual Property and Competition Law* 1136 (2021).

<sup>13</sup> UNCTAD-ICTSD, Resource Book on TRIPS and Development, available at [https://unctad.org/en/PublicationsLibrary/ictsd2005d1\\_en.pdf](https://unctad.org/en/PublicationsLibrary/ictsd2005d1_en.pdf) (last visited on August 20, 2024).

<sup>14</sup> Peter Thantwe Chisama, *A Critical Analysis of The Legal Framework for The Protection and Enforcement of Geographical Indications Rights in Malawi* (2012) (Unpublished LL.M Dissertation, University of Pretoria).

have become generic because their respective rights holders were unable to control production and restrict usage exclusively to producers within the designated geographical region<sup>15</sup>. GIs and their protection help in boosting the market value of traditional Indian products by ensuring their authenticity and origin. This, in turn, support local economies and promote fair trade. GI protection also contributes to the preservation of India's rich cultural heritage. It helps maintain the reputation and quality of traditional goods associated with specific regions.

GIs are acting as effective tools in promoting traditional Indian products<sup>16</sup>. Compliance with TRIPS has strengthened India's position in international trade by aligning its GI protection standards with global norms. This helps in resolving trade disputes related to GIs and enhances India's ability to protect its products internationally. While the legal framework is in place, challenges remain ineffectively implementing and enforcing GI protections, particularly in combating counterfeit goods and unauthorized use. The approach taken by some developed countries in the use, adoption, and application of the term 'generic' seems to be more 'subjective' than 'objective.' A group of countries believes that the term 'generic' is being misused to deny protection for certain products or goods that should qualify as GIs. In the European Union, GI are classified into two basic categories – Protected GI and Protected Destination of Origin (PDO). Only PGI category is recognised in India. This certification also applies to non-agricultural products, including handicrafts, which are distinguished by the unique combination of human skills, local materials, and resources specific to certain regions. In India, handicrafts account for approximately 45% of GI products, while agricultural products make up around 30%<sup>17</sup>.

## **CASE STUDIES:**

### **Blue Pottery – Jaipur**

Jaipur's blue pottery is a remarkable form of traditional ceramic art, renowned for its vibrant cobalt blue colors and intricate patterns. This distinctive craft has its roots in Persian and Turkish influences, which were introduced to India by early Muslim rulers and later thrived under the Mughal Empire. Deeply influenced by Persian and Mughal artistry, blue pottery combines specialized techniques and materials to produce visually captivating designs. Jaipur, the capital of

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<sup>15</sup> Ipsita Kaushik, "Geographical Indication Under the Trips Agreement: Commercial Interest Served but Equity Declined" 6(6) *Rostrum's Law Review* (2022).

<sup>16</sup> Union Minister of External Affairs, Dr. S. Jaishankar and Union Commerce and Industry Minister Shri Piyush Goyal inaugurate Aatmanirbhar Bharat Utsav 2024, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1992950> (last visited: August 22, 2024).

<sup>17</sup> India's Geographical Indication Landscape, available at: <https://www.drishtiias.com/daily-updates/daily-news-analysis/india-s-geographical-indication-landscape> (last visited on August 17, 2024).

Rajasthan, emerged as a key center for this craft, supported by royal patronage and the city's rich cultural heritage. Over time, traditional designs have been adapted to create a wide range of products, including tea sets, cups, saucers, plates, glasses, and jugs.<sup>18</sup> Jaipur's blue pottery has undergone notable changes in materials, styles, and forms over time. To enhance the recognition and protection of this cherished art form, it was granted Geographical Indication (GI) status in 2006 with support from NABARD. Additionally, NABARD facilitated the registration of artisans and producers from this community as authorized users.<sup>19</sup>

The striking blue hue in Jaipur's pottery is achieved using cobalt blue dye, which imparts a vivid shade to the pieces. The predominant colour, known as Persian blue, is a blend of turquoise and cobalt and is highly sought after worldwide. Green tones are produced using copper oxide, while yellow, pink, and additional shades are created through less traditional techniques.<sup>20</sup> The GI registration documents and protects the unique techniques, materials, and designs used in Jaipur Blue Pottery, ensuring this TK is preserved by registering artisans as authorized users, GI status empowers the local community of craftspeople, giving them control over their traditional product also it recognizes Jaipur Blue Pottery as a significant part of cultural heritage, raising awareness and appreciation for this traditional art form, it helps to ensure that cultural traditions like Jaipur Blue Pottery can continue to thrive in a globalized world, maintaining their unique identity and cultural significance.

### **Case study on Kota Doria**

Kota Doria fabric is crafted from a blend of cotton and silk yarns woven in varying combinations of warp and weft, creating distinctive square check patterns known as khat. This check pattern is a hallmark of the fabric, giving it a unique transparent appearance. Recognizing this special attribute of handloom-produced Doria fabric, the Kota Doria Development Hadauti Foundation (KDHF) sought Geographical Indication (GI) status with assistance from the United Nations Industrial Development Organization (UNIDO). Their application was successful, and Kota Doria was awarded GI status in July 2005 under the Geographical Indications of Goods (Registration and Protection) Act, 1999.

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<sup>18</sup> Pooja Khushwaha and Dr Amrita Rajput, "Blue Pottery in Fashion: Fusing Jaipur's Traditional Craft with Modern Sustainable Design" 11(6) *Journal of Emerging Technologies and Innovative Research* 266-270 (2024).

<sup>19</sup> Blue Pottery of Jaipur, NABARD, available at: <https://www.nabard.org/GI/Blue-Pottery-Of-Jaipur.aspx> (last visited on 28th August, 2024).

<sup>20</sup> "Blue Tales of Pink City: How Jaipur's GI-tagged Blue Pottery moved from palaces & tombs to living rooms across the world" available at: <https://30stades.com/2022/01/26/How-Jaipur-GI-Tagged-Blue-Pottery-Moved-From-Rajasthan-Palaces-Royalty-Global-Exports/> (last visited on 31<sup>st</sup> August 2024).



Despite the GI designation granted to Kota Doria fabric, the production of nearly identical fabrics using power looms, particularly in Uttar Pradesh, remains widespread. These power loom fabrics are marketed under the Kota Doria name but are sold at significantly lower prices, which undermines the demand for the authentic Kota Doria, a designation legally reserved for the handwoven fabric from Kota. Challenges in enforcing the GI regulations hinder efforts to preserve the value of the authentic product. Additionally, a major obstacle within the supply chain is the rigid, almost feudalistic governance structure between weavers and master weavers, which fosters conflict and mistrust rather than collaboration.<sup>21</sup>

The handloom industry, a traditional weaving technique integral to India's cultural heritage, is the second largest employment sector after agriculture. Given its significance to rural livelihoods, it is crucial to protect the interests of millions of artisans through GI tags. Such protection enables weavers to benefit economically while preserving their traditional practices. Product quality significantly influences consumer purchasing decisions, and GI certification plays a key role in ensuring authenticity and maintaining the integrity of traditional knowledge. This demonstrates how GIs not only safeguard cultural heritage but also bolster economic development.

## **LEGAL AND ENFORCEMENT ISSUES RELATING TO GI AND BALANCING MODERNIZATION AND TRADITION**

Intellectual property rights (IPRs) have gained considerable importance and become a focal point of debate in modern economic and political discussions. They play a central role in conversations about various issues such as public health, food security, education, trade, industrial policy, traditional knowledge, biodiversity, biotechnology, the Internet, and the entertainment and media industries. In our current knowledge-based economy, having a comprehensive understanding of IPRs is crucial for crafting effective policies across different areas of human development.<sup>22</sup>

In India, GIs are governed by common law principles. The lack of consistency in international perspectives on GIs leads to conflicting approaches on GI protection between jurisdictions. GIs have faced various legal and enforcement issues in India<sup>23</sup>. Many consumers have been unaware of the significance of GIs and the rights associated with them. This has made it very difficult to

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<sup>21</sup> CUTS Centre for International Trade, Economics and Environment, *available at*: [https://cuts-citee.org/Pdf/Briefing\\_Paper10-Geographical\\_Indications\\_in\\_India-A\\_Case\\_Study\\_of\\_Kota\\_Doria.Pdf](https://cuts-citee.org/Pdf/Briefing_Paper10-Geographical_Indications_in_India-A_Case_Study_of_Kota_Doria.Pdf) (last visited on 27th August, 2024).

<sup>22</sup> Geographical Indications: Indian Scenario *available at*: <http://eprints.rclis.org/7878/1/EF6C0C53.pdf> (last visited on 25th August, 2024).

<sup>23</sup> Bassem Awad and Marsha S. Cadogan, "CETA and the Future of Geographical Indications Protection in Canada" *available at*: Paper no.131\_WEB.pdf (cigionline.org) (last visited on 25<sup>th</sup> August, 2024).

generate demand for genuine GI products and reduce the market for counterfeits to enter. Many local producers, especially the small-scale ones, often lack the awareness about the GI rights and how there are supposed to be enforced. This limits their ability to protect their products effectively. India's lacks the adequate domestic protection under the IP laws. This has been seen in the Basmati Rice case<sup>24</sup>.

With lack of awareness and understanding, a lot of counterfeiting and misuse of GIs products have entered the market. The market is flooded with counterfeit goods that misuse GI tags, undermining the reputation of the genuine products with a GI registration. The lack of effective monitoring mechanisms exacerbates this issue. Further, inadequate penalties for GI tags are often not stringent enough to deter the counterfeiters in the market, leading to continued infringement of the products. Moreover, GIs often represent products rooted in traditional knowledge and methods passed down through generations. The use of these methods is integral to authenticity and cultural significance of the product. Modernization can lead to dilution of tradition knowledge and practices, which may result in the loss of unique qualities that make GI products special. This is particularly concerning for products where traditional methods are essential to their identity. Many GI holders, particularly in rural areas lack the financial resources to pursue legal action against infringers. The intellectual property system provides a legal framework that allows individuals and communities to secure ownership rights over biological resources, products, and related processes<sup>25</sup>. Without proper legal safeguards, indigenous communities frequently face the risk of their cultural heritage and resources being exploited, leading to significant harm and loss of their traditional rights. Access to legal expertise is limited in rural and remote areas, making it difficult for GI holders to navigate the enforcement process.

While the government has taken steps to promote and protect GIs, more proactive measures are needed to support enforcement. This includes better infrastructure for monitoring and greater collaboration with stakeholders. The process of registering and enforcing GIs can be slow, leading to delays in protecting rights. Also, the challenge lies in balancing the commercial exploitation of GIs with the preservation of cultural heritage. Traditional methods may result in variations in quality, which can be a challenge in large-scale production. Modern techniques can help standardize quality, but may compromise the product's unique characteristics. There is a risk that adopting modern production techniques could lead to the production of inauthentic products that

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<sup>24</sup> Jinghua Zou, "Rice and Cheese, anyone? the Fight Over TRIPS Geographical Indications Continues" 30(3) *Brooklyn Journal of International Law* 1143 (2005).

<sup>25</sup> K. Rangarajan, et.al., "Impact of IPR on SMEs: Special Reference to Textiles and Processed Food" 42(1) *Foreign Trade Review* 59 (2007).

do not fully represent the original GI product. Maintaining authenticity while scaling up production is a delicate balance.

A significant drawback of using GIs for protecting traditional knowledge is that GIs do not safeguard the knowledge inherent in the product or its production process. As a result, GIs do not offer protection against the misappropriation of traditional knowledge, and employing GIs does not preclude the use of other methods to protect traditional knowledge.<sup>26</sup> Documenting traditional knowledge is also recognized as a way to properly acknowledge and credit the holders of such knowledge. Although GI tags offer legal protection for traditional knowledge and assist in preserving cultural heritage, there are increasing concerns about the necessity for sustainable practices and biodiversity conservation. These measures are essential to ensure the long-term cultivation, production, and manufacturing of these products.<sup>27</sup> Robust legal frameworks are essential to protect GIs and ensure that communities retain control over their traditional knowledge and resources. This includes enforcing rights against unauthorized use and ensuring compliance with GI standards. Communities should have access to legal representation and advocacy to protect their interests in the commercialization process. This helps prevent exploitation and ensures that their rights are respected. Ongoing monitoring and evaluation of the commercialization process can help identify potential risks to cultural values and address them promptly. This includes assessing the impact on the community and making adjustments as needed. Establishing feedback mechanisms allows community members to voice concerns and contribute to the continuous improvement of commercialization strategies. India is a leading advocate for extending higher protection to GIs beyond wines and spirits. There is an urgent need to extend this enhanced protection to all other products as well<sup>28</sup>.

For manufactured goods, GIs can indicate that at least part of the production process occurs in the designated region. Under the Act, weavers and artisans can register as "authorized users" of GIs. The certification prohibits the sale of GI products that do not meet the Act's production standards. However, these individuals often work independently and may lack awareness of essential forward and backward linkages. To avoid duplication of efforts and enhance outcomes, improving interdepartmental coordination and connectivity is crucial. A coordinated approach could greatly

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<sup>26</sup> Kasturi Das, "Protection of Geographical Indications: An Overview of Select Issues with Particular Reference to India" *available at*: (PDF) Protection of Geographical Indications: An Overview of Select Issues with Particular Reference to India (researchgate.net) (last visited 27<sup>th</sup> August, 2024).

<sup>27</sup> GI tags protect Indian tradition amid impacts of climate change, biodiversity loss, *available at*: <https://india.mongabay.com/2024/06/gi-tags-protect-indian-tradition-amid-impacts-of-climate-change-biodiversity-loss/> (last visited on August 20, 2024).

<sup>28</sup> V.K. Ahuja, "Protection of Geographical Indications: National and International Perspective" 46 *Journal of the Indian Law Institute* 271 (2004).

facilitate the commercial and social benefits of GIs in India and help secure additional advantages from this collective intellectual property right.<sup>29</sup>

A GI right allows authorized users to prevent others from using the GI if their products do not adhere to the established standards. For instance, producers of Darjeeling tea, which is safeguarded by its GI, can prevent the use of the "Darjeeling" name on teas that do not follow the specific cultivation guidelines set by the GI. However, a protected GI does not provide the right to block others from making products using similar methods described in the GI's regulations. GI protection is typically achieved by securing rights over the specific identifying symbol linked to the GI.<sup>30</sup>

Unauthorized use of GI harms both consumers and legitimate producers. Consumers are misled into purchasing what they believe is an authentic product with specific qualities, only to receive a substandard imitation. Meanwhile, legitimate producers are harmed as they lose valuable business and their established reputation suffers due to the presence of counterfeit products.

The protection of GIs is based on two key legal principles within the common law tradition:

1. Protection Against Misleading Use: This principle is designed to safeguard consumers by preventing misleading use of a GI. For an indication to be deemed misleading, the public must perceive it as referring to a specific geographic area. Terms that have become generic do not fall under this protection.
2. Protection Against Dilution: This principle focuses on protecting producers from 'free riding' on the reputation of the GI. Even if an indication does not mislead the public, using it in a way that exploits its reputation—such as using a translated form of the protected name with additional information—can be considered unethical and detrimental to the product's reputation.

Although GIs and individual trademarks (excluding collective and certification marks) share similar economic and legal principles, they differ considerably. The interplay between GIs and trademarks is intricate and frequently subject to debate. The GI registration process necessitates comprehensive documentation of production methods, which helps preserve traditional practices that might otherwise be lost. The protection of GIs has become a major and contentious issue

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<sup>29</sup> Sunil Sudhakar Varnekar and Dr. Upankar Chutia, "Geographical indication and handicrafts: A critique" 3(1) *International Journal of Civil Law and Legal Research* 3-4 (2023).

<sup>30</sup> *Ibid.*

within the framework of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO).<sup>31</sup>

## **THE IMPACT OF GLOBALIZATION AND MARKET DEMANDS ON TRADITIONAL PRACTICES**

The impact of globalization and market demands on traditional practices of goods with GIs is a complex and often challenging issue. Global demand can lead to pressure to increase or scale up production. This may compromise traditional methods of production in order to meet the demand and maximize profit. Global markets often demand consistent products, which can lead to standardization which may lead to vanishment of unique traditional practices or methods leading to potential loss of diversity. The uniqueness could be eroded or replaced with standardization. With the increase in demand the production methods will gradually have some technological advancements creating modifications traditional practices or methods and altering the essence of the GI product. Example: Introduction of mechanized looms in handloom textile GIs like Chanderi fabric.

Apart from this there could be Economic Pressures, Environmental Challenges like competition from non-GI products may force producers to cut costs this could lead to compromises in traditional production methods. Climate change and environmental degradation can affect traditional production areas. This may necessitate changes in practices or even relocation, challenging GI specifications. International trade regulations may require modifications to traditional practices. In some cases, globalization has led to a renewed interest in traditional products.

## **STRENGTHENING FOR EFFECTIVE GI PROTECTION AND CULTURAL PRESERVATION**

GI rights allow authorized users to restrict third parties from using the indication if their products do not meet the established standards. To ensure economic benefits of GIs reach the local communities, implementation of stricter rules on fair trade practices would allow producers to earn a fair premium for their GI-protected products and also promoting environmentally sustainable production methods that would help in preserving the natural resources and ecosystems associated with the GI products. Many consumers today are willing to spend more on

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<sup>31</sup> Geographical Indications: An overview, available at: [https://www.wipo.int/Edocs/Pubdocs/En/Wipo\\_pub\\_952\\_2021.pdf](https://www.wipo.int/Edocs/Pubdocs/En/Wipo_pub_952_2021.pdf) (last visited on 20th August, 2024).  
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GI-registered products because they prioritize quality. The true benefits of GI tags are realized when these products are actively marketed and protected from counterfeit.<sup>32</sup>

Many Indian GI products are steeped in captivating stories and legends, offering a unique opportunity for India to leverage its rich historical lore to enhance brand recognition on the global stage. By drawing on the myths and legends surrounding these traditional GIs, India can create a compelling narrative that resonates with international consumers. European experiences demonstrate that products with a rich history and tradition can leverage both the advantages of their geographic origin and the authenticity of their production methods—including secret techniques—alongside local folklore to enhance their mystique and cultural charm. This approach not only sets these products apart in the market but also adds a layer of cultural value that can boost their appeal and market worth.<sup>33</sup>

As production methods evolve and markets expand, it is crucial to maintain and honor traditional knowledge and practices. A GI solely protects the product's name and does not safeguard the traditional production processes or the quality derived from these methods. It should ensure that any innovations are in harmony with the cultural heritage associated with the GI. Document traditional knowledge and practices associated with GIs to safeguard them for future generations. This can be done through written records, videos, or digital platforms. GI are crucial for recognizing the importance of protecting intellectual property and cultural heritage. GIs play a vital role in preserving traditional knowledge, boosting local economies, and offering consumers authentic, high-quality products. By acknowledging and supporting the value of GIs, we can help ensure the sustainability and preservation of diverse cultural traditions across the globe<sup>34</sup>.

To protect GIs and promote sustainable economic development, technology and innovation play a very important role. The government can create a comprehensive national digital repository to store and preserve traditional knowledge which include various recipes, techniques, and cultural practices. AI algorithms can analyse and categorize traditional knowledge, to make it easier to identify and protect unique cultural expressions. Use of e-commerce platforms for Indian GI products to connect producers to worldwide consumers directly and ensure the authenticity of products. This would the producers as well as consumers to know various GIs. Issuing of digital

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<sup>32</sup> Nidhi Suhag and Dr. Neeraj Rawat Sharma, “Assessing the Impact of GI on Kota Doria: Weaver’s Viewpoint” 6 *International Journal of Trend in Scientific Research and Development* 1315 (2022).

<sup>33</sup> *Supra* note 27 at 11.

<sup>34</sup> Geographical Indications: Protecting Intellectual Property and Cultural Heritage, *available at*: <https://fastercapital.com/content/Geographical-Indications--Protecting-Intellectual-Property-and-Cultural-Heritage.html> (last visited on 25<sup>th</sup> August, 2024).

certifications to Indian GI products would provide consumers with verifiable information about their authenticity and origins.

With this, international cooperation also could play a major role in promoting the products. Collaboration with other countries to protect GIs and traditional knowledge through various agreements and treaties. This would also protect country's relations with other countries. With that, digital campaigns and social media would educate and create awareness among various consumer around the globe about the importance of supporting Indian GIs and traditional knowledge. Also, with the rise of social media influencers, collaborations with various influencers and celebrities would help a lot in promoting GIs products and traditional knowledge. By leveraging technology and innovation, India can effectively protect its rich cultural heritage, promote sustainable economic development, and enhance the global recognition of its unique GI products and traditional knowledge.

GIs are gaining global popularity as a tool for preserving and promoting traditional knowledge. They help communities protect and market their handicrafts by distinguishing their products from competitors, enabling manufacturers to build a strong reputation and command higher prices. GIs grant manufacturers the authority to prevent others from using the name if their products do not meet established criteria. Premium pricing for authentic, regionally-specific goods. Increased tourism to regions known for specific products. Protection against counterfeit goods or avoiding third party involvement. Apart from economic benefits the GIs also contribute to community identity as it fosters a sense of pride in local traditions and products. They help maintain traditional livelihoods in rural areas. These GIs help protect the reputation of the products and ensure that consumers are getting authentic goods from the specified regions of their origin.

## **CONCLUSION**

In summation, protecting GIs is extremely important because it is one of the ways of safeguarding indigenous knowledge and heritage. As far as the Geographical Indications of Goods (Registration and Protection) Act, 1999 is concerned, further refinement and stringent enforcement to fully realize it's potential.

On one hand, conventional strategies for the production of GI products are at risk with the advent of globalisation and the influence of the market. Therefore, the delicate relation between modernization and tradition must be diligently maintained to ensure the integrity and authenticity of these cultural artifacts. We must balance modernization with tradition to maintain the

authenticity of these cultural treasures, any changes or innovations in production methods should align with the cultural heritage of the GI.

GI serve as a shield or a safeguard against the erosion of community identity, fostering a sense of pride in local traditions and products. Moreover, they play a significant role in maintaining traditional livelihoods in rural areas, thereby contributing to sustainable economic development. The judicious application of technology can significantly contribute to the protection and promotion of GIs.

In conclusion, while GI represent as an instrument for preserving cultural heritage and promoting traditional knowledge, their full potential still remains unfolded. Through dedicated efforts, can we ensure that the rich tapestry of cultural traditions embodied in GI products continues in an increasingly globalized world, serving as a testament showcasing human creativity and cultural diversity.

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