
AN ANALYTICAL EXPOSITION OF INDIA'S GEOGRAPHICAL INDICATIONS LAW: FROM TRIPS COMPLIANCE TO SOCIO-ECONOMIC REALITIES

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ABSTRACT

This article presents an in-depth exploration of The Geographical Indications of Goods (Registration and Protection) Act, 1999, which has been legislated as a requirement of the TRIPS agreement, and reflects on its legislative goals of safeguarding cultural heritage and supporting rural economic growth. By dissecting the regulatory text, analyzing select landmark cases, and reviewing the socio- economic impact of the GI policy using Darjeeling Tea, Basmati Rice, and Alphonso Mangoes case studies, the article demonstrates serious failure of the legislation to accomplish its objectives. The article highlights fundamental challenges with compliance, regulation, and equitable distribution of the benefits of the GI system that detract from the efficacy of the law. A comparative assessment with the European Union's more established GI system highlights tenets of systemic failure in the Indian GI regulatory structure. The article concludes with a comprehensive reform initiative of amendments to law, enhancement of institutions of cooperation, and recalibration of GI policy for ultimately, a more meaningful GI regulatory framework for India.

I. Introduction:

The enactment of the Geographical Indications of Goods (Registration and Protection) Act, 1999 (the 'GI Act' hereafter) was a critical point in the progression of Intellectual Property Rights (IPR) in the country. This Act was a legislative response to the new global trading regime, a defensive instrument to prevent 'misappropriation' of national heritage, and a potentially aspirational socio-economic instrument for rural development. In this context, it is necessary to understand the interactions of international obligations and domestic needs that motivated its fit in this landscape.

The Global Context: The TRIPS Agreement and the International Mandate for GI Protection

The GI Act emerged in connection with India's commitment to the World Trade Organization (WTO), and corresponding obligation to subscribe to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The TRIPS Agreement, which introduced intellectual property law into the multilateral trading system for the first time in 1995, was groundbreaking, with mandatory minimum protection standards that each country was obliged to implement in domestic law.

The agreement provided the first multilaterally agreed-upon definition of GIs:¹

"indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin".

The TRIPS Agreement established a two-tiered system of protection. Article 22 mandated a general level of protection for all GIs, requiring member states to provide legal means for interested parties to prevent the use of an indication that misleads the public as to the true geographical origin of the goods or which constitutes an act of unfair competition. This is often referred to as the "misleading test".

However, provided a higher, "additional" level of protection has been provided exclusively for

¹ Article 22.1 of the TRIPS Agreement

GIs identifying wines and spirits.² This provision requires members to prevent the use of a GI for wines or spirits not originating from the indicated place, even where the true origin is indicated or the GI is used in translation or accompanied by expressions such as "kind", "type", "style", or "imitation". This absolute protection, which does not require proof of public confusion, created a contentious hierarchy that has been a persistent point of debate between "Old World" nations (like the EU), which have a rich portfolio of GIs for various products, and "New World" nations, which often view such protections as potential trade barriers.

Finally, certain exceptions³ have been outlined, such as for GIs that have become generic terms or for trademarks acquired in good faith prior to the GI's protection. As a signatory to the TRIPS Agreement, India was obligated to enact a *sui generis* law to provide for the protection of GIs within its territory.

The Domestic Imperative: Pre-1999 Landscape and Catalyzing Events

Prior to the enactment of the GI Act, India possessed no specific legislation to protect geographical indications. This legal vacuum left the producers of iconic Indian goods like Darjeeling tea, Basmati rice, and Kolhapuri chappals vulnerable to misappropriation and unfair competition both domestically and internationally. While the judiciary had occasionally offered protection through common law actions like passing-off, this was an inadequate and inconsistent remedy for what was fundamentally a collective community right.

The impetus for comprehensive legislation was dramatically accelerated by a series of high-profile international disputes in the 1990s, which were widely perceived in India as instances of "biopiracy" and economic appropriation by entities in developed nations. The most significant of these was the "Basmati patent" controversy. In 1997, a Texas-based company, RiceTec Inc., was granted a U.S. patent (No. 5,663,484) on certain rice lines and grains, with claims that covered rice grown outside of the traditional Basmati-growing regions of India and Pakistan. The company marketed its rice under brands like 'Texmati' and 'Kasmati', leveraging the reputation of genuine Basmati. This act sparked public and governmental outrage in India, as it threatened the livelihood of thousands of farmers and the country's export market for its most famous agricultural product. After a protracted challenge by the Indian government,

² Article 23 of the TRIPS Agreement

³ Article 24 of the TRIPS Agreement

several of RiceTec's claims were eventually withdrawn or cancelled.

Similar controversies surrounding attempts to patent the properties of neem and turmeric further galvanized public opinion and created a compelling political mandate for legislative action. These events underscored a critical realization: the TRIPS agreement was not merely a set of obligations but also a potential shield. To utilize this shield effectively, India first needed to establish protection for its GIs within its own borders, as TRIPS mandates that a GI must be protected in its country of origin to be eligible for protection in other member countries.

This shows that the GI Act was not simply a completely proactive initiative to develop and market local products, but was a defensive, reactive response to existing threats to national economic and culture resources. The legislative process occurred out of an immediate sense of vulnerability, and a fundamental need to establish a legal protective framework around India's traditional knowledge and products. Starting with this defensive tone arguably shaped the end objective to focus on the legal questions of registration and protection even at the cost of a more sophisticated and resource-intensive systems for post-registration quality control, market development and enforcement which has become the major negative element of the system.

II. Legislative Intent and the Stated Objectives of the Geographical Indications of Goods Act, 1999

The GI Act, enacted by the Indian Parliament in December, 1999 and brought into effect on September 15 2003, was a thorough piece of legislation to address both domestic and international needs. This is conveyed in the preamble: "An Act to provide for the registration and better protection of the geographical indications relating to goods". Beneath this primary aim, the GI Act consists of a set of multidimensional aims aimed at using GIs as a tool for sustainable development.

Legal Protection: The key goal was to meet the TRIPS obligations to establish a solid legal framework to give statutory protection to Indian GIs, to avoid misuse of GIs by other users, and to protect producers and the GI from infringement and unfair competition.

Economic Development: The Act is proposed as a potential engine for economic development, especially in rural area. By establishing a distinctive identity for products, it sought to enhance exports, develop rural economy, provide local livelihood and, most

importantly, ensure that the commercial benefits of a product identity will return to the communities of producers.

Cultural Conservation: An equally legitimate non-commercial objective is to conserve and safeguard India's vibrant cultural heritage. Acknowledging products such as Banarasi silk and Tanjore paintings legally sought to conserve the traditional knowledge, techniques and craftsmanship behind those products, thereby ensuring their survival for future generations.

Consumer protection: The Act also functions as a valuable consumer protection effort. By assuring the quality of a product with GI, it protects the consumer against fraud and protects them from inferior goods that illegally use a protected identity.

This article argues that although the Geographical Indications of Goods Act, 1999, is a textually strong and comprehensive legal instrument that accomplishes India's TRIPS commitments, there is distinct and enduring misalignment between its objectives and actual implementation on-the-ground. This misalignment rooted in structural complexity within the Act, systemic enforcement inadequacies, no institutional support for quality assurance and absent brand marketing, and promotion efforts post-registration has severely constrained the socio-economic impact of the Act and impeded achievement of its objectives.

To demonstrate this argument, the article proceeds as follows. Section II dissects the statutory basis of the Act, and examines key elements of registration, rights and enforcement. Section III investigates the developing jurisprudence, focusing on landmark constitutional court cases which have interpreted and shaped the legal evolution of the law. Section IV evaluates the practical implementation and socio-economic impact of the Act through illustrative examples of three popular Indian GIs. Section V offers a means of comparison, contrasting the Indian regime with the more developed rubrics of the European Union to identify differences in structures and offer lessons. Finally, Section VI summarizes the journey and proposes several policy recommendations to improve the gap between the promise and performance of the law, and systems to develop a more functional GI framework for India.

III. Deconstructing the Statutory Framework of the GI Act, 1999

The GI Act, 1999, is an extensive and complete code consisting of 9 chapters and 87 sections. It sets up the administrative mechanisms, indicates the scope of protectable subject matter,

provides a comprehensive process for registration, outlines the rights resulting from registration, and establishes significant civil and criminal remedies for enforcement. A systematic analysis of this framework reveals the legislative effort to build a strong TRIPS compliant regime of GI protection.

The GI Registry and the Dual-Register System

The administrative foundation of the GI regime is established in Chapter II of the Act. The Controller-General of Patents, Designs and Trade Marks is designated as the Registrar of Geographical Indications.⁴ A central Geographical Indications Registry, with its head office specified by the Central Government (currently in Chennai) and regional offices as needed to facilitate registration has to be established.⁵

A unique architectural feature of the Indian system is the dual-part register mandated by the Act.⁶ The Register of Geographical Indications is divided into two parts:

- **Part A:** This part contains the particulars relating to the registration of the geographical indications themselves, including the name, the geographical area, the class of goods, and the details of the registered proprietor.
- **Part B:** This part contains the particulars relating to the registration of "authorised users" of the GI, including their names and addresses.

This bifurcated structure is central to the functioning of the Act. It separates the registration of the GI as a collective right, held by a representative body, from the registration of individual producers who are authorized to use that GI on their goods.

Defining the Subject Matter: An Analysis of Key Definitions

The Act provides the definitional scaffolding for the entire statute. Several definitions are critical to understanding its scope and operation:

⁴ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 3

⁵ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 5

⁶ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 7

- **Geographical Indication :** The Act adopts a definition that is closely aligned with, and in some respects broader than, the TRIPS definition. It defines a GI as:⁷

“in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.”

This definition is comprehensive, explicitly covering agricultural, natural, and manufactured goods, which is crucial in the Indian context given the wide variety of protectable products, from tea and rice to handicrafts and textiles. The

Explanation to the clause further clarifies that a name that is not a geographical place name can also be a GI if it relates to a specific area (e.g., 'Basmati').

- **Producer⁸ :** The Act provides a very broad definition of a 'producer'. For agricultural goods, it includes the person who produces, processes, or packages the goods. For natural goods, it is the person who exploits them. For handicraft or industrial goods, it is the person who makes or manufactures them. Crucially, the definition also "includes any person who trades or deals in such production, exploitation, making or manufacturing". This wide ambit has implications for who can become an authorised user.
- **Registered Proprietor and Authorised User:** This is perhaps the most distinctive and consequential feature of the Indian GI framework.
 - A Registered Proprietor⁹ is defined as "any association of persons or of producers or any organization for the time being entered in the register as

⁷ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 2(1)(e)

⁸ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 2(1)(k)

⁹ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 2(1)(n)

proprietor of the geographical indication". This entity holds the GI registration on behalf of the producer community.

- An Authorised User¹⁰ is defined as "the authorised user of a geographical indication registered under section 17". This is an individual producer, maker, or trader who applies for and is granted the right to use the registered GI.

This statutory division between the collective proprietor and the individual user was likely intended to solve the collective action problem, where it would be impractical for thousands of individual artisans or farmers to jointly file for registration. However, this structural choice has inadvertently created significant challenges in governance, enforcement, and the equitable distribution of benefits, representing a core tension between the Act's design and its practical application.

IV. The Path to Protection: The Registration and Opposition Procedure

Chapter III of the Act lays out a detailed and transparent procedure for the registration of both GIs and their authorised users.

1. **Application¹¹:** An application for registration of a GI must be made in writing to the Registrar by "any association of persons or producers or any organisation or authority established by or under any law... representing the interest of the producers of the concerned goods". The application must be comprehensive, containing a statement explaining the link between the geographical environment and the product's quality or reputation, the class of goods, a map of the geographical area, and particulars of the producers.
2. **Examination and Acceptance¹²:** The Registrar examines the application and may refuse it or accept it, either absolutely or subject to conditions. The grounds for refusal or conditional acceptance must be recorded in writing. Section 9 lists several absolute grounds for refusal, such as GIs that are likely to deceive or cause confusion, are contrary to law, contain scandalous matter, hurt religious susceptibilities, are generic

¹⁰ Geographical Indications of Goods (Registration and Protection) Act, 1999, Ss. 2(1)(b), 17

¹¹ Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 11

¹² Geographical Indications of Goods (Registration and Protection) Act, 1999, s. 11(5) -11(7)

names, or falsely represent the origin of goods.

3. **Advertisement and Opposition¹³**: Once accepted, the application is advertised in the Geographical Indications Journal. This opens a window for public scrutiny. "Any person" may oppose the registration by giving notice to the Registrar within three months (extendable by one month) of the advertisement. The Act then provides for a quasi-judicial process involving a counter-statement by the applicant, submission of evidence by both parties, and a hearing before the Registrar decides the matter. This open opposition procedure is a key feature ensuring transparency and allowing for competing interests to be heard.
4. **Registration and Duration¹⁴**: If there is no opposition or if the opposition is decided in favor of the applicant, the Registrar registers the GI. The date of registration is deemed to be the date of the initial application. A certificate of registration is issued to the applicant (the registered proprietor) and any authorised users mentioned in the initial application. The registration is valid for a period of ten years and can be renewed indefinitely for subsequent periods of ten years upon payment of the prescribed fee.
5. **Registration of Authorised Users¹⁵**: After a GI is registered, any person claiming to be a producer of the goods can apply to be registered as an authorised user. This application undergoes a similar process of examination, advertisement, and potential opposition as the main GI application.

V. The Substance of Protection: Rights, Infringement, and the Interplay with Trademark Law

Chapters IV and V define the substantive rights that flow from registration and manage the potential conflicts with trademark law.

- **Rights Conferred by Registration¹⁶**: This section is pivotal and establishes the aforementioned structural complexity. It confers two distinct sets of rights:

¹³ Geographical Indications of Goods (Registration and Protection) Act, 1999, Ss. 13,14.

¹⁴ Geographical Indications of Goods (Registration and Protection) Act, 1999, Ss.16,18.

¹⁵ Geographical Indications of Goods (Registration and Protection) Act, 1999, s.17.

¹⁶Geographical Indications of Goods (Registration and Protection) Act, 1999, s.21.

- Section 21(1)(a) gives "to the registered proprietor of the geographical indication and the authorised user or users thereof the right to obtain relief in respect of infringement".
- Section 21(1)(b) gives "to the authorised user thereof the exclusive right to the use of the geographical indication in relation to the goods".

The use of "and" in the first clause, combined with the granting of the "exclusive right to use" only to the authorised user, created a significant legal ambiguity: could a registered proprietor, who does not have the right to use the GI, independently sue for infringement? This question remained a point of contention until it was judicially resolved, as discussed in the next section.

- **Infringement of Registered GIs¹⁷:** This section defines infringement broadly. An unregistered person infringes a GI if they use it in a manner that (a) misleads the public as to the true geographical origin; (b) constitutes an act of unfair competition, including passing off; or (c) uses another GI to falsely represent that the goods originate from the registered GI's territory. Significantly, Section 22(2) empowers the Central Government to notify certain goods for "additional protection," which then triggers the higher, absolute protection of Section 22(3), mirroring TRIPS Article 23. Under this, any use of the GI for notified goods, even with qualifiers like "style" or "imitation," constitutes infringement. This is a "TRIPS-plus" feature, as it allows India to extend this higher level of protection to products beyond just wines and spirits.
- **Prohibition of Assignment¹⁸:** In a crucial departure from trademark law, Section 24 establishes that a registered GI is public property and cannot be the subject of assignment, transmission, licensing, pledge, or mortgage. This reinforces the collective and community-based nature of the right.
- **Relationship with Trademarks¹⁹:** The Act establishes a clear hierarchy where GIs prevail over subsequent trademarks. Section 25 mandates the Registrar of Trade Marks to refuse or invalidate the registration of a trademark that contains a GI if it is likely to mislead the public. However, Section 26 provides a "safe harbour" for trademarks that

¹⁷ Geographical Indications of Goods (Registration and Protection) Act, 1999, s.22.

¹⁸ Geographical Indications of Goods (Registration and Protection) Act, 1999, s.24.

¹⁹ Geographical Indications of Goods (Registration and Protection) Act, 1999, Ss.25,26.

were applied for or registered in good faith before the commencement of the GI Act or before the GI application was filed.

The Enforcement Mechanism: Offences, Penalties, and Procedure

The GI Act is textually robust in its enforcement provisions, providing for stringent criminal remedies in Chapter VIII.

- **Offences²⁰:** The Act criminalizes several acts, including falsifying a GI (Section 38(1)), falsely applying a GI to goods (Section 38(2)), making instruments for falsification, and tampering with an indication of origin.
- **Penalties²¹:** The penalties for these offences are significant, prescribing a minimum mandatory sentence of six months' imprisonment, extendable to three years, and a minimum fine of ₹50,000, which may extend to ₹2 lakh. The court can impose a lesser sentence only for "adequate and special reasons" recorded in the judgment.
- **Enhanced Penalties²²:** The Act provides for enhanced penalties for a second or subsequent conviction, with imprisonment for a term of not less than one year and a fine of not less than one lakh rupees.
- **Police Powers²³:** The main offences under Sections 39, 40, and 41 are cognizable, meaning the police can make an arrest without a warrant. A police officer not below the rank of Deputy Superintendent of Police is empowered to search and seize infringing goods and materials without a warrant. However, this power is subject to a significant procedural safeguard: the police officer must first obtain the opinion of the Registrar of Geographical Indications on the facts and must abide by that opinion.

In sum, the statutory framework of the GI Act, 1999, is comprehensive and appears, on paper, to provide a powerful legal toolkit for the protection of geographical indications, even exceeding the minimum standards required by the TRIPS Agreement. However, its effectiveness ultimately depends on how its provisions, particularly its unique structural

²⁰ Geographical Indications of Goods (Registration and Protection) Act, 1999, s.38.

²¹ Geographical Indications of Goods (Registration and Protection) Act, 1999, s.39.

²² Geographical Indications of Goods (Registration and Protection) Act, 1999, s.41.

²³ Geographical Indications of Goods (Registration and Protection) Act, 1999, s.50.

elements, are interpreted by the judiciary and implemented on the ground.

VI. The Jurisprudence of Geographical Indications: Judicial Interpretation and Precedent

For any legislation, the true meaning and scope of its provisions are ultimately shaped by judicial interpretation. In the two decades since the GI Act came into force, Indian courts have had several opportunities to adjudicate on its key provisions. This has led to the development of a nascent but significant body of case law that has clarified ambiguities, defined the boundaries of protection, and revealed the practical challenges of enforcement.

Defining the Boundaries of Protection: The Goods vs. Services Dichotomy in *Tea Board, India v. ITC Limited*

One of the first and most significant cases to test the scope of GI protection in India was *Tea Board, India v. ITC Limited*.²⁴ The case arose when the Tea Board of India, the registered proprietor of the 'DARJEELING' GI and certification trademark for tea, filed a suit against ITC Limited, a major Indian conglomerate, for naming a premium lounge in its luxury hotel in Kolkata the "Darjeeling Lounge".

- **Legal Arguments:** The Tea Board's suit was multifaceted. It alleged infringement of its registered GI under the GI Act, infringement of its certification trademark under the Trade Marks Act, 1999, and the common law tort of passing-off, arguing that ITC's use of the name constituted an act of unfair competition that diluted the distinctiveness of the 'Darjeeling' brand and misled the public into believing there was an association with the Tea Board or its certified tea. ITC's primary defense was structural: it argued that the GI Act's protection is statutorily confined to

goods and cannot be extended to cover *services* such as a hotel lounge. They contended that there was no likelihood of confusion between a premium tea and a premium lounge, which catered to a discerning clientele.

- **Court's Reasoning and Judgment:** The Calcutta High Court, in its decision on the interlocutory injunction, ruled in favor of ITC and refused to grant the injunction. The

²⁴ 2011 (48) PTC 169 (Cal.).

Court's reasoning was pivotal. It closely examined the preamble and the statement of objects and reasons of the GI Act, concluding that the legislative intent was unequivocally to provide protection for "geographical indications relating to goods". The Court held that the rights conferred by GI registration for the good "tea" did not grant the Tea Board a monopoly over the word "Darjeeling" when used in relation to services.

On the question of passing-off, the court found that the Tea Board had failed to establish a prima facie case of deception or confusion. It noted that the defendant's lounge was an exclusive area accessible only to high-end customers, who were unlikely to be confused into thinking the lounge itself was a product of the Tea Board. The court also gave weight to the fact that 'Darjeeling' is a well-known geographical name used extensively in various commercial contexts for decades, suggesting that its distinctiveness was primarily tied to tea, and its use in a completely different sector (hospitality) did not amount to misappropriation.

- **Analysis and Significance:** This judgment established a critical and restrictive boundary on the scope of GI protection in India. It clarified that, unlike well-known trademarks which can enjoy cross-category protection, the statutory protection for GIs is strictly limited to the class of goods for which they are registered. The decision effectively created a 'goods vs. services' dichotomy, preventing GI holders from leveraging their statutory rights to stop the use of their protected names in the service industry. This ruling highlights a key difference in the enforcement landscape between GIs and trademarks in India and has significant ramifications for future infringement actions.

Clarifying Locus Standi: The Rights of the 'Registered Proprietor' in *Scotch Whisky Association v. J.K. Enterprises*

If the *Tea Board* case defined the *what* of GI protection, the more recent case of *Scotch Whisky Association v. J.K. Enterprises*²⁵ clarified the *who*. This case addressed the fundamental structural ambiguity embedded in Section 21 of the GI Act concerning the right to sue for

²⁵ Misc. Petition No. 4543 of 2021, decided 18 December 2023 (MP).

infringement.

- **Case Background and Legal Issue:** The Scotch Whisky Association (SWA), a UK-based body and the registered proprietor of the 'Scotch Whisky' GI in India, filed an infringement suit in the Madhya Pradesh High Court against an Indian company, J.K. Enterprises, for manufacturing and selling a product under the mark 'London Pride' with packaging that suggested a British origin. The defendants filed an application to reject the plaint, arguing that the suit was not maintainable. Their argument hinged on a literal, conjunctive reading of Section 21(1)(a), which grants the right to obtain relief to "the registered proprietor...

and the authorised user". They contended that the SWA, as the proprietor, could not sue alone and was required to jointly file the suit with at least one authorised user of the Scotch Whisky GI.

- **Court's Reasoning and Judgment:** The Madhya Pradesh High Court rejected the defendant's argument in a landmark decision that involved a purposive interpretation of the statute. The Court acknowledged that a literal reading of "and" would render the registered proprietor's rights subservient to those of the authorised user, a result that would be illogical and contrary to the legislative intent.

The Court reasoned that the GI Act was enacted to fulfill India's obligations under the TRIPS Agreement and must be interpreted in that light. It noted that the entire GI registration process is initiated by the registered proprietor; the GI tag itself exists because of the proprietor's application. To deny the proprietor the independent right to protect that GI would be an absurdity. The Court held that the legislature could not have intended to confer exclusive enforcement rights on the authorised user to the exclusion of the proprietor, the very originator of the right. Therefore, applying the established principles of statutory interpretation, the Court held that the word 'and' in Section 21(1)(a) must be read disjunctively as 'or'. This interpretation allows either the registered proprietor or an authorised user to institute an infringement suit independently.

- **Analysis and Significance:** This judgment is of profound importance for the enforcement of GIs in India. It resolves a critical structural ambiguity in the Act and

significantly strengthens the position of registered proprietors. This is particularly crucial for foreign GIs like Scotch Whisky or Champagne, where the proprietor is a foreign association and the authorised users are numerous disparate entities. Requiring a joint suit would have created an insurmountable procedural hurdle. By affirming the proprietor's independent *locus standi*, the Court has created a more practical and effective enforcement pathway, aligning the Indian legal framework more closely with international best practices and ensuring that the entities responsible for obtaining and maintaining GI registrations have the power to protect them.

Examining Enforcement in Practice: Insights from other Infringement Disputes

Beyond these two seminal High Court judgments, the enforcement landscape is also shaped by actions taken in other cases, which reveal a different set of practical challenges.

- **The Pochampalli Ikat Case:** This dispute involved the GI-protected handloom fabric 'Pochampalli Ikat'. In 2005, the registered proprietors discovered that a Mumbai-based businessman was selling machine-made imitations through a large retail chain, passing them off as genuine Pochampalli Ikat. This case highlights the threat of infringement from within the domestic market, where technology (power looms) is used to replicate traditional products at a lower cost, thereby undercutting the livelihoods of genuine artisans. However, the matter was resolved through an out-of-court settlement, where the infringer agreed to destroy the unsold stock and cease the practice. While this provided a resolution for the specific instance, the lack of a judicial verdict meant that no legal precedent was set for imposing damages or criminal penalties, potentially emboldening other infringers.
- **Proactive Enforcement by SWA:** The Scotch Whisky Association, as a registered proprietor, has been very active in enforcing its GI in India, filing lawsuits against a number of Indian liquor companies for placing 'Scotch' or imagery related to Scotland on their uncompliant products. The SWA has even managed to secure permanent injunctions against some of these companies in a few of these cases. This shows that a well-resourced and vigilant registered proprietor can utilize the Indian legal system as GI rights enforcement.

When further examined together, these cases present a complex picture. The jurisprudence

continues to develop into a stronger enforcement mechanism of the GI Act. However, the disparities are evident. Well-funded, organized, and in many cases internationally established proprietors like the SWA are able to take full advantage of the legal system resulting in significant decisions and injunctions. Domestic producer communities like the Pochampalli Ikat producers and others do not have the economic stability and legal knowledge to pursue a prolonged litigious case. Oftentimes domestic producer communities have to take a settlement outside the court with the initial compliance, but not much material or larger deterrent effect. This implies that in practice, there is the potential for a two-tiered system of justice, where the capacity to achieve effective enforcement of GI rights devolves upon not only the strength of the law; but importantly, the economic leverage of the rightsholder.

VII. Implementation in Practice: A Critical Assessment of Socio-Economic Impact

Though legal text and judicial interpretation can be the first basis of protection, at the end of the day the intended GI Act will only work if its effect upon the producers and communities that is desired to protect is measured in practice. The experience of a few highly recognized GIs' post-registration in India displays a shocking short-fall between the socio-economic realization of the Act, and what is actually realized on the ground. The primary reasons seem to be poor enforcement, lack of vagueness surrounding quality control, low levels of awareness regarding protection, and very limited economic and/or cross benefits to core producers.

Case Study Analysis

Darjeeling Tea (GI Reg. 2004): A Paradigm of Global Recognition and Local Enforcement Deficits

Darjeeling tea, India's first registered GI, is often touted as the model case. It is globally well-known, and the right holder the Tea Board of India has been positively aggressive in pursuing international protection.

- **Successes:** This Tea Board has acquired successfully 'DARJEELING' certification mark, collective mark, or GI in several jurisdictions, e.g. UK, USA, EU, Japan. They use registration monitoring organizations such as CompuMark to monitor and oppose unauthorized use or attempted registrations of 'DARJEELING', having commenced approximately 15 lawsuits. This has been critical to maintain the premium position of

Darjeeling tea in export markets like Germany and Japan, where prices are much higher than other teas.

- **Failures and Challenges:** Despite efforts at the international level, the Darjeeling GI is severely undermined by large-scale failures of domestic enforcement. The major issue is the enormous sale of tea from Nepal, which has similar agro-climactic conditions, as genuine Darjeeling tea. This damages the credibility of the consumer and keeps the price for true Darjeeling tea down. It has been suggested that the volume of global sales labelled 'Darjeeling' is 4 times the annual production of tea by 87 registered estates, which highlights a substantial level of piracy and adulteration.
- The socio-economic benefits for plantation workers, who form the labor column of the industry, have also been scant. Research and reports continue to show their lives and working environments are poor; estate owners and intermediaries take the premium price profits, not labour. Some studies show that the GI label has stabilized the industry and reduced out-migration as gardens stay open, but widespread economic prosperity has not happened in most cases.

Basmati Rice (GI Reg. 2016): Successes in International Protection vs. Domestic Implementation Hurdles

The protection of Basmati rice was a primary catalyst for the GI Act, and its registration was a landmark achievement.

- **Successes:** The GI tag has been a vital tool in protecting the identity of Basmati in lucrative international markets, particularly the European Union. It provides a legal basis to challenge misuse by foreign companies and helps maintain its status as a premium, high-value export product, with the global Basmati market valued at over USD 13.5 billion. For farmers, adopting GI-certified Basmati cultivation can lead to higher incomes compared to non-GI varieties, and meta-analyses show a generally positive correlation between GI adoption and farmer income.
- **Failures and Challenges:** The journey to registration was fraught with domestic conflict, notably the exclusion of the state of Madhya Pradesh from the defined geographical area, leading to protracted legal battles and highlighting the challenge of

defining historical production boundaries. A major strategic failure has been the inability of India and Pakistan, the two authentic producers of Basmati, to file a joint application in international forums like the EU. This has led to disputes and oppositions, weakening their collective claim and creating uncertainty in the market.

On the ground, the benefits are not evenly distributed. Weak enforcement against counterfeiting and adulteration persists. More importantly, the complex supply chain means that a significant portion of the price premium is captured by intermediaries—millers, traders, and exporters—rather than the primary producers. Many Basmati farmers continue to operate at a subsistence level, with their annual incomes remaining low despite the high market value of their crop.

Alphonso Mango (GI Reg. 2018): The Persistent Challenge of Adulteration and Lack of Producer Awareness

The GI tag for the world-renowned Alphonso mango (Hapus) from the Konkan region of Maharashtra was intended to protect its unique identity and boost the incomes of thousands of small-scale farmers.

- **Potential:** The GI tag provides a mechanism to assure authenticity for consumers, especially in export markets, and to differentiate the genuine Konkan Alphonso from other varieties grown in different regions.
- **Failures and Challenges:** Five years after its registration, the on-ground impact has been negligible, and in some cases, negative. Farmers in the region report that they have reaped almost no benefits from the GI tag. The primary reason is the rampant and unchecked adulteration in the market. A common practice is for traders to mix a few genuine Alphonso mangoes with cheaper, similar-looking varieties from other states (like Karnataka) in a single box and sell the entire lot at a premium price.

This is compounded by a severe lack of awareness among both consumers and the farmers themselves. Most consumers are unaware of the GI tag and do not look for it when purchasing, rendering it an ineffective marketing tool. A large number of mango growers in the Konkan belt are not registered as authorised users and are unaware of the registration process or its potential benefits. The system has failed to disintermediate

the supply chain; middlemen continue to dominate, and they are the primary beneficiaries of any price premium. Furthermore, the GI registration has done little to address underlying structural issues, such as the need for better quality control infrastructure and adherence to sanitary and phytosanitary (SPS) standards, which was highlighted by a temporary EU ban on Indian mangoes due to pest contamination.

Table 1: Comparative Socio-Economic Outcomes of Key Indian GIs

The following table synthesizes the findings from the case studies, providing a comparative overview of their socio-economic outcomes and highlighting the persistent gap between the potential of GI protection and the reality on the ground.

GI Product	Year of Registration	Reported Price Premium / Market Value	Documented Impact on Producer Income	Key Enforcement Challenges Documented	Relevant Snippets
Darjeeling Tea	2004	High premium in export markets (Germany, Japan). Domestic prices 25-300% higher than other teas.	Mixed/Negative. Worker living conditions remain poor; intermediaries capture profits. Some studies show income improvement and reduced migration post-GI.	Rampant counterfeiting (e.g., Nepal tea sold as Darjeeling). Poor domestic enforcement. Lack of consumer awareness of the official logo.	
Basmati Rice	2016	Commands a premium price globally (avg. USD 1250/ton). Market size USD 13.5B in 2023.	Positive but limited. GI adoption can improve income, but benefits are often captured by intermediaries. Many farmers remain at subsistence level.	Counterfeiting and misuse in export markets. Inter-state and international ownership disputes. Weak benefit-sharing mechanisms.	
Alphonso Mango	2018	High premium price in domestic	Minimal/Negative. Farmers report little to no benefit due to adulteration	Rampant adulteration (mixing varieties).	

		and export markets.	and middlemen. Some report losses.	Lack of consumer and farmer awareness of GI. Inadequate monitoring and testing infrastructure.	
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VIII. Identifying the Gaps: A Synthesis of Regulatory, Marketing, and Capacity-Building Challenges

The case studies collectively illuminate a series of systemic failures that plague the Indian GI ecosystem post-registration. These challenges, echoed in broader academic critiques, can be synthesized into several key themes :

- **Enforcement Deficit:** There is a stark contrast between the strong penal provisions in the GI Act and the reality of weak, inconsistent enforcement. The rampant counterfeiting of Darjeeling tea and adulteration of Alphonso mangoes demonstrate that the legal deterrents are not being effectively applied.
- **Lack of Quality Control:** The Act lacks a mandatory, independent, and robust mechanism for post-registration quality control and inspection. The current system relies on voluntary declarations by applicants, which is insufficient to prevent quality degradation or ensure adherence to the product specifications that form the basis of the GI's reputation.
- **Awareness Gap:** All actors lack basic levels of awareness of the GIs. Producers, especially from remote or rural areas, do sustain knowledge of registration process, benefits of the GI system, or their rights as authorized users. Consumers do not utilize the GI tag, do not aware of the GI label benefits, or are farming. Therefore, the GI label becomes ineffectual as a marketing and quality assurance tool.
- **Marketing & Branding Failure:** Registering a GI is only an isolated act. There is no integrated national strategy for branding and promoting 'Indian GIs'. Brand communities do not possess the expertise, marketing, or financial resources to create a recognizable brand, enforce community rights or plug into global markets.

- **Inequitable Benefit Sharing:** Probably the most significant failure is that the economic value added from registration status does not benefit the intended beneficiaries. Premium price generated value is concentrated with powerful actors in the trading, processing, export and middlemen supply chain while primary producers, farmers and artisans see their income increase little.

In these examples, the legal act of registration is only the beginning. Without a robust ecosystem of quality assurance, enforcement and equitable governance, development of markets, the GI continues to be more of a symbolic honorific as opposed to an effective strategy for socio-economic transformation.

IX. A Comparative Perspective: The Indian GI Regime vis-à-vis the European Union System

To better understand the structural weaknesses of the Indian GI framework, a comparative analysis with a more mature and widely cited system, that of the European Union, is instructive. The EU's regime, developed over decades, offers valuable insights into alternative approaches to definition, protection, and institutional governance.

- **Contrasting Definitional Approaches: India's Unitary Definition vs. the EU's PDO/PGI Framework**

A fundamental difference lies in the very definition of the protectable subject matter.

- **The European Union's Tiered System:** The EU employs a nuanced, two-tier system for food and agricultural products under Regulation 1151/2012, distinguishing between Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI).
 - **PDO (Protected Designation of Origin):** This represents the strongest link between product and place. To qualify for PDO status, a product's quality or characteristics must be "essentially or exclusively" due to a particular geographical environment with its inherent natural and human factors. Critically, *all stages* of production, processing, and preparation must take place within the defined geographical area. Kalamata olive oil is a classic example.
 - **PGI (Protected Geographical Indication):** This category requires a slightly

weaker link. A product qualifies for PGI status if a specific quality, reputation, or other characteristic is "essentially attributable" to its geographical origin, and *at least one* of the stages of production, processing, or preparation takes place in the area. For instance, Westfälischer Knochenschinken (ham) can use meat from outside the Westphalia region, as long as the age-old production techniques are carried out there.

- **India's Unitary System:** In contrast, India uses a single, unitary definition of a GI, as outlined in Section 2(1)(e) of the Act. While this definition is comprehensive and TRIPS-compliant (often described as "TRIPS-plus" for its specific inclusion of human factors and processing requirements for manufactured goods), it lacks the granular distinction of the EU system. All registered Indian GIs, from Darjeeling tea to Kanchipuram silk, fall under a single legal category, without a formal mechanism to differentiate the strength of the product-terroir linkage.

Scope of Protection: India's "Hybrid" Model Against the EU's "Absolute" Protection

The scope of legal protection afforded to registered GIs also differs significantly.

- **The EU's "Absolute" Protection:** Article 13 of the EU's Regulation provides what is often termed "absolute" or broad protection. Registered names are protected against any direct or indirect commercial use on comparable products not covered by the registration, as well as any "misuse, imitation or evocation," even if the true origin of the infringing product is indicated or if the GI is used in translation or accompanied by expressions like "style" or "imitation." This strong protection effectively reserves the use of the GI for producers within the designated area and complying with the product specification.
- **India's "Hybrid" Model:** India's framework, as established in Section 22 of the GI Act, is more of a "hybrid" model. The primary basis for infringement is tied to preventing consumer confusion and acts of unfair competition. However, as noted earlier, the Act allows the Central Government to grant "additional protection" to notified goods, which then triggers a level of absolute protection similar to the EU's. The judicial interpretation in the *Tea Board v. ITC* case further reinforces the limitations of the Indian approach, confining protection strictly to goods and not extending it to

services, a restriction that has been challenged and interpreted more broadly in the EU context.

Institutional Lessons in Governance, Quality Control, and Marketing

The most critical divergence, and the one that holds the most significant lessons for India, lies in the institutional framework that supports the legal registration.

- **The EU as an Agro-Economic Tool:** The EU's GI system is fundamentally integrated into its Common Agricultural Policy. It is not merely an intellectual property right but a comprehensive tool for agricultural and quality policy, designed to structure markets, promote rural development, and provide consumers with guarantees of quality and authenticity. A central element of the EU system is the 'product specification', a detailed document submitted by the producer group that codifies the production methods, raw materials, and quality standards. Adherence to this specification is mandatory for all producers using the GI, and member states are required to establish official control systems to verify compliance. This creates a robust, legally mandated quality assurance framework.
- **India as a Classic IP Right:** In contrast, the Indian framework functions more like a traditional intellectual property right, with a primary focus on registration and legal remedies against infringement. The critiques and case studies analyzed in Section IV consistently highlight the absence of a strong, institutionalized system for post-registration support. The Indian GI Act places the onus of creating an "inspection structure" on the applicant, but this is often a voluntary and self-certified mechanism with little to no statutory oversight or enforcement power. The system lacks the integrated institutional support for quality assurance, brand building, and market development that is the hallmark of the EU model.

The success of globally recognized EU GIs like Parma Ham or Champagne is not solely due to their legal registration; it is the result of decades of investment by strong producer consortia in quality control, collective marketing, and vigilant enforcement. This reveals a crucial lesson: the legal framework is a necessary but insufficient condition for a GI's success. The EU model demonstrates that it is the robust institutional framework governing quality, production, and marketing that truly unlocks the economic and social value of a geographical indication. To

make its GIs truly effective, India may need to shift its policy focus from viewing them as a simple IP right to be registered and defended, to seeing them as comprehensive agro-economic assets that require continuous and coordinated institutional investment in the entire value chain.

X. Conclusion:

The Geographical Indications of Goods (Registration and Protection) Act, 1999, stands as a testament to India's commitment to fulfilling its international obligations and protecting its unique cultural and economic heritage. On paper, it is a sophisticated piece of legislation, providing a comprehensive framework for registration, a clear delineation of rights, and stringent penalties for infringement. It was enacted with the laudable and ambitious goals of empowering rural communities, preserving traditional knowledge, and enhancing the global competitiveness of Indian products. However, this analysis has demonstrated a profound and persistent disjuncture between this legislative intent and the practical realities of its implementation. The journey from registration to tangible socio-economic benefit has been fraught with challenges, leaving the Act's immense potential largely unrealized for many of its intended beneficiaries.

The core of the problem lies not in the text of the law itself, but in the ecosystem—or lack thereof—that surrounds it. The case studies of Darjeeling Tea, Basmati Rice, and Alphonso Mango, while distinct, reveal a consistent pattern of systemic failures. The primary challenges can be synthesized as follows:

- **A Pervasive Enforcement Deficit:** Despite strong penal provisions, the on-ground enforcement against counterfeiting, adulteration, and misuse is weak and inconsistent, allowing the market for authentic GI products to be diluted and their price premium to be eroded.
- **A Quality Control Vacuum:** The absence of a mandatory, independent, and robust post-registration quality control mechanism is a critical flaw. It leaves the reputation of GIs vulnerable to degradation by free-riders within the producer community and fails to provide consumers with a reliable guarantee of authenticity.
- **An Awareness and Capacity Gap:** A profound lack of awareness among both

producers and consumers, coupled with insufficient capacity building for producer associations in marketing, branding, and legal enforcement, renders the GI tag an underutilized asset.

- **Inequitable Distribution of Benefits:** The economic gains from GI status are disproportionately captured by intermediaries and larger commercial entities, with little value trickling down to the primary producers—the farmers and artisans whose traditional knowledge and labor form the very basis of the GI.

In order to bridge the distance between the Act's promise and its performance, a multi-faceted reform agenda is needed that goes beyond legal registration, to create a supportive institutional and strategic ecosystem. Based on the analysis above, the following recommendations are proposed, as a means to creating a more effective GI framework for India.

Legislative Amendments

1. **Establish a Statutory Quality Control Framework:** The Act should be amended to provide for a strong independent quality control and inspection system. This could take the form of a separate statutory oversight body, or include the designation of existing agencies such as the Food Safety and Standards Authority of India (FSSAI) or the Quality Council of India to exercise specific powers in relation to GI products, all of which would replace the current ineffective voluntary system and make compliance with product specifications legally binding.
2. **Introduce a Mandatory and Legally Enforceable Common GI Logo:** To facilitate consumer identification, familiarity, and simpler enforcement, the government should establish a common national GI logo that is mandatory, just like the "Agmark" or "FSSAI" logos. The law should be amended to make the use of this logo mandatory for all registered authorized users and provide legal recourse for misuse. This would develop a common brand identity for Indian GIs.
3. **Clarify Ambiguous Provisions:** Key sections of the Act that have proven problematic should be redrafted. Specifically, Section 9(f), which deals with the exclusion of 'generic names', requires clearer definitions and explanations to prevent arbitrary rejections and provide greater certainty to applicants.

4. **Streamline Producer Representation and Registration:** Sections 11 and 17, which govern applications for proprietors and authorised users, should be reviewed to simplify the process and prioritize the formation of genuine, producer-led cooperatives and associations. The procedural complexities and reliance on extensive documentary evidence, which often act as barriers for traditional communities, should be minimized.

Institutional Strengthening

1. **Create a National GI Promotion and Marketing Board:** A dedicated national-level body, analogous to the Tea Board or the Spices Board, should be established. This institution would be responsible for the collective branding, marketing, and international promotion of all Indian GIs. It would provide producer associations with much-needed financial and technical support for brand-building and enforcement activities, both domestically and abroad.
2. **Ensure Inter-Agency Coordination and Preferential Policies:** There must be greater synergy between the GI Registry and other government bodies. Ministries and agencies such as NABARD, MSME, and APEDA should be mandated to create specific financial schemes, subsidies, and training programs that give preferential treatment to GI producer communities. This would transform the GI tag from a standalone IP right into an integrated component of rural and economic development policy.

Strategic Imperatives

1. **Launch Nationwide Awareness Campaigns:** A sustained, large-scale public awareness campaign is urgently needed. This campaign must be targeted at two distinct audiences: (a) consumers, to educate them on the meaning and value of the GI tag, encouraging them to demand authentic products; and (b) producers, to inform them about the benefits of registration and the procedures for becoming authorised users and enforcing their rights.
2. **Invest in Capacity Building and Technology:** The government must invest in building the capacity of producer associations. This includes providing training in quality control, marketing, financial management, and legal enforcement. Furthermore,

support should be provided for the adoption of modern technologies, such as QR codes and blockchain-based systems, to enhance traceability and combat counterfeiting, as is being explored for Alphonso mangoes.

3. **Simplify and Expedite the Registration Process:** The administrative delays in the GI registration process must be addressed. A more streamlined and time-bound procedure would encourage more communities to seek protection for their valuable products.

In conclusion, the Geographical Indications of Goods Act, 1999, provided India with a strong legal foundation. Now, a quarter-century after its conception, the challenge is to build upon that foundation. By undertaking these legislative, institutional, and strategic reforms, India can move from a paradigm of mere registration to one of holistic development, finally enabling its geographical indications to become true engines of economic prosperity, cultural preservation, and national pride.