

BOOK REVIEW - GEOGRAPHICAL PROTECTION IN INDIA: THE EVOLVING PARADIGM (2022)

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INTRODUCTION

“For me, it matters that we drive technology as an equalizing force, as an enabler for everyone around the world.” - Sundar Pichai, CEO of Google

The book “Geographical Indication Protection in India: The Evolving Paradigm” is a compilation of different works of authors in the field of Geographical Indications, primarily from the lenses of the Indian scenario. The editor is Niharika Sahoo Bhattacharya. The publisher is Springer Nature Singapore and its latest edition is that of 2022.¹

Geographical Indication (GI) serves as a fundamental aspect within the realm of intellectual property rights, indicating the origin of a product from a specific geographical area with attributes, reputation, or characteristics inherently linked to that particular region. This evolving framework acts as a potent mechanism for safeguarding traditional knowledge, fostering rural advancement, and conserving cultural legacy, while concurrently empowering local communities economically.²

The north-eastern regions of India namely Tripura and Assam, exemplify the transformative capacity of Geographical Indication. Tripura, recognized for its distinctive biodiversity, cultural variety, and rich historical background, has made notable progress in harnessing the potential of GI.³ The region's pineapples, distinguished for their exceptional flavour, fragrance, and unique sweetness, have obtained GI recognition, highlighting the native agricultural proficiency and legacy of Tripura. Likewise, Assam, renowned for its lush tea plantations and

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¹ Niharika Sahoo Bhattacharya (ed), ‘Geographical Indication Protection in India the Evolving Paradigm’ (Google.co.in 13 September 2022)

<https://www.google.co.in/books/edition/Geographical_Indication_Protection_in_India/BdiIEAAQBAJ?hl=en&gbpv=0> accessed 9 August 2024

² Kundan Kishore, *Geographical Indications in Horticulture: An Indian Perspective* (Journal of Intellectual Property Rights 2019) 159 159–166

<https://www.researchgate.net/publication/331114814_Geographical_Indications_in_Horticulture_An_Indian_perspective> accessed 9 August 2024

³ G Pangging and others, ‘Status of Geographical Indications in the Northeast Region of India’ (2023) 28

Journal of Intellectual Property Rights 304 <<https://or.niscpr.res.in/index.php/JIPR/article/view/743>> accessed 9 August 2024

age-old tea-making customs, has utilized GI to safeguard its esteemed Assam Tea. With its robust taste, briskness, and characteristic malty undertones, Assam Tea has attained global acclaim and support. The GI designation not only ensures the genuineness and excellence of Assam Tea but also enhances the livelihoods of numerous tea cultivators and labourers throughout the area.

These illustrations underscore the crucial role of Geographical Indication in conserving cultural uniqueness, encouraging sustainable progress, and stimulating economic prosperity. As this concept progresses, its capacity to empower local communities, facilitate market entry, and endorse environmental preservation remains profound.⁴ By strategically employing GI, regions such as Tripura and Assam are not solely safeguarding their legacy but also forging a pathway towards comprehensive and sustainable advancement in the worldwide market.

SUMMARY

This publication⁵ constitutes a distinctive compilation of extensive scholarly works addressing the potentials, challenges, and realities of geographical indications from an Indian vantage point. It encompasses in-depth analyses of legal, regulatory, and institutional frameworks and dialogues pertaining to geographical indications. In the context of the increasing significance of geographical indications in both national and international discussions, the attention given to this concept in India is comparatively lower than other types of intellectual property rights such as patents and trademarks. The book aims to offer insights into both domestic and global scenarios and dialogues, appealing to a diverse readership. The initial section of this publication extensively examines the origin of the GI Act, followed by a thorough exploration of the substantive and procedural dimensions of registration under the Indian GI Act, highlighting discrepancies and lacunae in the legislation. Furthermore, a comparative analysis of GI laws and regulations in developed nation's vis-à-vis India has been undertaken.⁶ The authors comprehensively address the challenges within the current regulatory framework concerning quality control and enforcement of GI products under the Indian GI Act, crucial for achieving the Act's objectives.⁷

⁴ *Ibid.*

⁵ Bhattacharya (n 1)

⁶ Bhattacharya (n 1)

⁷ Bhattacharya (n 1) at 27

Moreover, this publication sheds light on the significance of geographical indication in fostering the socio-economic progress of rural India.⁸ The authors clarify how GI can function as an effective tool for creating job opportunities and fostering sustainable development across different industries like agriculture, food production, and handicrafts.⁹ The intricate nexus between GI, traditional knowledge, biodiversity, and their societal implications are extensively expounded upon.¹⁰ The book features empirical case studies by the authors from diverse Indian states, showcasing both successful instances and missed prospects of various GIs, and outlining a strategic roadmap for leveraging GI as a catalyst for comprehensive national development and facilitating international trade.¹¹ This publication is poised to offer law students, scholars specializing in legal and intellectual property disciplines, legal practitioners, producers, and policymakers a factual and multidimensional understanding of the GI framework in India.¹² It is anticipated to stimulate further research in this domain, particularly from an Asian standpoint, and enhance the practical application of GI across a spectrum of products.

CRITICAL ANALYSIS

The focus on safeguarding Geographical Indications (GIs) in the realm of traditional knowledge and cultural heritage highlights a broader narrative of conserving and appreciating the interconnection among land, individuals, and commodities. GIs function not solely as indicators of geographical origin but also encapsulate age-old customs, methodologies, and narratives deeply entrenched in the societal and cultural framework of populations. At the core of this discussion is the acknowledgement that GIs embody a plethora of non-material heritage, embodying the shared knowledge, artistry, and essence of a specific community or locality. By safeguarding GIs, not only are physical goods protected, but the intangible aspects — the traditions, folklore, and established customs; are also conserved.¹³ Furthermore, GIs enable the transfer of knowledge across generations, acting as channels through which traditional techniques are handed down from one era to the next. This passing on of knowledge not only maintains cultural heritage but also nurtures a feeling of dignity and inclusion within societies.

⁸ Bhattacharya (n 1) at 52

⁹ *Ibid.*

¹⁰ Bhattacharya (n 1) at 141

¹¹ Bhattacharya (n 1) at 105

¹² Bhattacharya (n 1) at 193

¹³ Abdul Fiyaz R and others, 'Geographical Indications (GI) Registration in India: Present Status and Future Prospects' [2019] Indian Farming 69(09)

<https://www.researchgate.net/publication/338229716_Geographical_Indications_GI_Registration_in_India_Present_Status_and_Future_Prospects> accessed 10 August 2024

Fundamentally, GIs are elevated beyond mere commercial symbols to representations of community entitlements, mirroring the social and cultural principles ingrained in commodities. They signify a shared legacy, a tribute to the harmonious bond between humans and their surroundings, and a dedication to respecting and preserving ancestral insight.¹⁴

The conservation of traditional knowledge incorporated in commodities functions as a fundamental element in upholding the distinct identity of societies, while simultaneously revealing economic value in the marketplace. This mutual relationship among traditional knowledge, products, and communities constitutes the essence of the narrative highlighted in the publication.¹⁵ By exploring the domain of Geographical Indications (GIs), the publication elucidates how these legal instruments can strengthen the bond between products, individuals, and locations, thereby safeguarding cultural and symbolic indicators intrinsic to specific areas.¹⁶ Fundamentally, traditional knowledge enshrined in products embodies a reservoir of long-established practices, methodologies, and insights transmitted across generations.¹⁷ Whether it pertains to the elaborate weaving designs of a specific fabric or the meticulous farming techniques of a unique crop, these practices are not only functional but also carry cultural importance, mirroring the principles, convictions, and traditions of a society.¹⁸ GIs act as a strategy to safeguard and endorse these traditional knowledge systems by establishing a direct correlation between the product and its geographical source. In doing so, GIs not only guarantee the genuineness and excellence of the product but also enhance its market worth by linking it with a particular area renowned for its skill and legacy. Furthermore, GIs nurture a sense of identity tied to a specific place, grounding the product within its cultural and geographical setting. This affiliation not only boosts consumer confidence and allegiance but also amplifies the narrative potential surrounding the product, thereby enhancing its market attractiveness. Essentially, the publication emphasizes how GIs serve as channels for conserving and appreciating traditional knowledge integrated with products. By reinforcing the connection among products, individuals, and locations, GIs not only protect cultural legacy but also unlock economic prospects for communities rooted in their native practices and identities.

¹⁴ *Ibid.*

¹⁵ Bhattacharya (n 1)

¹⁶ Bhattacharya (n 1)

¹⁷ Bhattacharya (n 1) at 149

¹⁸ Himadri Shekhar Datta, Gargi Sharma and Sarat Sekhar Bora, 'Geographical Indications in Horticulture: North East India Perspective' (2020) 9 International Journal of Current Microbiology and Applied Sciences 1207 <<https://www.ijcmas.com/abstractview.php?ID=15743&vol=9-1-2020&SNo=134>> accessed 10 August 2024

From this perspective, GIs emerge as potent mechanisms for promoting sustainable growth while honouring the variety and abundance of human creativity and resourcefulness.¹⁹

In the milieu of the north-eastern states of India, the discourse pertaining to the State's involvement in safeguarding Geographical Indications (GIs) is notably significant owing to the area's diverse cultural landscape and plethora of distinct customary commodities. The text accentuates the necessity for robust legal frameworks to avert the misappropriation and bio-piracy of customary knowledge, particularly amidst escalating exploitation by corporate entities. Eastern states in the north such as Assam, Tripura, Nagaland, and Manipur exhibit an array of commodities with substantial cultural and economic significance, spanning from Assam Tea and Manipuri handloom fabrics to Nagaland's Naga King Chilli and Tripura's pineapple. These commodities not only serve as sources of sustenance for native communities but also as reservoirs of inherited knowledge transmitted across generations.²⁰ Nonetheless, lacking adequate legal safeguards poses a threat of exploitation by external entities aiming to exploit the market value of these commodities without proper recognition or fair sharing of benefits with the local populace. The text illuminates how corporate entities might exploit customary commodities for financial gain, often disregarding the intellectual property rights or cultural importance attributed to these goods. This utilization might lead to economic exclusion of native groups and worsen problems of poverty and disparity in the area. Moreover, the text examines the historical progression of GI protection, tracing its path from limited coverage under the Lisbon Agreement to broader acknowledgment under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).²¹ This extension signifies an increasing recognition at the global level of the significance of safeguarding customary knowledge through legal means. In the context of the north-eastern states, this development underscores the necessity for strengthened legal frameworks and international collaboration to safeguard the region's diverse cultural legacy and empower local communities. In summary, the discourse on the State's role in safeguarding GIs in the north-eastern states emphasizes the significance of legal frameworks in averting exploitation and ensuring fair benefit-sharing from customary knowledge. By tracing the historical progression of GI protection, the text

¹⁹ N. Lalitha and Soumya Vinayan, *Regional Products and Rural Livelihoods* (Oxford University Press 2019)

²⁰ Pangging (n 3)

²¹ Bhattacharya (n 1) at 8

underscores the mounting recognition of the need to preserve customary knowledge in a progressively globalized and interconnected world.²²

CONCLUSION & SUGGESTIONS

The deduction made from the literature indicates that Geographical Indications (GIs) offer substantial potential in safeguarding traditional knowledge and fostering economic progress, yet there exist practical limitations impeding their complete realization. Challenges such as quality assurance, upkeep, enforcement, and insufficient consumer awareness have obstructed the anticipated advantages of GIs' registered products.²³

To tackle these deficiencies and boost the efficacy of GI safeguarding, it is advisable to contemplate the following recommendations:²⁴

- **Enhancing Quality Control Procedures:** Enforcing rigorous quality control measures to guarantee that products enlisted under GIs uphold their genuineness and quality benchmarks.
- **Increasing Enforcement Mechanisms:** Increasing enforcement tactics to stop traditional knowledge connected to GIs from being misused and used for illicit economic gain.
- **Raising Consumer Awareness:** Educating customers on the value of Geographically Induced items (GIs), traditional knowledge, and the cultural legacy ingrained in these items through awareness campaigns!
- **GI regulations can be more successfully understood and implemented by producers, stakeholders, and enforcement authorities with the use of training and capacity-building programmes.**
- **Policy reforms include the ongoing examination and revision of the laws and rules that currently govern GIs in order to handle new issues and guarantee the complete protection of traditional knowledge.**

These recommendations, when put into practice, can help close some of the gaps found in the book and provide a stronger, longer-lasting framework for the protection of traditional knowledge through Geographical Indications.

²² Bhattacharya (n 1) at 9

²³ Bhattacharya (n 1) at 225

²⁴ Bhattacharya (n 1) at 192