

# กลุ่มย่อยที่ 9

## สาขานิติศาสตร์

## Protection of Traditional Knowledge Through Geographical Indications (GIs): Its Potential for Socio-economic Growth

Wariya Lamlert<sup>1</sup>

### บทคัดย่อ

Geographical indications (GIs) are well-suited for preserving and promoting indigenous and traditional knowledge (TK) because they are based on collective traditions. Local communities can benefit economically from GI registration. A GI tag creates a niche market for a product with unique qualities or a reputation. The paper examines GI as a tool for protecting traditional knowledge. What kind of protection should be given to indigenous people to protect them from bio piracy by other countries? Consequently, the results of this study indicate that GIs play a significant role in the development of local communities. They contribute to the localization of high-value industries. This paper recommends that traditional knowledge should be legally protected and labeled by utilizing GI's potential, and that local socio-economic growth and can be enhanced.

**คำสำคัญ** Geographical Indications (GIs), Traditional Knowledge (TK), Socio-economic Growth, Local Communities

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<sup>1</sup>คณะนิติศาสตร์ สถาบันบัณฑิตพัฒนบริหารศาสตร์

เลขที่: 148 ถ. เจริญไทย แขวง คลองจั่น เขตบางกะปิ กรุงเทพมหานคร 10240

E-mail: starboom4@hotmail.com

## Introduction

Intellectual property rights (IPRs) protect the value of intellectual works, which can be monetized or used to further a greater social good. The term “creation of human minds” is used to describe the products of human thought, including technological advances, works of literature and art, symbols, designs for industry and the food industry, and so on. The development of intellectual property laws was necessitated by the fact that it is difficult to protect these intangible properties. These laws regulate the employment, production, and exploitation of intellectual and creative labor. As a binding international treaty, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) has been ratified by all 164 member states of the World Trade Organization (WTO) (Rajesh B. L. et al., 2018). This agreement protects intellectual property (IP) in the form of patents, industrial designs, trademarks, copyrights, geographical indications, integrated circuit layout designs, and undisclosed information. IPRs generally refer to innovations and creations of the mind, but certain IPRs, such as geographic indications (GIs), seek to acknowledge the art and tradition of a specific community by identifying a specific region in which the community originated. Protecting cultural, literary, and other forms of traditional knowledge (TK) through GIs is a top priority for the World Intellectual Property Organization (WIPO) in order to inspire people all over the world to value and expand upon their own cultural heritage (Laurila, 2022).

To be more precise, the concept of TK protection was first introduced during multilateral trade negotiations under the Doha Development Agenda (DDA) (Zografos, 2008). Concurrently, it discusses exceeding the current levels of unfair competition protection in order to provide even greater GI protection for agricultural products. The sustainable diversification of agricultural products can be aided by both GIs and TK. Both concepts are discussed in depth in paragraphs 18 and 19, respectively, of the Doha Ministerial Declaration (DMD) regarding the TRIPS Agreement, dated November 14, 2001. The DMD requires WTO members to protect GIs for wines and spirits, and they should consider extending protection to other products as well. Article 71.1 of the TRIPS Agreement requires TK to be considered by the TRIPS Council when evaluating the agreement. The DDA requires that all changes be made with the future’s growth in mind (Zografos, 2008).

Although the legal systems of many developing nations, including Thailand and India, do not provide for the explicit protection of intangible cultural assets like TK, a strong intellectual property regime can help ensure their security. A few countries, including the Philippines and Bolivia, have enacted legislation protecting TK, but the vast majority do not. The TRIPS agreement includes protection for GIs as a form of IP; this article examines how nations can exercise this protection to safeguard their TK (Bramley, 2011). In order to safeguard indigenous communities and TK from biopiracy, what safeguards should be put in place? In addition, the paper examines the applicability and problematic aspects of GI as a method for safeguarding TK.

## Traditional Knowledge (TK) and Its Justifications for Protection

Although it is not explicitly defined in the TRIPS Agreement, “traditional knowledge (TK)” encompasses the wide variety of knowledge that is ingrained in the cultural traditions of a community or religion (Zografos, 2008). There have been many attempts to define TK, but so far no one definition has gained widespread acceptance. A community’s accumulated wisdom has been honed over time and passed down through the generations. The term “traditional knowledge” refers to a wide range of information, including techniques, methods, and discoveries in fields such as agriculture, cooking, science, ecology, technology, medicine, and biodiversity. In the last 30 years, the global community has focused on keeping, protecting, and promoting TK by using the intellectual property laws that are already in place. When it comes to TK, there is some ambiguity amongst different countries as to what is meant by the term “protection.” The World Intellectual Property Organization (WIPO) determined that it should not be used interchangeably with the term “protection” in the intellectual property sense (Laurila. 2022).

More importantly, these intangible ideas are easily forgotten or lost due to the fact that they are typically not documented. Indigenous and local communities have issued a call to action to prioritize the preservation of their ancient knowledge, cultures, and traditions (World Intellectual Property Organization [WIPO], 2021). This led to the creation of laws to protect TK as a form of intellectual property. Wine is also produced in every region of Italy. The industry’s history has resulted in differentiation and segmentation, which is reflected in the capillary spatial distribution of high-quality Italian wine. The Italian scenario is evocative because of the coexistence of different types of management, ranging from small family farms to large

multinational producers, and the significant differences in utilized agricultural area (UAA). Although modern technology has resulted in more standardized and mechanized winemaking methods, the winemakers' unique expertise and tacit knowledge have ensured that these exceptional vintages have remained true to their origins (Crescenzi et al., 2022).

Because it encompasses various forms of knowledge passed down through the ages, it is difficult to define TK with precision. TK is defined by the WIPO as the knowledge, skills, and customs of a particular group, region, or community that have been passed down through generations. Traditional cultural expressions (TCEs), such as music, poetry, art, dance, performances, and ceremonies, may also be included. These are the different ways that culture is shown.

WIPO presented the concerns of TK holders in a series of reports on fact-finding missions. TK holders are concerned about the decline of traditional ways of life, the disrespect for TK, and the disinterest of young people in maintaining cultural traditions. Moreover, they are concerned about the misappropriation and derogatory use of TK (Agarwal, 2020). Furthermore, they emphasized the critical importance of promoting and preserving the continued use of TK. Similarly, a small number of additional sources cite TK protection as an urgent concern, expressing a variety of additional concerns.

## The Prospective Misappropriation of Traditional Knowledge (TK) by Acquiring Intellectual Property Rights (IPRs) Over

Because future generations are hesitant to absorb such TK, TK holders are afraid of losing it to modern lifestyles. Importantly, TK is not immune to misappropriation by individuals and corporations attempting to exploit such knowledge by obtaining IP rights over it, effectively excluding others, including the original holders of such knowledge, from using or practicing it legally.

Biopiracy is typically committed by corporations, which profit from TK by patenting innovations that incorporate it (Vasquez-Arango, 2014). Even though novelty and inventive step are two of the three fundamental requirements for patent eligibility, some corporations attempt to secure patents on genetic or biochemical material based on the TK of a local or indigenous community (Zografos, 2008). Due to their reliance on prior knowledge, the in-question inventions are neither novel nor require any inventive step. If inventions that

incorporate a community's TK are granted patents, the inventors would be unable to use their own creations without a license from the patent holder. One case of biopiracy involves a patent on the use of turmeric in wound healing, which was obtained by scientists in the United States. India argued that this claim was false because the plant is native to India and has been used as a medicine there for centuries, making it impossible to patent and profit from its TK (Agarwal, 2020).

In response to this issue, the World Intellectual Property Organization (WIPO) is collaborating with a number of developing countries, led by India and China, to create online TK archives. For the benefit of patent examiners, these digital libraries will organize the vast quantities of TK already in the public domain according to international classification standards (the WIPO International Patent Classification (IPC) system) (Commission on Intellectual Property Rights, 2003). In addition, WIPO is investigating the amount of data on TK that is already available online. According to WIPO's preliminary findings, there is a substantial and expanding body of data concerning TK. However, the vast majority of these documents are not in a format that patent examiners can search or utilize. As soon as patent offices can add these libraries to their lists of minimum search documentation, the information in digital libraries of TK should be taken into account when deciding whether or not to grant a patent (Commission on Intellectual Property Rights, 2003). As soon as possible, this should occur. People who are in possession of TK ought to have the right to vote on whether or not that knowledge is entered into databases, and they ought to be able to receive compensation in the event that the knowledge is used for commercial purposes (Commission on Intellectual Property Rights, 2003).

## Protection of Traditional Knowledge (TK) via Geographical Indications (GIs): Appropriateness and Challenges

Similarities exist between TK and GIs in that both aim to preserve distinct forms of accumulated knowledge at the regional or community level. TK is a symbol of indigenous knowledge, whereas GIs indicate the origin of a typical item. In contrast to TK, which refers to a body of knowledge, GIs associate a product with a specific location. A growing number of countries recognize GIs as a potential tool for protecting TK-based products. The purpose of this strategy is to learn more about the characteristics of this IP instrument that may make it

more suitable for protecting indigenous knowledge, particularly from the perspective of developing countries like Thailand and India.

The indefinite protection afforded to GIs, as well as the possibility of collective ownership of such rights, suggest that they may be especially well-suited to protecting TK. GIs may enable the protection of local and indigenous communities' collective rights over their TK, ensuring that the entire community that has preserved and passed down the knowledge for generations benefits (Mallick et al., 2022).

To achieve the objectives of the Convention on Biological Diversity (CBD) more effectively, the European Communities and their Member States have proposed investigating the possible role of GIs (Rangnekar, 2004). GIs are a way to protect TK, and it is important to realize that by their very nature and purpose, they are a form of communication protection, as they cover a product's certification of origin or reputation in a certain territory. The CBD and the Nagoya Protocol of 2010 introduce international recognition and protection of TK, allowing for a greater emphasis on international law pertaining to the protection of TK. Article 8(j) of the CBD mandates that parties protect the TK of indigenous peoples and work to expand its use through fair and equitable benefit sharing. To ensure the effective conservation and sustainable use of biodiversity, article 16 identifies TK as "key technology," while article 15 establishes the necessary procedures for gaining access to genetic resources, such as informed consent and mutually acceptable terms. The Nagoya Protocol expands the provisions for access and benefit sharing in the CBD.

In the context of IP law, GIs can be used in a variety of contexts. The TRIPS agreement acknowledges the importance of this field of IP law in some countries. GI are defined by the TRIPS agreement as indications which identify a good as originating in the territory of a member nation, 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. (Zografos, 2008)

In practice, this means that when referring to agricultural products, natural products, or manufactured goods, the term "geographical indication" refers to any indication that identifies these items as having originated or been manufactured in the territory of a country, or a region or locality within that territory, when a given quality, reputation, or other characteristic of such goods is essentially attributable to its geographical origin, and where such goods are manufactured in the territory of such country (Sherman & Wiseman, 2016).

The use of GIs is well suited to the preservation of TK. They intend to recognize those in an existing community or group for continuing to uphold significant cultural practices of

that community or group. Unlike other forms of intellectual property, GIs do not protect original works. A product's GI designates the specific region in which it was first produced. The product's quality, reputation, or other characteristics ultimately determine where it was manufactured. Some IPRs, such as trademarks and GIs, are based on the concept of collective rights despite the fact that the majority of IP protection systems are individualized (Sherman & Wiseman, 2016). Comparatively, GIs are meant to reward producers who invest in developing and building the reputation of a product, while copyright and patents are meant to reward investments in innovation. GIs give economic benefits and money gains to people who use traditional production methods in the same region or area where the product has always been made (Bramley, 2011).

To be clear, the GI product is a public good because its unique qualities have inalienable patrimonial values, such as a reputation that has been built up over many generations. Because of their patrimonial value, governments delegate control of GIs to their users; the public has the right to protect these resources. Even though the majority of GIs take the form of place names, symbols and icons can also serve the same function so long as they convey location. Legal options for protecting GIs like appellations or designations of origin, protected GIs, and certification marks include both proactive steps like registration and reactive steps like lawsuits or stopping fraud to stop unfair competition (Guerra, 2010). When rural producers and their groups collaborate to deliver a finished product that a consumer will purchase, GI differentiation can be advantageous even if the product has not been transformed, as in the case of packaged and labeled fresh produce of a particular quality.

In contrast, farmers who sell their produce at markets play a minor role in the rural economies of developing countries. Beyond the provision of inputs, the essence of a value chain resides in the dynamic interaction between its constituent parts and the governance structures (organization, regulation, and upgrading capacities) that define stakeholder relationships (Guerra, 2010). This straightforward value chain is ideal for the phases of product development in innovative industrial markets. However, it fails to account for GIs because it disregards the natural and cultural inputs, both visible and invisible, that are essential to their production. Using the value chain framework, the tangible territorial and biodiversity components of a product and the intangible contributions of TK in value chains were described to characterize GI cases (Guerra, 2010).

Community reliance on collective traditions and collective decision-making makes GIs a particularly sound form of IP. Further, they protect and commend customs while still giving room



for change and innovation. They are meant to recognize the reputation and goodwill established over decades or centuries. In addition, they reward every investor who adheres to the quality standards established over generations. GIs never confer an exclusive monopolistic right over the use of specific information, but they do limit the group of people who may use a specific symbol. They are recognized as long as the collective tradition of the community is maintained, but they cannot be transferred from one owner to another at any cost. Products with protected GIs are held to a higher standard because of the periodic renewal process. The commercial and monetary values of all sorts of natural, traditional, and handcrafted products will rise if their unique qualities can be attributed to their geographical origin (Vasquez-Arango. 2014).

Several products result from the utilization of traditional processes and community knowledge by one or more communities in a particular region. It is possible for the designation of origin used to identify a product to reflect the unique and appealing qualities of goods produced using traditional techniques and local knowledge (Sherman & Wiseman, 2016). It would be possible to better protect the economic and cultural interests of communities and groups with TK if the concept of GIs were promoted and exploited on an ad hoc basis. The benefits of GIs extend to small-scale production and direct-to-consumer marketing. In addition, they aid in enhancing the credibility of their brands and sell their products directly to consumers. Additionally, they improve their ability to compete with large corporations.

It is essential to highlight the tensions between modern intellectual property rights systems and customary law and traditional cultural property rights when discussing the advantages of GIs for protecting indigenous peoples' knowledge. The "informal innovation system" of communities and the cultural exchange systems that already exist in indigenous communities exacerbate the tensions between the norms, practices, and economics of modern IPRs and the cultural rights and customary practices of indigenous communities, despite the fact that indigenous communities may have concepts similar to "property rights." (Dutfield, 2000). Due to their distinctive qualities, GIs are a form of intellectual property protection that is relatively more adaptable to the cultural norms of indigenous communities than other IPRs:

1. Since no organization (whether a company or an individual) has monopolized access to the information contained within the protected indication (or the product), this information remains freely accessible to the general public. Concerns that GIs will result in the commercialization of indigenous knowledge are, therefore, unfounded. For protection purposes, well-established practices must be formalized in the form of rules that are

incorporated into public knowledge. Despite the fact that the product's knowledge is not legally protected, concerns about the possibility of improper use have not been allayed. However, it is also true that the rules do not reveal the entirety of the local knowledge (also known as indigenous knowledge) associated with the product and its production method.

2. The protection of the specific indication continues indefinitely, so long as the good-place quality link is maintained and the indication is not made generic. Many communities view their accumulated knowledge as an irreplaceable cultural asset that must be preserved for future generations. When considering this aspect of compatibility, it is useful to remember that the traditions and standards associated with a GI may evolve and change over time. Unquestionably, the extent to which a “traditional” practice or product can be altered as a result of this is a subject of intense debate.

3. GIs are a type of collective right that is “owned” by all producers along the supply chain who adhere to the specified codes and produce within the designated geographical region, and therefore receive the same level of protection as cultural and traditional rights (Sherman & Wiseman, 2016). In contrast to trademarks (article 21 of the TRIPS agreement) and patents (article 28 (2) of the TRIPS agreement), GI holders do not have the right to transfer the indication. Due to the product-quality-place connection underlying GI-protection, producers outside of the designated area are immediately prohibited from using the GI indication. In addition, the indication cannot be used for “similar” products that are not produced in the designated area or are produced in a different manner within the designated area. In practice, protection limits who and/or where the protected indication can be used (Rajesh B. L. et al., 2018).

In addition to the aforementioned advantages, it is widely believed that GIs are not subject to the myriad of negative socio-economic effects associated with the accumulation of IPRs and corporate control, such as patents and copyrights. In contrast to the unconditional right of a patent holder, the rights granted by GIs are entirely subject to conditions. Although there is no community or organization that can control a large number of indications in a manner comparable to the strategic use of patents, it is evident that the distribution of indications by product category is concentrated at the national level. Moreover, from an economic standpoint, indications constitute a collective monopoly right that hinders the entry of new producers into the market. Finally, keep in mind that GIs do not obfuscate information necessary for understanding the products or their production (Dutfield, 2000). As was discussed previously, therefore, the protection of GI is not a guarantee against the theft of TK; rather, a number of additional strategies must be implemented to ensure the security of TK. Despite

this, GIs remain significant because they enable people to use their permanent, shared, and inherited knowledge as a means of subsistence and income for themselves and their communities.

### 1. Examining the use of Geographical Indications (GIs) to Preserve Traditional Knowledge (TK)

As previously mentioned, GIs refer to a mark on a product that indicates the product's geographical origin. It describes the relationship between a product's particular characteristics, quality, or reputation and its place of origin. This could be the result of human or natural factors, such as the type of soil in that region. Locally grown Darjeeling tea from West Bengal and saffron from Kashmir both have GI labels. The minimum requirements for ensuring the protection of GIs are outlined in Articles 22 through 24 of the TRIPS Agreement (Singh, 2020). Geographical indications should not be confused with generic labels, such as "Made in India," that provide information about the territory from which a product originated. This is because generic marks merely indicate the region in which a product is manufactured rather than its distinctive quality or renown attribute (Singh, 2012).

Unlike other forms of IP, a GI tag cannot be owned by an individual or company but rather by a group of people, an organization, or a governing body. Therefore, GIs are collective rights that can be renewed indefinitely after the initial ten-year term ends. As a type of IP law, GI protection recognizes and rewards a product's better quality, popularity, and value that come from its history and location. Thus, TK and GIs share a common characteristic: the protection of knowledge originating within a specific territory. As stated in its report, the United Nations Conference on Trade and Development (UNCTAD) has acknowledged this international connection between cultural geography and economic geography (Rangnekar, 2004).

### 2. The Adequacy to Verify Advantages of Geographical Indications (GIs) Traditional Knowledge (TK)

Due to the connection between GIs and TK, the GI-based system for protecting traditions, cultures, and know-how can be strengthened (WIPO, 2021). For example, the Thanjavur paintings of Tamil Nadu, the Bastar iron craft of Chhattisgarh, the Hyderabad Haleem of Telangana, and the Warli paintings of Maharashtra are all products derived from TK that strengthen the economic capabilities of local communities and permit the conservation of TK. All of these are examples of products that have been able to aid in the preservation of TK (Rajesh B. L. et al., 2018).

Due to the unique characteristics of GIs, the registration of products as GIs can be economically advantageous for communities. This occurs because a product with unique qualities or a unique reputation can find its niche market more easily once a GI label is granted. China's Pinggu peaches, which are known for their vibrant hues and sweet flavor, are a good example. These peaches have been

cultivated for centuries outside of Beijing. Their market value increased from RMB 1.5 per kilogram to RMB 4 per kilogram because of their increased demand following GI registration, providing local producers with greater economic benefits (Singh, 2020).

In addition to the previously described protection of traditional art, craft, and recipes, GI is granted for agricultural products that incorporate TK. For instance, the French blue cheese Roquefort, which is known for its recognizable blue veins, distinct flavor, and pungent aroma, is protected as a GI, and the various stages of its production, including the feeding of sheep in accordance with cultural tradition and the aging of the cheese in caves, all make use of TK and know-how. Some examples are Monsooned Malabar Robusta Coffee, Mysore Sandal Soap, and Feni. These and other products are made in India by combining traditional methods with unique geographical features to make unique and marketable goods (Singh, 2020).

### 3. Considering the Boundaries of Traditional Knowledge (TK) Immunity when Using Geographical Indications (GIs) Protection

Even though this knowledge is beneficial to the economy and should be preserved, the GI system places restrictions on its protection. First, for GI to function properly, protection must be afforded only to a particular product. On the other hand, TK encompasses a great deal more than merely the tangible products that can be derived from ancient knowledge. Notable examples include rituals, legends, stories, songs, and folklore, none of which can be sold as products originating from a specific geographical region. This means only tangible TK would be protected and preserved under a GIs regime designed to safeguard indigenous knowledge. The knowledge associated with the GI is unprotected and openly accessible to everyone. Therefore, such knowledge can be easily misused by malicious parties. In other words, GIs cannot be used to protect the TK of a community or group; they may only be used to protect the origin of a product. As far as preserving intangible cultural heritage is concerned, GIs that have been devalued because they are considered generic and common are also useless.

Second, GIs do not actually protect the product; rather, they prevent the misrepresentation and falsification of other products' origins. Kashmir Pashmina, which refers to a spun cashmere variant, is an example of a protected GI. Legal action may be taken against anyone who uses the GI without registering to pass off a different type of cashmere as Kashmir Pashmina. It would be much more challenging to take legal action against such a person for infringement of GI rights if someone used the exact same materials and processes that are used to create Kashmir Pashmina and then sold the finished product without any indication that it is Kashmir Pashmina (Singh, 2012.) This is due to the fact that one would not have indicated that such a product is a registered GI, despite having used the knowledge required to create such a product. In a similar

manner, GIs protection only applies when the knowledge is associated with a particular geographical region. If knowledge is dispersed, it is difficult to protect it using GIs. GIs cannot be applied to Ayurvedic medicine, for example, because it is not associated with a specific region.

Third, the value of obtaining GI protection for knowledge that would not be used for commercial purposes is limited because the knowledge would not be utilized. Muga silk from Assam is a good example because it has a golden hue, a lustrous sheen, and is extremely durable. It was awarded the GI tag for these reasons. In spite of the fact that Muga silk was registered as a GI in 2006, it did not have any registered users until at least 2012. Due to the lack of registered producers of Muga silk, the price of the material has risen dramatically. Due to the labor-intensive nature of silk production, the selective nature of the silk market, and the fact that the weavers are from poorer communities, Muga silk weavers lacked the incentive to produce the product because they feared they would be unable to sell it at its current exorbitant price. Consequently, despite the fact that Muga silk was granted GI protection, the non-commercial use of such registration prevented the holders of such knowledge from continuing to produce the silk, thereby doing little to protect the weavers' TK and instead having a negative impact (Singh, 2020).

Fourth, GIs merely indicate the product's country of origin; if this origin is irrelevant to the consumer, the protection afforded by GIs for such products is meaningless. In order to utilize GIs as a form of protection, therefore, the product must have and maintain a positive commercial reputation. To meet the total demand for TK protection, it may be necessary to establish a large number of additional safeguards for community and group protection of TK to be effective.

Due to the aforementioned reasons, it cannot be stated that GI is adequate for protecting TK. As GI protects the product's name in the end, it is essential. In the case of cashmere, however, the term "traditional" refers to the manufacturing process and the resulting product quality. The production and process of weaving a pashmina shawl, which are based on community knowledge and passed down from generation to generation, are not protected by the GIs, as is the process of weaving pashmina.

## Traditional Knowledge (TK) Protection via Geographical Indications' Potential for Socio- economic Growth in the Local Community

Without a doubt, GIs have the potential to enhance the standard of living of producers in developing countries. Nonetheless, the degree to which the actual benefit is distributed equitably throughout the supply chain is a crucial factor. The actual impact of GIs is highly dependent on whether or not producers receive a portion of the benefits. To determine the actual benefit of a GI, it is therefore necessary to examine the entire supply chain. The distribution of value is likely to be influenced by differences in the economic and bargaining strength of the various supply chain participants. In the context of developing nations, resource-poor and power-restricted producers typically receive a negligible amount of the benefit (Bramley, 2011). As GIs are likely to lead to an upscale of the supply chain, new power relations will emerge, especially where the GI leads to the lengthening of the supply chain and embeds itself in larger networks. The importance of considering this change in power within the supply chain, which may flow from the introduction of a GI.

## Enhancing the Reputation of Local Community-Generated Goods Derived from Their Traditional Knowledge (TK)

Local economies benefit from GIs because they increase the visibility and cost of regional products. A registered GI is advantageous to all producers who operate within the GI's defined geographical area and adhere to its production standards (which are determined by producers in the region) (Herrmann, 2011). Many small and medium-sized enterprises (SMEs) can charge higher prices for these goods because of their improved perception of quality. Typically, the price of GI-labeled products is double that of comparable products lacking such labels.

### 1. Enhancing Trust in Traditional Knowledge-Based Products Bearing Geographical Indication Labels

Consumers today are very aware of the origin and quality of the products they purchase. GIs provide specific information about where (geographic location) and how (production procedures) products with GI labels are produced. The GI label certifies the product's origin and quality. It provides consumers with a greater understanding of the quality, characteristics, origin, and manufacturing process of the products they purchase (Sherman & Wiseman, 2016). In addition, it allows them to experience some of the local traditions. Consequently, they are frequently

willing to pay a premium for products that have been granted GI certification. Small and medium-sized businesses that produce GI-certified goods stand to gain consumer trust and a substantial return on investment through the use of GIs.

## **2. Enhancing Regional Economic Development through the High Value of Products Derived from Traditional Knowledge (TK)**

When a product has been granted GI certification, it can be marketed and promoted in a manner that raises consumer expectations and, as a result, benefits the regional economy. The requirement for coordinated efforts in the management and promotion of GIs has created new international opportunities for small and medium-sized businesses (Rangnekar, 2004). This enhances the region's standing in the eyes of the world and increases the number of tourists. Additionally, many consumers of GI-certified products make it a point to visit the regions in which they are produced.

## **3. Enhancing Market Penetration via Product Differentiation and Value Addition**

In today's market, characterized by increasing competition, falling commodity prices, and shifting consumer preferences, an alternative strategy for producing and marketing agri-food products is required. To avoid the price fluctuations associated with commodity markets, producers are shifting their focus away from those markets and toward more profitable niche markets where they can set the price. Given that the demand for GIs is based on the economics of product differentiation, this institutional tool provides producers with a valuable opportunity to create niche markets based on their geographical location (Herrmann, 2011).

Due to the close connection between the GI product and the region, GIs can facilitate place-based differentiation. By incorporating geography into the attribute, the GI capitalizes on the region's strengths. Origin becomes the basis for a "socially constructed" differentiation that is validated by actors from the outside world when a territory acquires the characteristics of an attribute and a link between a product's place of origin and its quality is established. Product differentiation's economic foundations are market segmentation and the emergence of monopolistic competition (Rajesh B. L. et al., 2018). GIs establish market boundaries and impose restrictions on producers both inside and outside the regulated area. Institutional barriers, which restrict entry in two ways, are to blame for the monopoly formation observed in GI supply chains. As a primary requirement, participation is restricted to producers within the defined area; as a secondary requirement, participation is restricted to producers who also adhere to the code of practice. Consequently, GIs impose a monopolistic market structure on producers located outside the specified region or who do not meet the product's specifications. Because it is based on the connection between a product and its origin and grants the

people who are allowed to use it the right to own it, it is similar to the way trademark laws can create monopolies (Laurila, 2022).

The exclusive mechanism for separating GIs from one another is their exclusive right to do so. The institutional framework that supports GIs provides producers with a legal means of securing exclusive rights to the differentiated product and excluding competing producers. In addition to protecting the niche market created by this differentiation, GIs restrict supply via exclusion or reduced yields. In addition, GIs enable mass production and promotion, which is necessary to achieve the economies of scale required to justify the cost of brand building for a differentiated product. As the majority of GIs are artisanal products derived from small-scale production, facilitating the achievement of economies of scale is an important aspect. Creating a common marketing strategy that allows these producers to reach a level of production large enough to justify the investment in the image of the different products will make it more likely that these products will be successful. Analyzing the factors that contribute to differentiation and preventing imitation of the differentiated product are two of the most crucial aspects of successful differentiation, along with achieving a production scale sufficient to cover the cost of establishing and maintaining the differentiated image among consumers. To be eligible for profits resulting from differentiation, producers must own the rights to the differentiated product. Because these criteria are satisfied, GIs are a valuable tool for differentiating products. This reduces competition from similar products produced elsewhere and increases market access for authorized users of the designation.

GIs have the potential to increase incomes by increasing the volume of goods sold, which can be achieved by enhancing market access. GIs may also generate income through the collective process of value creation, which could result in the capture of a premium. This value is a compilation of the location's economic, cultural, and social values. This value contributes to what is known in marketing parlance as the “immaterial dimension of food consumption,” which may increase consumers' willingness to pay and consumer premiums. In light of the fact that GIs have the potential to stimulate the creation of value, actors can pursue a valuing strategy in which they attempt to appropriate these values by making use of intellectual property in order to derive rent. It should be noted that the embedded value does not always result in a price premium. The ability of a GI to obtain a premium depends on a number of factors, including market size, the availability of substitutes, how consumers perceive the relationship between an indication and product attributes, and the elasticity of demand.



## Enhancing Mechanisms to Prevent Fraudulent Uses of Intellectual Property Rights (IPRs) Based on Geographical Indications (GIs)

GIs do not merely increase the value of regional goods; they also prevent the fraudulent use of GI labels. As a type of intellectual property, GIs provide their owners with a layer of protection against acts of misappropriation and unfair competition (Agarwal, 2020). Producers have the exclusive right to use the GI and can prevent others from doing so if their products do not originate from the same region or do not adhere to the certified production standards.

Both the consumer and the producer stand to gain in some way from quality signaling. GIs are, in their most basic form, symbols that identify the relationship between a product's reputation, quality, or any other characteristic and its geographical origin. As indicated by the GI, the use of environmental characteristics and/or local knowledge in the production of these goods results in distinctive product qualities (Sherman & Wiseman, 2016). The economics of information and reputation, similar to trademarks, provide the justification for protecting these distinctive signs. These theories emphasize the significance of reputation in protecting both producers and consumers from the negative effects of inadequate product quality information.

GIs grant the right of exclusive use to producers within the delineated region who adhere to the quality requirements. This is carried out through a qualification procedure. The process of obtaining GI status generates what is known as “collective intellectual property” from the resources responsible for a product's distinctive qualities. A barrier to entry is created when the collective IP is legally recognized, which discourages unauthorized individuals from stealing the reputation of the product (Sherman & Wiseman, 2016). The past few years have seen a dramatic increase in the usurpation and misappropriation of origin-based names. As a result, the role of protecting origin-based names played by GIs has become even more essential.

### Conclusion

TK of a community refers to the art, literature, and cultural practices that have been passed down from generation to generation. There is an urgent requirement to safeguard this knowledge, as its loss will render it irretrievable. Therefore, it is urgent that we take steps to preserve and pass on this TK to future generations. The intellectual property laws provide a useful tool for safeguarding and publicizing this type of TK. Extensive work has been done in the past few decades to protect, promote, and preserve the same on a global scale. The World Intellectual Property Organization (WIPO) plays an important role in this. When it comes to protecting IP, GIs have been

found to be the most effective method. In the same way that “TK” refers to the accumulated expertise of a community that has been passed down through the ages, “GI” refers to the practice of recognizing the unique artistic and cultural contributions of a specific group of people who live in a specific area. To qualify as a GI, a product must have a solid reputation, which indicates that it is well-known and enjoyed by a large number of people. This reputation must be associated with a distinctive characteristic or set of circumstances that can be traced back to the location where the product was manufactured. GIs serve as a mechanism for safeguarding TK and inspiring communities to pass it on to future generations through continued use and dissemination. It aids in bridging the generational divide between society’s older and younger generations.

If the “quality, reputation, or other characteristic” of the product can be directly linked to the territory, the GI will be protected under the TRIPS agreement. This IP right may aid in the preservation of TK, as many GIs are based on practices that have been passed down through the generations (Rajesh B. L. et al., 2018). It has been argued that, due to their unique characteristics, GIs are better suited to protecting TK than other forms of IP rights. When it comes to protecting the TK held by a community, GIs are preferable to trademarks due to the importance of maintaining the link to the territory. Second, GI protection prevents entities and individuals from gaining exclusivity over the knowledge embedded in the protected indication because it involves the codification of traditional practices into rules that are part of the public domain. Thirdly, as long as the product/origin/quality link is maintained and the indication does not become generic, GI rights could be held indefinitely. Whether or not a designation gets international protection under the TRIPS agreement depends on whether or not it is protected domestically, which is part of how the registration system is made.

However, it is essential to recognize the limitations that limit the usefulness of GIs. The knowledge on which GIs are based remains in the public domain, so they are not protected against misappropriation (also known as biopiracy). Consequently, GIs ought to be taken into consideration as a component of a more comprehensive set of policies designed to safeguard and recognize indigenous knowledge. This opens the door for IPRs covering the same subject matter to exist in a way that is both complementary and overlapping. Take handicraft as an example; its technical value as a technical concept can be protected, while its cultural value as a form of expression and its distinctive characteristics can be protected in a number of ways, such as through the use of trademarks or indications of geographical origin.

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