

ISSUES AND CHALLENGES OF GEOGRAPHICAL INDICATION IN INDIA

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Abstract : Geographical indications have gained prominence recently as a significant property rights problem in a nation like India, which has significant cultural and geographical variety and may greatly benefit the nation if used correctly. However, there are a number of obstacles and problems that cause certain Indian states to lag behind while others are really doing rather well. The goal of this research is to determine the causes of the differences in GI registration amongst the states. In order to do this, the study uses case studies from literature, journals, books, WIPO, WTO, Manupatra.com, and IPI as secondary sources. Bar graphs and pie charts are used to illustrate the findings. The study's conclusions will have a big impact on how the Indian government, both at the federal and state levels, approaches this problem and devises plans to effectively implement any possible advantages inherent in Geographical Indications.

Keywords- Geographical Indications, WTO, TRIPS agreement, Challenges, Tag

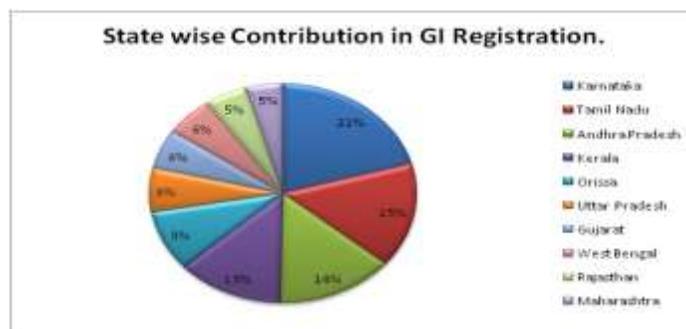
1.0 Introduction

Thanks to its inclusion in the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, the word "geographical indications" (GIs) has made its way into the lexicon of international intellectual property (IP) law.

According to Article 22 of TRIPS, GI is defined as an indicator that identifies a good based on its original region within a member's territory, provided that the good possesses the qualities, features, and other characteristics unique to that geographic place. Stated differently, one of the six Trade-Related Intellectual Property Rights (TRIPS) recognized by the World Trade Organization (WTO) is Geographical Indication (GI), which designates a good as coming from a specific region and containing the unique qualities and specialization of that region. Because of its potential socioeconomic advantages, GI has drawn interest from poor nations. Many people think that GI will spark a new IPR revolution and that it is a "sleeping beauty" IPR (WIPO, 2017).

The Geographical Indication of Goods Act 1999 was enacted in India on September 15, 2003, with the intention of giving GI products legal recognition and protection. India's WTO commitments under TRIPS led to the enactment of this legislation. Under the GI Protection Act of 2003, there are three primary goals:

- 1) Protection and prosperity of producers of GI goods, so that they would encouraged to produce it.
- 2) Protection of consumer from misleading GI product.
- 3) Promotion of GI goods international export market.



Source: GI Registration office

Currently, 430 goods have been registered as GIs in India; 13 of them are international GIs, while the remaining 417 are local GIs. India's diverse and rich cultural heritage may greatly help the country's economy as a whole if it is used to its full potential. However, a lot of Indian states are still trailing behind in reaping the rewards of GI. There is a significant difference in GI Registration amongst Indian states. Some states that are doing extremely well include Karnataka, Maharashtra, Tamil Nadu, and Kerala; nevertheless, states like Arunachal Pradesh, Punjab, Mizoram, Sikkim, Tripura, and Goa have less GI, and it is also peculiar that Jharkhand yet have less GI items registered. With the aid of a bar graph, the entire performance picture for the state is displayed above.

This raises the question, why is there such a discrepancy? And what problems and difficulties lie behind these differences? which our research has attempted to address.

2.0 Literature Review

There is a wealth of literature available that discusses various facets of GI within the Indian and global context. In a study by Das (2010) he has highlighted that India has large number of product in its Coffer that can qualify as GI product there in need of awareness about this act because this concept is new to India. To ensure India's success in its GI programs, many stakeholders must step up for strategic involvement. Since traditional knowledge makes up the majority of GI in India, there is room for growth through the development of brands. Furthermore, it has the ability to grow established hotspots like "Cultural tourism," which would boost employment and tourism in rural India.

In his study, Agdomar (2008) stressed that protecting GI would have several benefits, including safeguarding the product's source and community as well as boosting standards and quality, all of which will contribute to job creation. Rangnekar (2002) concentrated on the legal side of GI protection and the application of the legislation both domestically and internationally. Gopalkrishnan et al. (2007) addressed this topic in great length, looking at the methods and strategies used in India and other south Asian nations to safeguard traditional knowledge and geographical indications. They look at how beneficial and successful GI laws are in improving the socioeconomic circumstances in various nations. We know that India is an agriculture based economy, this economy can be developed by commercialization and promotion of agro based products through GI mechanism. This might become a different avenue for the agriculture sector's growth (Rehmah, 2017). GI goods may have a different kind of spillover effect on the tourist sector, which may lead to the creation of jobs and revenue (Vats, 2016).

Gulati (2016) highlighted in another study that GI may be viewed as a resource for the underprivileged who are connected to the manufacture of GI products and have access to traditional knowledge. She also emphasized the significance of the GI tag in preserving the uniqueness and features of the product and promoted product awareness and GI tag usage as a means of preventing product piracy and false information.

Numerous studies address the problems associated with GIs, but very little literature concentrates on the problems and difficulties that GI manufacturers and users face. This work closes a significant vacuum in the literature in this area by addressing the problems and difficulties associated with GI products.

3.0 Objective

Use pie charts and bar graphs to determine why certain Indian states are registering for GI goods earlier than others.

3.1 Methodology

Data sources: Secondary data from the WTO, WIPO, and Indian GI Registry office, among other sources, were used in this study. Journals, newspapers, books, and other sources have also been used to support case studies.

3.2 Tools: All the information have been shown by using Pie charts and bar graphs.

4.0 Key findings

According to this report, there are a number of legal, social, economic, geographical, and technical loopholes that provide some states in India with a significant problem when it comes to GI Registration.

4.1 Legal Challenges

- GI Registration Act of India: On September 15, 2003, the Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act 48 of 1999) was implemented in India. This Act states that it will:
 - Adequate protection to the producers of GI goods.
 - Protection to consumers from deception, and

- Promotion of goods bearing GI in export market.

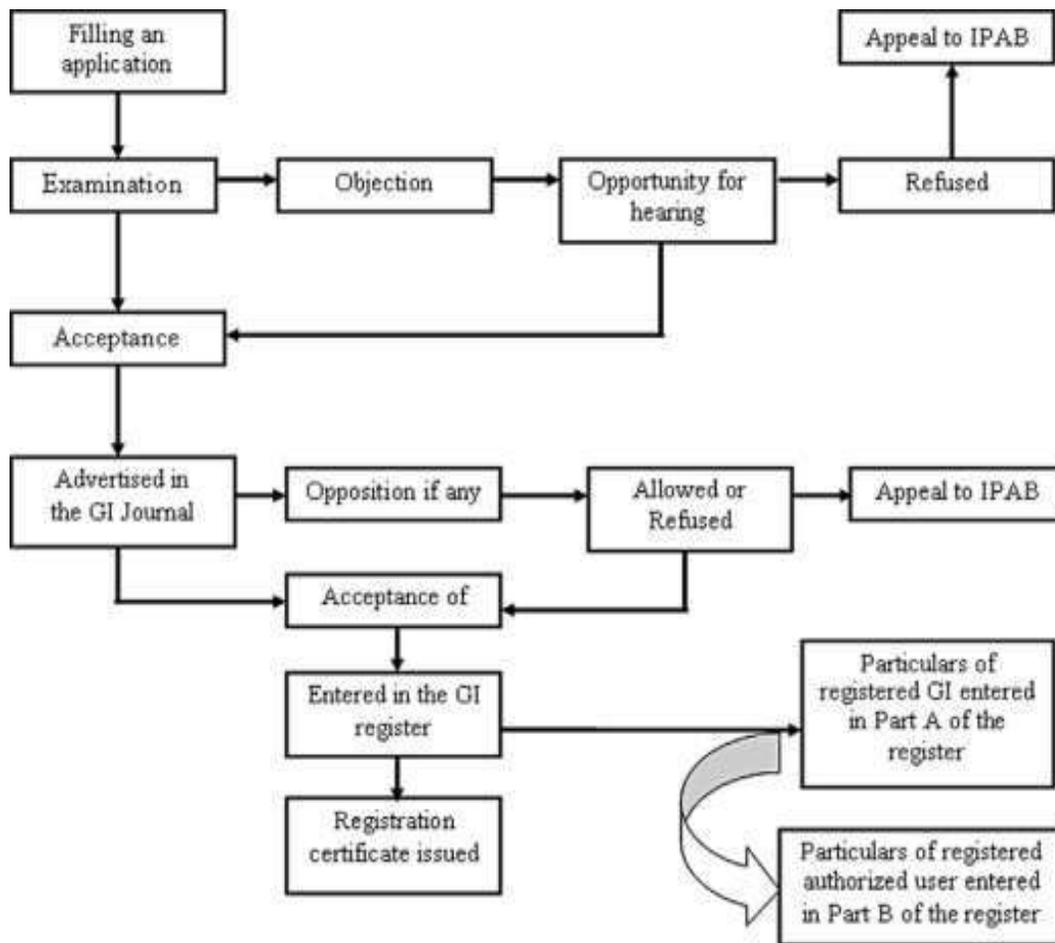
However, as will be detailed below, there are a number of shortcomings in this legislation that need to be remedied.

- Neither in the home market nor in the export market are there any efficient enforcement mechanisms.
- No agency is in place in India to keep an eye on the post-GI system.
- Because it places less focus on the inspection and monitoring systems for GI protection, rivals attempt to take advantage of its good name. But, this erodes customer confidence in the brand since they deceive them, and the real right holder loses out in the end.

Geographical Indication Registration process in India:

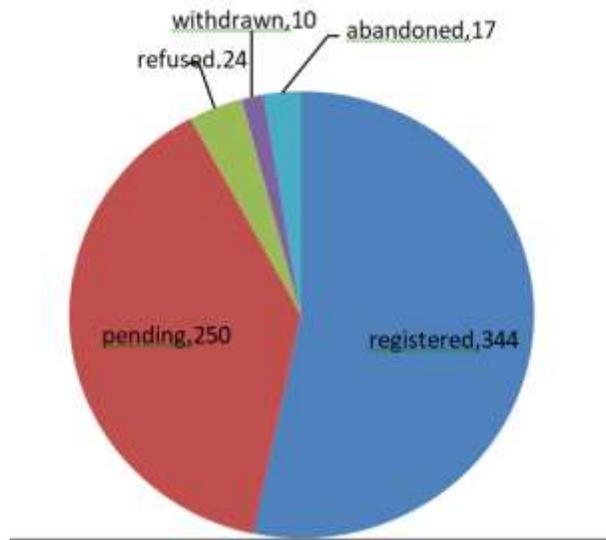
One may clearly assess how drawn out the Indian GI Registration process is from the above flow chart, which shows the time lag between each step of the registration procedure: application, review, acceptance, journal advertisement, objection, if necessary, and final registration. Any manufacturer that is prepared to register for any GI goods finds it extremely disappointing as there are several GI registration cases waiting in India.

figure 1:GIRegistration Process



Source: Geographical Indication Registry office

The GI status of India is shown below with the help of the pie chart



Source :GI Registry office

4.2 Economic Challenges

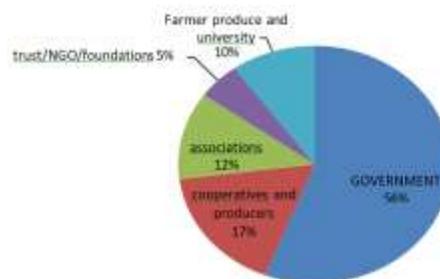
- **Marketing costs:** To maximize the economic potential of GI goods, the government ought to employ efficient marketing strategies and promotional initiatives. For rural Indian producers with limited understanding, it can take a lot of time, patience, money, quality control, and a well-planned marketing strategy to transform a GI product into a worldwide GI brand. This can be an arduous undertaking.

4.3 Monitoring cost: In the age of science and technology, intellectual property infringement has become a major issue for both manufacturers and consumers. A very strong post-GI infrastructure is needed to monitor it, but it comes with a high economic burden that most farmers, especially those in rural India, cannot afford.

The instance of Darjeeling Tea serves as a crucial illustration of the difficulty of monitoring; the Tea Board of India has spent over \$9.4 million on legal battles and the recruitment of foreign watchdogs to combat infringement.

4.3 Social Challenges

Lack of awareness: Despite the fact that the GI Act 1999 went into effect in India in 2003, many Indians are still unaware of it. How is an application submitted? How should I file? How can one keep an eye out for any ongoing violations? etc., particularly in remote locations, confound producers. It is due to lack of awareness that individual’s proprietorship in total GI registration is the highest percentage proprietorship i.e. 56% is very less and **Government** of India is having the highest percentage proprietorship i.e. 56% which is more than half of the total GI registration in India. The percentage of various entities’



Source: compiled from GI journal and GI Registry

Ownership in India's overall GI Registration is displayed in the pie chart above.

4.4 Geographical Challenges

Ambiguity of exact location: several uncertainties occur over the precise region that should be recognized as the product's origin, leading to several issues. Similar to India, there is competition for Basmati rice. The regions known for producing Basmati rice have traditionally been identified as Punjab, Haryana, Himachal Pradesh, Uttar Pradesh, J&K, and Delhi; however, Madhya Pradesh and Pakistan are now asserting their claim.

Distance from GI office: Since there is only one GI register office in India and it is located in Chennai, manufacturers from other states that are far from Chennai find it extremely difficult to contact the register office.

4.5 Technical Challenges

- **Infringement techniques:** In the current technological era, several advanced tools have been created that can replicate an object so perfectly that it is hard to tell the difference between the original and the copy. This poses a threat not just to the product's authorized manufacturers but also to the customers themselves, since the latter are defrauded while the former lose out on the advantages of creating the good.

5.0 Conclusion and suggestions

There is undoubtedly a significant difference in GI registration amongst Indian states. While some states, like Jharkhand, lack a GI and Arunachal Pradesh, Goa, Mizoram, Punjab, Sikkim, and Tripura have only one GI, other states, including Karnataka, Kerala, Maharashtra, and Tamil Nadu, are doing rather well. Therefore, significant action must be done to address it in order to fully exploit GI potential and enable the government to play a significant role in accelerating the nation's growth and development.

Even Nevertheless, the State Government has made many attempts to seize this chance by combining the marketing of GI goods with the Department of Tourism. However, the scope of these programs is restricted to regions with civil societies that are aware and informed, necessitating future development.

- The government should work to establish robust linkages for the product's branding, distribution, and marketing. It is also imperative that the government expand the product's reach internationally.
- The GI Regulation should have a strong penalty provision for violators.
- Fortifying the post-GI framework to keep an eye on violations occurring both domestically and internationally.
- Raising awareness, particularly in rural regions.

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