

Geographical Indications and Their Role in Rural Development: A Comparative Legal Analysis of India and the EU's IPR Framework

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Abstract:

This paper aims at discussing the significance of Geographical Indications as part of Intellectual Property Rights with particular focus on aspects of developments in rural area and culture of India and EU. GIs safeguard products associated with certain geographical locations and provide several efficiencies through product valorisation and preserving traditional knowledge. The legal protection of GIs remains well developed in the EU benefits rural economies of the place of origin of quality-enhanced foods such as Champagne and Feta. India, despite having valuable cultural gateways currently constituted by GIs such as Darjeeling Tea and Kanjeevaram Silk, protests about awareness, marketing, and enforcement. The article is focused on examining the performances of the Indian and the EU legal systems in organising rural growth and development. It moreover assess the possibility of India to enhance their GI system and therefore look at the EU system. To optimise the opportunities GIs hold for both economic and cultural benefit, both jurisdictions must overcome these hurdles.

Keywords —Geographical Indications, Intellectual Property Rights, Rural Development, India, European Union, Cultural Preservation.

I. INTRODUCTION

Geographical Indications (GI's) are a type of IPR [9], under which a product's qualities, reputation or characteristics are automatically associated with the place of origin. Such products contain elements of environmental specificity, approach to manufacturing, and identity. The aim of GI protection is to stop the misuse of such names and to entitle only those products produced within the said region for using the GI tag. This not only protects the economic matters of producers but also makes the consumers believe in the originality of these products.

GIs are already integrated into the legal context of the European Union (EU) and make a sizable contribution to the rural economy by supporting superior regional goods. Regional specialty products including GIs like Champagne, Roquefort

cheese and Parma ham have become highly valued global brands that have a positive impact on local producers, as well as the rest of the regional economy [3]. The laws of the EU which are highly developed afford much protection and avert fraud; and misuse even in similar goods. However, the Indian GI framework is well developed but entitled problems like low producer awareness, weak enforcement and limited marketing. This article analyses how GIs spur rural growth and elaborates on India and the EU Schemes and their greatest opportunities and challenges in achieving GIs' potential.

II. GEOGRAPHICAL INDICATIONS

GIs according to the *TRIPS agreement* refer to signs that identify goods with a specific geographic origin where the quality or other characteristic

attributed to the product is inherent to that region. They protect traditional products against false representation as well as copyright infringement and at the same time increase the economic value of the commodities. In EU there is an established regime of GIs, large numbers of regulations exist to protect agricultural products, wines, spirits etc. This system guarantees a rigid mechanism of safeguarding and identification of regional products across the world. On the other hand the GI protection in India is still evolving and structured under the Geographical Indications of Goods (Registration and Protection) Act 1999. While India enjoys a rich cultural and geographic diversification; a large number of products have been registered under GI, but problems still remain in areas such as enforcement, difficulty in creating awareness, and issues in marketing that do not allow the system to be utilized to its full advantage.

III. ECONOMIC IMPACTS OF GIS

All paragraphs must be indented. All paragraphs must be justified, i.e. both left-justified and right-justified. As indicated one of the major benefits of GIs is in the promotion of local economic development since it avails a tool that can help in the repositioning of products in the market and make them more valuable. The EU has benefited from the use of GIs especially to support its agricultural industry with attention to rural areas. Wine producing regions, such as Champagne, Parma Ham, and Roquefort cheese are seen globally as quality endorsed products that are helpful to producers and communities alike. EU law provides a good standard of guarantee that the right cannot be abused by filing GIs for non-competing goods as observed in *Champanillo case* [14].

The current study argues that GIs have similar type of economic value in India, especially for artisans and farmers in rural areas. A number of Indian GIs have gone global and they include Darjeeling Tea and Basmati Rice. But here too a problem comes that despite the registration of GI they find that their product has increased value and they find limitations such as low awareness, less opportunity to market and expensive certification.

For Instance, in the Darjeeling Tea case study, the authors note that more efforts need to be channelled towards strengthening marketing campaigns with a view to maintaining the economic gains of GIs.

IV. GI AND RURAL DEVELOPMENT

GI's make tremendous contributions towards the improvement of the rural economy through the promotion of different product outputs, generation of employment and the boosting of economic stability of the various rural economies. In European countries investigations reveal that GI protection is highly correlated with rural development. The communication reveals that GIs assist in maintaining indigenous practices in farming that have been in practice for many generations, contribute to the development of the tourism sector, and improve the quality of life of residents of the associated territories. EU introduces GIs into overall agricultural and rural development strategies, aiming at the creation of sustainable economic activities in poorer regions [7].

In the same manner, GIs are capable of leading the development of the countryside of India since most of the GI-protected products are made by rural craftsmen or raisers especially in the southern part of the country [11]. GIs safeguard indigenous forms of knowledge in sectors like handloom textiles, crafts, and agro food sector. That is why Geographical Indications such as Mysore Silk or Darjeeling Tea not only preserve these specific products but really contribute to the livelihood of rural populations.

Nevertheless, India's GI system has a number of drawbacks. Currently, producers seem not to have adequate knowledge concerning the issue, marketing support is inadequate, and the legal system is not fully effective. These traits restrain the optimum utilization of GIs by enabling rural India, as envisaged by the mechanism from realizing its true potential [8]. Solving these problems would help India enhance the advantages of GIs for the participants with reference to the rural areas.

V. PRESERVATION OF CULTURAL HERITAGE

Geographical Indications (GIs) have an important function of maintaining geographical reference to the culture of areas by shielding products that are a part of or originated from the native traditions, knowledge and skill. GIs protect the identity of famous products like F19 cheese and Champagne in the EU area, which are not only commodities, but also cultural assets [5]. Such products are an essential part of the identified cultural region, and GIs protect these products from being faked or used inappropriately for commercial gain, thus saving their cultural and historical value.

In parallel, GIs safeguard the diversified cultural values of different areas via products such as Kanjeevaram Silk, Banarasi Saris, and Mysore Sandalwood etc [10]. These GIs indicate that the products constitute artisanal or hereditary skills and techniques, which in many cases have been in use for several generations. GIs are useful in a sense that they legally safeguard these products; therefore, they are helpful in maintaining traditions. But there are a few challenges that need to be overcome for India to really exploit the cultural and economic advantages of GIs. Thus, it is urgent to strengthen promotion and enforcement actions to guarantee that GI protection has significant sense. This includes creating awareness to both producers and consumers, enhancing legal frameworks to combat counterfeits, and enhancing creation, politics and marketing of these brands to enable producers derive optimum economic gains from registered GIs while at the same time preserving cultural history inherent in GIs.

VI. COMPARATIVE ANALYSIS: INDIA VS. EUROPEAN UNION (EU)

Comparing the legal structures of GIs in India and EU mass, difference can be observed in terms of sophistication in legal provisions, enforcement and efficiency of the strategies [1]. Although the EU has a highly refined system, India's system, despite its positive potentials, has only been set which brings some challenges. This comparative analysis aims at comprehending the significant difference in the

regulation in the matter that involves the GI protection, enforcement, and post-registration problems.

GIs have thus IP legitimacy in the EU operating in the legal and economic framework for the protection of products associated with specific geographical locations. Primarily, the EU legal regime is sector liberalisation that encompasses agricultural products, wines, spirits, even non-food products. GIs are classified under two categories: *Special Designation of Origin* (SDO) and *Protected Geographical Status* (PGS). PDOs require all the processes of production, processing and preparation to take place in the specified geographical region while PGIs have some flexibility that only requires one of the processes to be associated with the geographical area. This kind of differentiation ensures that a broader base of products is within protection without having to compromise the quality level of products within sectors.

EU's framework is not meant to be just a legal framework: This links GIs more into other policies that have to do with agriculture and rural development. This is backed by intensive advertising, monetary encouragement and rigorous regulation that makes sure that the economic returns to GIs are optimised. Thus, the EU's broad approach propel local producers into participating in GI registration as a means for enhancing local economy and penetrating the market. *Champagne*, *Roquefort* and *Parma ham* are examples of GIs that have become famous internationally supported with EU promotional campaigns and increased consumer consciousness [2]. Moreover, the legal framework in the EU shields the GIs against misuse along with the non-competing markets. The *Champanillo case in the EU* is a typical example how the courts apply the Part IV SPS measures in relation to GI and avoid the infringement of GIs through improper use of the GI.

On the other hand, India's G.I framework as provided for under the *Geographical Indications of Goods (Registration and Protection) Act, 1999* [13] is comparatively still underdeveloped. Indian has an immense vast cultural and geographical variety which has several products eligible for GI protection including Darjeeling Tea, Kanjeevaram

Silk, and Pochampally Ikat. However, there are critical issues that affect the effectiveness of GI protection in India. The bigger issue remains that most of the producers especially those in developing countries and /or least developed countries including but not limited to peasant farmers and artisans have little knowledge of the importance of GI registration. Unfortunately, a lot of producers are either ignorant of the provisions of the law or else, the process is cumbersome and, therefore, expensive to undertake. This leads to under exploitation of the GI system hindering the growth of the economy.

Further, India has enforced GI rights much less compelling than the enforcement possessed by the EU. Though the EU requires a mechanical model for enforcing GI rights through specific courts and administrative organizations, India is still facing enforcement difficulties. Illegalization of GIs is well articulated and passing off of GI-protected products as real impacts the quality and credibility of original products. Darjeeling Tea is one of India's first and most famous GI-protected products that are experiencing these issues. Still, fake Darjeeling Tea is flooding the market at home and abroad, and this is an irony because the tea has achieved GI status.

In comparison, India continues to be weak in marketing and branding support especially after registration. Although registration ensures a GI legal protection, the commercial performance of a GI usually depends on the marketing efficiency. Through partnership with the EU, producers of GI receive various forms of support in marketing including subsidy, branding and promotional campaigns for enhanced consumer awareness. There continues to be a scarcity of post-registration support hence many producers are challenged in marketing their products in India. The economic opportunities of Indian GIs are still unrecognized mostly due to the inability to promote and market them correctly.

For a long time now, the Indian courts have waded only slightly into the aspects of misuse of GIs. While there are few judicial precedents available with regard to this subject, the recent black letter law of GIs is quite limited; *the Bombay*

and Calcutta High Court cases offer some guidance. Such courts have recently begun to appreciate the need for more enforcement and protection but the legal provisions still lack the solidity of the EU. It is becoming increasingly evident among Indian policymakers and legal professionals that improvement of the system is needed. This involves increasing the understanding of post-registration support, reducing the complexity of the registration process, bettering mechanisms to address infringement and offering/maintaining more support after registering greater post-registration support [6].

While India and the EU equally appreciate GIs as means of economic growth and culture protection, their legal systems can be considered more complicated in the second case and not so effective in the first one [12]. The EU has a highly developed system in place which provides comprehensive protection, underpinned by vigorous enforcement, as well as pro-active promotional activity. India, though has made progress in the field of GI protection has the following issues in GI awareness, GI rights protection, and GI post registration support. If India is to optimize the various GIs, it must overcome these challenges by learning from the EU which has a more developed system.

VI. CHALLENGES AND OPPORTUNITES

There are several challenges that India and the EU have to stronger to achieve the potential of the GI system. In Europe, one concern is how the 'value added' of GIs is used to fairly generate value for all participants in the supply chain, especially producers at the lower end [4]. Another issue is the disposal of environment impacts from the growing production volume in countries that rely on GI-protected products.

There are more elementary issues confronting India in this regard. Producers and consumer must be educated about GI system, the product needs to market properly and also there should be proper laws implemented against the misuse. Further, it is suggested that India should diversify the range of products and regions covered by GI system as well as to work out the comprehensive policies which would reflect the integration of GIs in the overall

framework of the further development of rural economies.

VII. CONCLUSION

The export credit GIs have a great potentiality in aiding rural development and cultural conservation in both Indian and EU. It can also be noted that although GIs have a well-developed legal framework and the markets set up in the EU, India's system remains relatively young. However, for fully realising the economic and cultural values of GIs, real issues that need to be faced include awareness and enforcement and marketing. Analysing the EU case, India can enhance the quality of its GI system and benefit from the country's diverse and tremendous cultural assets as a foundation for rural development.

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