ASSESSING LEGAL FRAMEWORKS AND POLICY REFORMS FOR THE GLOBAL RECOGNITION OF INDIAN GEOGRAPHICAL INDICATIONS

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ABSTRACT

Geographical indications (GIs) identify goods whose given quality, reputation or other characteristic is essentially attributable to their geographical origin. For a country as agro-climatically and culturally diverse as India, GIs are simultaneously instruments of rural livelihood, cultural preservation and export competitiveness. Yet the legal architecture securing Indian GIs abroad remains uneven. This paper critically evaluates the adequacy of India's domestic GI regime and the international instruments available for cross-border protection. It argues that the territorial character of GI rights, India's non-participation in the Lisbon system, and the asymmetric protection afforded by the TRIPS Agreement to non-wine products together leave flagship Indian GIs exposed to misappropriation, genericide and trademark capture. Drawing on the Darjeeling and Basmati controversies, it identifies enforcement, registration and branding deficits, and benchmarks India against the European Union, France, Italy and China. The paper concludes that statutory compliance alone is insufficient, and proposes a coordinated reform agenda spanning treaty accession, bilateral recognition, traceability technology and producer-centred commercialisation.

Keywords: *Geographical indications[1], TRIPS Agreement[2], Lisbon system[3], Darjeeling tea, Basmati[4].*

1.INTRODUCTION

A geographical indication links a product to a place, capturing the *terroir*, human skill and collective reputation embedded in goods such as Darjeeling tea, Banarasi sarees and Pashmina shawls. Economically, GIs function as collective reputational assets that command premium prices and resist commoditization, scholars have observed that GIs gained heightened political and economic salience as global trade integration intensified.[1] India's portfolio has grown rapidly: Darjeeling tea became the first product recognised as a GI in India in 2004–05, and the national register had reached roughly 658 registered GIs by March 2025. The decisive question, however, is not how many GIs India *registers* but how effectively those rights are *recognised and enforced beyond Indian borders*. This paper asks three questions: how adequate is India's domestic GI law; what international mechanisms exist for global recognition and where do they fail Indian producers; and what reforms would convert domestic registration into durable international protection. The methodology is doctrinal and comparative, analysing primary legal instruments, judicial and administrative decisions, and peer-reviewed scholarship.

1.1 The International Legal Framework Governing Geographical Indications

The international regime is fragmented and historically layered. The *Paris Convention* (1883) treats indications of source and appellations of origin as industrial property and obliges members to act against false indications and unfair competition, but it created no positive registration system and no autonomous GI standard.[2] The *Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods* (1891) targeted deceptive source markings yet attracted limited membership and left the pivotal question of generic terms to national courts.[3] The *TRIPS Agreement* (1994) is the principal multilateral baseline. Article 22 supplies a general standard requiring members to prevent uses that mislead the public or constitute unfair competition.[4] Article 23 then confers a markedly stronger, near-absolute protection exclusively for wines and spirits that applies even where the public is not misled and even where the true origin is indicated.[5] Article 24 preserves wide exceptions, prior good-faith use, and a standstill, while merely committing members to future negotiations.[6] This hierarchy is the central structural grievance of GI-rich developing countries: India's spices, rice and textiles receive only Article 22 protection, which in practice obliges proprietors to prove consumer confusion abroad a costly, jurisdiction-by-jurisdiction burden. The literature is divided on whether extending Article 23-type protection to all products is justified; some commentators argue the European push principally secures rents for European producers rather than benefiting developing states.[7] The *Lisbon Agreement* (1958) offered the most ambitious solution: a single international registration of appellations of origin securing protection across contracting parties.[8] Its weaknesses were a narrow definition and thin membership.[9] The *Geneva Act* (2015) modernised the system, extending it to all GIs and permitting intergovernmental

[1] Kal Raustiala and Stephen R Munzer, 'The Global Struggle over Geographic Indications' (2007) 18 European Journal of International Law 337, 337–339.
[2] Paris Convention for the Protection of Industrial Property (adopted 20 March 1883, as revised) arts 1(2), 10 and 10bis.
[3] Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (adopted 14 April 1891).
[4] TRIPS Agreement (n 1) art 22(2).
[5] ibid art 23.
[6] ibid art 24.
[7] Justin Hughes, 'Champagne, Feta, and Bourbon: The Spirited Debate about Geographical Indications' (2006) 58 Hastings Law Journal 299, 299–301.
[8] Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (adopted 31 October 1958) art 2.
[9] Dev Gangjee, *Relocating the Law of Geographical Indications* (Cambridge University Press 2012) ch 4.

organisations to accede; it entered into force on 26 February 2020 following accession by the European Union. The persistent multilateral failure remains the stalled negotiation of a binding register even for wines and spirits under Article 23.4.[10]

1.2 The Indian Legal Framework for Geographical Indications

India's *sui generis* regime comprises the *Geographical Indications of Goods (Registration and Protection) Act, 1999* and the *Rules, 2002*, which came into force on 15 September 2003 to align India with its TRIPS obligations.[11] The Act adopts the TRIPS-style definition,[12] and the Rules govern application, examination and the maintenance of the Register administered by the GI Registry at Chennai.[13] Registration is valid for ten years and is renewable[14] and confers on the registered proprietor and authorised users the right to obtain relief against infringement.[15] Crucially, Section 20(1) bars any proceeding for an *unregistered* GI, underscoring the registration-dependent character of the right.[16] Section 22 defines infringement; the Central Government may, by notification, confer Article 23-style "additional protection" on specified goods a discretionary power exercised sparingly.[17]

Two structural limitations dominate any critical assessment. First, GI rights are strictly territorial: an Indian registration secures nothing in foreign markets, the core analytical point made by Gangjee about the location of GI rights within national systems.[18] Second, the interface with trademark law is unresolved. In *Tea Board, India v ITC Ltd*, the Calcutta High Court declined to restrain a hotel's "Darjeeling Lounge", holding that the action was barred by limitation and that the Tea Board's registration certified *tea* rather than granting a monopoly over the word "Darjeeling" across unrelated services.[19] The decision exposes the limited penumbra of GI protection where trademark and service-mark use intersect.[20]

1.3 Global Recognition of Indian GIs: Achievements and Challenges

The experience of India's flagship GIs illustrates the gap between registration and recognition. The Tea Board secured certification marks and registrations for *Darjeeling* in several jurisdictions, yet enforcement in France proved difficult because French law did not permit opposition to a trade mark application identical or similar to the GI in the manner the Board sought. The *Basmati* episode is starker: the USPTO granted RiceTec US Patent No 5,663,484 ("Basmati rice lines and grains") in 1997, and only after a challenge by India's APEDA did the USPTO issue a re-examination certificate in 2002 cancelling the broad claims, with RiceTec withdrawing

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[10] TRIPS Agreement (n 1) art 23.4; WTO, 'Draft Modalities for TRIPS Related Issues' (19 July 2008) TN/C/W/52.
[11] Geographical Indications of Goods (Registration and Protection) Act 1999 (India); Geographical Indications of Goods (Registration and Protection) Rules 2002 (India).
[12] GI Act 1999 (n 12) s 2(1)(e).
[13] GI Rules 2002 (n 12).
[14] GI Act 1999 (n 12) s 18.
[15] ibid s 21
[16] ibid s 20(1).
[17] ibid s 22.
[18] Gangjee (n 10) ch 1.
[19] *Tea Board, India v ITC Ltd* (Calcutta High Court, 2011).
[20] GI Act 1999 (n 12) s 26(4).

claims and abandoning the "Basmati" designation.[21] Although celebrated as a victory, the dispute was fought through patent re-examination and biopiracy advocacy rather than through any effective international GI mechanism precisely because none existed for India's benefit. The recurring challenges are therefore systemic: cross-border infringement and counterfeiting (including domestically produced imitations of Banarasi and Kanchipuram textiles); jurisdictional fragmentation requiring separate filings and litigation in each market; conflicts with prior trademarks abroad; a small number of foreign registrations relative to the domestic register; and weak branding, packaging and provenance signalling that allows premium value to be captured by intermediaries rather than producers.[22] Above all, India is not a party to the Lisbon system, foreclosing access to a centralised international registration route.

2. COMPARATIVE ANALYSIS

The European Union operates a mature, centralised regime under Regulation (EU) No 1151/2012, with protected designations of origin and protected geographical indications administered at Union level and recently extended to craft and industrial products.[23] France, through the *appellation d'origine contrôlée* tradition administered by the INAO, pioneered the *terroir* model that the EU later generalised; Italy similarly leverages dense PDO/PGI portfolios for food and wine exports. The instructive contrast is enforcement capacity: EU GIs enjoy *ex officio* protection against evocation and imitation across the single market and are aggressively projected outward through trade agreements. China, despite a later start and a historically dual administrative structure, has scaled dramatically by 2023 China reported the largest number of GIs in force within its territory of any jurisdiction and has used bilateral recognition with the EU to secure reciprocal protection for its GIs abroad. The lessons for India are clear: a centralised, well-resourced authority; *ex officio* enforcement; and the systematic embedding of priority GIs in trade negotiations.[24]

3. POLICY REFORMS FOR GLOBAL RECOGNITION OF INDIAN GIS

A reform agenda must move beyond the domestic register. First, India should seriously evaluate accession to the Geneva Act of the Lisbon Agreement, which would offer a single international filing for priority GIs, weighing the reciprocity costs against the enforcement gains.[25] Second, deeper engagement with WIPO administrative systems and the multilateral register negotiations would strengthen India's voice in shaping the rules rather than merely complying with them.[26] Third and most immediately effective, India should secure GI recognition through bilateral and regional trade agreements, the route China and the EU have used to greatest effect. Fourth,

[21] US Patent No 5,663,484, 'Basmati Rice Lines and Grains' (granted 2 September 1997), USPTO Re-examination Certificate (2002).
[22] NS Gopalakrishnan, Prabha S Nair and Aravind K Babu, *Exploring the Relationship between Geographical Indications and Traditional Knowledge: An Analysis of the Legal Tools for the Protection of Geographical Indications in Asia* (ICTSD, Geneva 2007).
[23] Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs [2012] OJ L343/1; Regulation (EU) 2023/2411 on the protection of geographical indications for craft and industrial products [2023] OJ L (craft and industrial GIs).
[24] WIPO, *IP Facts and Figures 2024* (WIPO 2024).
[25] Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (adopted 20 May 2015, entered into force 26 February 2020).
[26] WTO (n 11) TN/C/W/52.

digital authentication, blockchain-based provenance and traceability systems can substantiate origin claims in foreign markets and counter counterfeiting at the point of sale.[27] Fifth, coordinated branding, geographical certification logos and export-promotion support are needed to convert legal status into market premium, since the literature consistently finds that producer benefit depends on collective marketing infrastructure, not registration alone.[28] Sixth, producer-awareness programmes must close the information deficit that leaves artisans dependent on intermediaries.[29] Finally, India should invest in enforcement-cooperation arrangements and accessible dispute-resolution pathways so that defending a GI abroad does not depend on the resources of a single statutory board.[30]

4. CONCLUSION

India's GI framework is, on paper, TRIPS-compliant and administratively functional; the *sui generis* model and a register approaching seven hundred entries are real achievements. The Government's stated ambition of 10,000 GIs by 2030 signals continued domestic momentum. Yet the analysis above demonstrates that domestic adequacy does not translate into global recognition. The combination of territorial rights, the wine-and-spirits asymmetry in TRIPS, India's absence from the Lisbon system, and chronic branding and enforcement deficits means that flagship Indian GIs remain vulnerable to capture and dilution abroad. The Darjeeling and Basmati experiences confirm that reactive, jurisdiction-specific litigation is an inadequate substitute for a coherent international strategy.[31] The way forward is therefore not further statutory tinkering but an integrated policy programme: selective treaty accession, GI clauses in trade agreements, technological traceability, and producer-centred commercialisation. Only by treating GIs as a coordinated instrument of trade and development policy rather than as a purely defensive registration exercise can India secure for its producers the global recognition their heritage deserves.

[27] William van Caenegem, 'Registered Geographical Indications: Between Intellectual Property and Rural Policy' (2003) 6 Journal of World Intellectual Property 861.
[28] Madhavi Sunder, *From Goods to a Good Life: Intellectual Property and Global Justice* (Yale University Press 2012).
[29] Sumathi Das, 'Prospects and Challenges of Geographical Indications in India' (2010) 13 Journal of World Intellectual Property 148.
[30] Daniel Gervais, *The TRIPS Agreement: Drafting History and Analysis* (Sweet & Maxwell).
[31] VK Ahuja, *Law Relating to Intellectual Property Rights* (LexisNexis).