

GEOGRAPHICAL INDICATIONS IN INDIAN AGRICULTURE ON THE ANVIL**R. C. Chaudhary¹, Sujit Kumar Yadav², Sunil Kumar¹**¹Participatory Rural Development Foundation (PRDF), Gorakhpur (U. P.) 273014, INDIA²U. P. Council of Agricultural Research, Kisan Mandi Bhawan, Gomtinagar, Lucknow 226010**(Received on Date: 11th August 2017****Date of Acceptance: 21st September 2017)****ABSTRACT**

Geographical Indication of Goods (GI) ^{1, 2, 5, 6, 9, 17, 21, 34} as the name implies, is an indication, in the form of name or sign, used on the goods that have a specific geographical origin and possess qualities or a reputation that are due to the place of origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production. A geographical indication right enables those who have the right to use the indication to prevent its use by a third party whose product does not conform to the applicable standards. For example, in the jurisdictions in which the "Darjeeling Tea" geographical indication is protected ¹², producers of Darjeeling tea can exclude use of the term "Darjeeling" for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice for the geographical indication. However, a protected GI does not enable the holder to prevent someone from making a product using the same techniques as those set out in the standards for that indication. Protection for a GI is obtained usually by acquiring a right over the sign that constitutes the indication.

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GEOGRAPHICAL INDICATION IN AGRICULTURE

Seed or planting material is basic to all agricultural production. Seed costs minimum in total cost of crop production but has maximum impact. Having reaped the benefit through the seeds of green revolution varieties, farmers were quick to realize the importance of good seeds of new and better varieties of crops. For such superior seeds, farmers were even more willing to pay a higher price. Seed companies and technology developers saw this as an opportunity to convert plant varieties and important plant genes as profit – making products. Global strategy, pesticides and seed companies merged to consolidate capital and technology to dominate the market. In various countries the need to conserve biodiversity, farm level variation, giving credit to farmers for their traditional crop varieties, folk varieties, farmers varieties, access to benefit sharing, extending consumer assurance by way of geographic indications, appellation of origin, traditional knowledge etc were attempted to be protected. Global commodity trade is now dominated by several such new issues, which in India are now understood and applied. Other aspect of GI in agriculture is related the plant-based products or by-products. Plant-based products could be raw material for production or its processing or the preparation. After the GI became effective on 15th September 2003, Darjeeling Tea ¹² became the first GI-

tagged product in 2004 in India. After that landmark¹⁷, many GI-labelled agricultural products have been added (Table 1) in India.

2.1 Protection by GI: Legal side:

The Indian Parliament enacted in 1999 '**The Geographical Indications (GI) of Goods (Regulation and Protection) Act'** ^{16, 17} for registration and better protection in relation to goods. This Act came into effect on 15th September 2003. Under Section 1(e) it is defined that 'Geographical Indication' 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 good is essentially attributed 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. The focus of the Act is on quality reputation or other characteristic of such goods, which is essentially attributed to its geographical origin. In doing so, the geographical domain can be a territory of a country or a region or locality in that territory. The quality of the product is attributed essentially to its geographical origin. If it is goods, either the raw material production or processing or the preparation, shall take place in such

territory. The Registrar of the GI shall construe the GI in the Registry 17, 19, 33, 34. There are three main ways to protect a geographical indication 32, 33, 34:

- i. using *sui generis* systems (i.e. special regimes of protection);
- ii. using collective or certification marks; and
- iii. using business practices, including administrative product approval schemes.

These approaches involve differences with respect to important questions, such as the conditions for protection or the scope of protection. On the other hand, two of the modes of protection — namely *sui generis* systems and collective or certification mark systems — share some common features, such as the fact that they set up rights for collective use by those who comply with defined standards.

Broadly speaking geographical indications are protected in different countries and regional systems through a wide variety of approaches and often using a combination of two or more of the approaches outlined above. These approaches have been developed in accordance with different legal traditions and within a framework of individual historical and economic conditions. In many *sui generis* legislations, registrations for GI are not subject to a specific period of validity 7, 35, 28, 29. This means that the protection for a registered geographical indication will remain valid unless the registration is cancelled. Geographical indications registered

as collective and certification marks are generally protected for renewable ten-year periods. The right to use a protected geographical indication belongs to producers in the geographical area defined, who comply with the specific conditions of production for the product.

2.2 TRIPS requirements and GI:

Trade-Related Aspects of Intellectual Property Rights (TRIPS) prescribes minimum standards of protection of GI. Additional protection on wines and spirits were granted under Article 23 of the TRIPS Agreement, in the Uruguay Round of WTO negotiations. And in the Doha Round many member nations desired extending similar level of protections to some of their important goods as well. The TRIPS contains two protections standards for GI and Article 22(2) requires countries to provide a legal means to prevent the use of GI that suggest that the goods originate in a geographic area other than the true place of origin. And Article 23(3) requires that countries should keep in place a legal means to invalidate the registration of trademarks, which contain or consist of a GI with respect to goods not originating in the territory indicated. These provisions are applicable only if the use of the GI is such that it leads to misleading the public as to the true place of origin of the product. Article 24 states that a GI does not have to be protected if it has not been protected or ceases to be protected in the country of origin or when it is generic term for a product.

2.3 Trade mark and GI:

Geographical indications (GIs) identify a good as originating from a particular place. By contrast, a trademark identifies a good or service as originating from a particular *company*. A trademark often consists of a fanciful or arbitrary sign. In contrast, the name used as a geographical indication is usually predetermined by the name of a geographical area. Finally, a trademark can be assigned or licensed to anyone, anywhere in the world, because it is linked to a specific company and not to a particular place. In contrast, a GI may be used by any persons in the area of origin, who produces the good according to specified standards, but because of its link with the place of origin, a GI cannot be assigned or licensed to someone outside that place or not belonging to the group of authorized producers.

While Trade Mark (TM) indicates that the product is affiliated with the manufacturer, the GI indicates to the consumer the high quality and reputation of the produce coming from a defined geographical area. The GI can be used by all producers in the area along with their TM. But as a rule, TM that contains a GI cannot be protected, if the use of the TM misleads the public about the true origin of the product. The development of GI is a time- tested process and to carve an aura about the product it takes decades if not centuries. GI creates a positive impression of the product quality, the environmental virtue

and human skill of the area. The premium price it fetches happens in a gentle manner over a protracted period of time and by varies assessment procedures. Only if the GI can create a positive mind frame on the client over the product will the GI be considered to have some virtue. So while extending the use of GI for food products care should be taken to ensure that the GI strictly complies with all these requirements. Extending the GI for products that is yet to establish a reputation and consumer credibility will dilute the whole purpose of having market dominance and may discredit the entire exercise.

Like all intellectual property rights, the rights to geographical indications (GI) are enforced by the application of national legislation, typically in a court of law. The right to take action could rest with a competent authority, the public prosecutor, or to any interested party, whether a natural person or a legal entity, whether public or private. The sanctions provided for in national legislation could be civil (injunctions restraining or prohibiting unlawful acts, actions for damages, etc.), criminal, or administrative.

2.4 Superiority of GI:

It is important to be able to distinguish between brand names containing a geographical term and a geographical indication. The reason why there is an increased rush for GI is that the GI protects the consumer and also safeguards the

interest of the producers. The GI is perceived as both origin and quality indicator because of which the consumer willingly pays a premium price and that leads to the growth of the regional economy. This is evident by the fact that the European Union alone has granted so far more than, 5,000 different GIs.

The GIs of goods Act 1999, is intrinsically integrated with the Section 3 of the Trade Marks Act, 1999 (see Section 2 (2) of the GI Act 1999. The rationale of protecting the GI is similar to that of the Intellectual Property production. The TRIPS agreement says 'to be eligible for a GI, good must possess a quality, reputation or other characteristics attributable to its geographic origin. However, there are fundamental differences between Trade Mark (TM) and GI. TM identifies a manufacturer, implies certain amount of human creativity and is usable only by one agency or entity. On the contrary, the GI is complex in definition and perception. It denotes the source of origin, where product quality or specialty that the consumer prefers is governed by the specific physical or biological environment. There is no originality or invention or discovery involved and the GI may depend on Traditional Knowledge (TK) for that product development or on the talent of the craftsman. Also, the GI can be used by all those who produce that product in that given area and are not restrictive.

2.5 Human immigrant and GI:

The post World War II period witnessed a large scale migration and settlement of people from old world to the new world countries. These migrants carried with them their ethnic craft and plants to their new found lands. They even named in the new territory provinces, cities, streets, rivers and mountain after the ones in their 'original homeland'. With several subsequent minor modifications of many foodstuffs and farm products were marketed in the GI that of their 'original homeland'. This situation creates enormous confusion in the market place between original and new settlement products. There is a running global debate on this confusion of GI, and with emotions being high; the issue has become very complicated.

2.6 Dangers of too generic GI:

A zone is an area of land without any particular qualifying attribute but agro-climatic zone is decided based on similarity on soil, climate, weather and other edaphic factors. Region is a single tract of land comprising independently owned farmlands, e.g. North West India. A region is said to be discrete between adjoining regions with measurable homogeneity. The sub-region ensures a substantial level of homogeneity in the attributes of the produce covered under GI. Therefore, there is likely to be minor variation in the product, if the GI area is larger. For example, Basmati rice if granted GI may cover the rice- growing tracts of North West India and Pakistan while there are

minor but acceptable levels of variations between Basmati from Amritsar, Karnal/Kurukshetra and Dehradun for the reason that this rice-growing zone is quite larger and enjoys some variation in climate. The current Basmati definition accommodates certain defined number of varieties and if the scope of the definition is further enlarged for the purpose of clubbing several of the new rice genotypes that may have Basmati like or better grain, then such an action may even defeat the very purpose of seeking market dominance for this product through GI. Basmati still remains a disputed product and has not been given GI due to conflicts from within and outside the country.

A name that has become generic means the name of an agricultural product or foodstuff which, although relates to the place or the region where this product was originally produced or marketed, has become the common name of an agricultural product or a foodstuff. To decide if a given GI has become generic, the following factors can be considered:

- Assess the prevailing situation in the member state in which the GI name originates and the area of consumption of the produce.
- The situation in other member states on the above parameter is examined.
- The relevant national or community laws should have adequate provisions to govern reputation.

Understanding the generic GI, cases for 'Basmati' and the definitions given in the 'Export of Basmati Rice (Quality Control and Inspection) Rules 2003' are important. Adding several other new varieties meeting Basmati Export Standard under the Basmati banner would lead to the Basmati GI becoming generic. These new varieties of very high grain quality, with high productivity per hectare can be given another brand name and brand equity can be promoted. Trade concerns, consumer trust and maintenance of product quality are the essence of GI and that would be eroded if the brand Basmati becomes a generic term. Since cultivation of Basmati involves the livelihood security of millions of farmers, rocking the term "Basmati" periodically, with conflicting objectives is not desirable. Moreover, a generic definition of GI for basmati and 'Claw Back' (CB) option of the European Community, are to be kept in mind.

The GI used to describe an agricultural product or foodstuff should cover:

- Originating in specific region, place or country, and
- Possess a specific quality reputation or other characteristics attributable to that geographical origin and the production and/or processing of which is done in the defined geographical area.
- Any established/traditionally valued direct link must exist between the quality or characteristics of the product and its specific geographic origin.

Very often the GI material are named and misspelled (to fake it) in a manner that consumers are misled. Homonymous indications are those that are spelled and pronounced alike but mean different as the geographical origin of these products or originate from different countries. Conflicts invariably arise when products of homonymous GI are used and sold in the same market. The problem becomes acute if the homonymous GI products are identical in nature. Honesty is business not being a virtue; clandestine branding of GI is a stark violation of trade rules and procedures and now is legally punishable.

The European Community has taken steps to 'Claw- Back' (CB) certain GI originating in the European Community such as the Trade Mark PARMA that was registered in country of origin as Mexico. The Claw Back of the GI means confiscating trademarks without any compensation and without representation from the trademark owner during the negotiations. The GI protection therefore calls for multilateral system for the notification and registration of GIs and the issue of 'Clawing Back' of country approved GIs on the basis of generic terms or trade needs though discussion. A sound international binding on GI matters is required to ensure that trademark owners and users of prior generic terms enforce their legal positions properly.

2.7 Appellation of origin / Indication of Source:

'Appellation of Origin' (AO) means that a product originates in a specific geographical region and the characteristic qualities of the product are due to the geographical environment, including natural and human factors. Most of the agricultural produce falls under AO. The Lisbon Agreement defines the AO as the geographical name of a country, region or locality that serves to designate the product originating therein, the quality and characteristic, which are exclusively or essentially due to the geographical environment, including natural and human factors. 'Indication of source' means that a product originates in a specific geographical region. The 'Indication of Source' is clarified as 'all goods bearing a false or deceptive indication by which one of the country or place of origin shall be seized on importation into any of the said countries'. The Lisbon Agreement is considered to be narrow in its scope on AO than the GI now discussed under TRIPS. It is primarily because the AO is not based on the reputation of a product, which also means that the TK is not a requirement for getting AO accredited.

An indication of source can be defined as an indication referring to a country (or to a place in that country) as being the country or place of origin of a product. In contrast to a geographical indication, an indication of source does not imply the presence of any special quality, reputation, or characteristic of the product essentially attributable to its place of origin.

Indications of source only require that the product on which the indication of source is used originate in a certain geographical area. Examples of indications of source are the mention, on a product, of the name of a country, or indications such as “made in ...”, “product of ...”, etc..

Appellations of origin are a special kind of geographical indication (GI). GIs and appellations of origin require a qualitative link between the product to which they refer and its place of origin. Both inform consumers about a product's geographical origin and a quality or characteristic of the product linked to its place of origin. The basic difference between the two concepts is that the link with the place of origin must be stronger in the case of an appellation of origin. The quality or characteristics of a product protected as an appellation of origin must result exclusively or essentially from its geographical origin. This generally means that the raw materials should be sourced in the place of origin and that the processing of the product should also take place there. In the case of GIs, a single criterion attributable to geographical origin is sufficient – be it a quality or other characteristic of the product – or even just its reputation.

Products identified by a geographical indication are often the result of knowledge carried forward by a community in a particular region from generation to generation. Similarly, some products identified by a geographical

indication (GI) may embody characteristic elements of the traditional artistic heritage developed in a given region, known as “traditional cultural expressions” (TCEs). This is particularly true for tangible products such as handicrafts, made using natural resources and having qualities derived from their geographical origin. GIs do not directly protect the subject matter generally associated with TK or TCEs, which remains in the public domain under conventional IP systems. However, GIs may be used to contribute indirectly to their protection, for instance, by preserving them for future generations. This can be done, for example, through the description of the production standards for a GI product, which may include a description of a traditional process or traditional knowledge.

In the context of geographical indications, generic terms are names, which, although they denote the place from where a product originates, have become the term customary for such a product. An example of a GI that has become a generic term is Camembert for cheese. This name can now be used to designate any camembert-type cheese.

The transformation of a geographical indication into a generic term may occur in different countries and at different times. This may lead to situations where a specific indication is considered to constitute a geographical indication in some countries, whereas the same indication may be

regarded as a generic term in other countries.

Protection may be requested by a group of producers of the product identified by the geographical indication. The producers may be organized as an entity, such as a cooperative or association, which represents them and ensures that the product fulfils certain requirements, which they have agreed upon or adhered to it. In some jurisdictions, protection may also be requested by a national competent authority (for example, a local government authority). Protection for a geographical indication (GI) is granted by a national (regional) competent authority upon request. In some countries the function of granting GI protection is carried out by a special body responsible for GI protection. In other countries, the national intellectual property (IP) office carries out this function. A directory is available on the WIPO website

A sign must qualify as a geographical indication under the applicable law and not be subject to any obstacles to registering a geographical indication (GI). Generally, an important requirement under the definition, is that the good identified by the GI needs to have a link to the geographical origin. This link may be determined by a given quality, reputation or other characteristic essentially due to the geographical origin. In many legislation a single criterion attributable to geographical origin is sufficient, be it a

quality or other characteristic of the product, or only its reputation. A request of protection for a geographical indication may be filed, depending on the applicable law, without assistance from an IP lawyer or specialized agent. However, in many countries an applicant whose residence or principal place of business is outside the country where the protection is sought must be represented by a lawyer or agent admitted to practice in that country. Information on the admitted lawyers and agents may be obtained directly from the national IP offices. A directory of IP offices is available on the WIPO website.

As the costs for filing for protection vary from country to country, it is best to contact your national (regional) IP office for details on the fee structure. If protection abroad is sought, in addition to the ordinary filing fees, you should take into account the translation costs and the costs of using a local agent. It is worth remembering that in order to protect a GI abroad, there may be a requirement to protect first the GI in the country of origin.

The following are generally excluded from geographical indication protection:

- Signs that do not qualify as geographical indications under the applicable law. From a legal point of view, potential obstacles to successfully registering a

geographical indication (GI) may include the following:

- Conflict with a prior mark.
- Generic character of the term that constitutes the GI.
- The existence of a homonymous GI, which would mislead as to the product's true origin.
- The indication's name being that of a plant variety or animal breed.
- The lack of protection of the GI in its country of origin.

If the GI protection is limited to the national level, then your first port-of-call should be your relevant intellectual property (IP) office or the national (regional) competent authority in charge of GIs. A directory of IP offices is available on the WIPO website. If, however, you are considering protection in more than one territory, then WIPO's Lisbon System could be one appropriate alternative, amongst others. See the question "Can I obtain geographical indication protection that is valid in multiple countries?" for more information and to learn about other alternatives. There is no comprehensive way to search all geographical indications registered throughout the world. One can contact the relevant national intellectual property office, which may or may not offer a searchable database of GIs registered in their territory. A directory of IP offices is available on the WIPO website. In addition, one can consult WIPO's Lisbon Express database to search GIs registered under the Lisbon System.

One can use the WIPO Lex search engine to browse the intellectual property (IP) laws of WIPO, WTO, and UN members. Just select the country (ies) you are interested in and choose "geographical indications" as a subject matter filter. In addition, information on geographical indications may be provided by national or regional IP offices. A directory is available on the WIPO website.

Consumers are paying more and more attention to the geographical origin of products and many people care about specific characteristics present in the products they buy. In some cases, the "place of origin" suggests to consumers that the product will have a particular quality or characteristic that they may value. Geographical indications (GI) therefore function as product differentiators on the market, by enabling consumers to distinguish between products with geographical origin-based characteristics and others without those characteristics. Geographical indications can thus be a key element in developing collective brands for quality-bound-to-origin products. Consult the WIPO Lex database to browse relevant national legislation.

Protecting a geographical indication (GI) enables those who have the right to use the indication to take measures against others who use it without permission and benefit from its reputation ("free-riders"). A

geographical indication's reputation is a valuable, collective, and intangible asset. If not protected, it could be used without restriction and its value diminished and eventually lost 3, 4, 8, 25, 32, 35. Protecting a GI is also a way to prevent registration of the indication as a trademark by a third party and to limit the risk of the indication becoming a generic term. In general, GIs, backed up by solid business management, can bring with them 35,11, 25:

- Competitive advantage
- More added value to a product
- Increased export opportunities
- A strengthened brand

Homonymous geographical indications (GI) are those that are spelled or pronounced alike, but which identify products originating in different places, usually in different countries. In principle, these indications should coexist, but such coexistence may be subject to certain conditions. For example, it may be required that they be used only together with additional information as to the origin of the product in order to prevent consumers from being misled. A GI may be refused protection if, due to the existence of another homonymous indication, its use would be considered potentially misleading to consumers with regard to the product's true origin.

2.8 Relationship between farmer's varieties (FV) and GI:-

The PPV&FR Act 2001
www.plantauthority.gov.in/pdf/applicatio

[n%status.pdf](#)) provides certain rights to farmers, such as to save, use, sow, re-sow, exchange, share or sell his farm produce including that of the registered variety. Farmers cannot multiply the seeds of the notified variety on their own or market seeds of registered variety as branded seed with packing, label, etc. and such violation may invite infringement action. The Act recognized farmers as plant breeders and therefore has extended the benefit of entitlement for developing commercial varieties though unaided calls for advanced scientific knowledge, access to diverse germplasm and meticulous experimentation to access the commercial potential of the material. Farmers who do develop new varieties of plants like any other plant breeder can apply their material for the conduct of Distinctness, Uniformity and Stability (DUS) testing and registration. This de-centralization of variety development is one benefit that would spin-off from the PPV& FRA.

The PPV&FRA 2001 provides breeders certain ownership claim of their varieties subject to meeting in the case of Novelty in the case of new variety; and Distinctness, Uniformity and Stability. In many cases uniformity invariable provides a window for the assessment of stability. In open pollinated crops the uniformity depends on the nature of the inbred line. That apart, it also depends on the plant breeding methodology followed (top cross, two ways cross, etc.). If genetic male sterile systems (GMS) are used in hybrid

development then the level of uniformity may pose a limitation. The private seed companies tend to focus their attention on the endowed areas where farming is efficient, diverse and productivity levels are high. Crops grown under marginal, suppressive soils or under arid conditions may not get the same type of attention from private breeders. However, gradually, over an extended period of time the benefit reaches out to all farmers.

In the last hundreds years there has been a drive for improved agriculture and that has replaced farmer's variety in several crops with new varieties developed by the plant breeders. Yet farmer's variety is still dominant in pulses, vegetables, melons, etc. The GI for agricultural goods like Basmati rice, coffee, tea, wine, etc. revolve around consumer preferences for the palate feeling, aroma and physical appearance that enhances the appetite. An ideal mixture of all these attributes raises the value of the product due to reasons of consumer preference. India has a GI Act in place and a number of agricultural and handicraft products have been given the GI. India should examine the GI for its agricultural produce like Basmati rice, Alphonso mango, etc., seriously to give it a comprehensive protection of the plant material as FV under the PPV & FR Act 2001 and at the same time give GI protection for produce such as rice, mango fruit and fruit products, etc. Such a double coverage will enable intellectual property protection of the

plant material and market advantage to the quality produce through GI.

1. THE TRACEABILITY ISSUE

The traceability of the raw material that yields the GI produce is important and the detail of the growers and their track record details are a matter of detailed documentation. The GIs are essentially collective marks and are put to use for the collective benefit of the producers in the GI region. Genotype apart, the cultivation practices and seasonality of various consignments should be within the area range and the quality of the produce must remain comparable if GI is to be sustained as a trade advantage. This calls for proper survey of the growing area, identifying the farms, documenting their cultivation details, giving them their unique number, which can be traced, indicating it in the container of the graded and packed produce, etc. The cost involved in this exercise is to be met by the growers themselves or their organizations. This added expenditure should match the market benefit that farmers will get out of this exercise. The consumer will bear the burden of cost in many of these cases and he should see that the value provided to his food source see that the value provided to his food source traceability and its dependability is acceptable to him. Very often these requirements are imposed on the produce originating from a developing country by the West, insisting on it as part of the quality assurance drive. However, the hidden agenda could be to

use this as a non-tariff barrier to discourage imports. To comply with the traceability demand, developing countries have to invest in a high technology and thus would incur an overhead expenditure to sustain their agriculture exports. Therefore, it can also lead to multinationals coming in a big way with capital and technology and they may do the export of India farm produce.

2. PROCESS OF REGISTERFOR FOR GI

4.1 Organizational structure:

Under the Department of Industrial Policy and Promotion of the Ministry of Commerce and Industry, the office of the Controller General of Patents, Designs and Trade Marks (CGPDTM) function. Its main office is located in Mumbai. The head office of the Patent Office is located in Kolkata and its branch offices are located in Chennai, New Delhi and Mumbai. The Trade Marks registry is located at Mumbai with branches at Kolkata, Ahmadabad, Chennai, Kolkata and New Delhi. The Design office is located at Kolkata. The offices of the Patent Information System and National Institute of Intellectual Property Management are located at Nagpur. In order to protect the Geographical Indications (Registration and Protection) ACT 1999, a Geographical Indications Registry has been established in Chennai under the CPDTM. The Intellectual Property of Office of India, based at Chennai handles all the matters related to GI application and operations. Detailed information on it could be downloaded from the website:

www.ipindia.nic.in. While applying one has to select a particular class (Table 1) to which the intended product belongs.

4.2 Geographical Indications Application:

The application can be completed online but must be printed for signature and submission. The following information is required:

- a) Name of applicant
- b) Address
- c) Type of goods
- d) Specifications
- e) Name of the GI
- f) Description of goods
- g) Geographical area of production
- h) Proof of origin
- i) Method of production
- j) Uniqueness
- k) Inspection body

After completion the application should be submitted to:

Geographical Indications Registry
Intellectual Property Office Building
Industrial Estate, G.S.T Road
Guindy, Chennai – 600 032
Ph: 044 – 22502091-93 & 98
Fx : 044 – 22502090
E-mail: gir-ipo@nic.in
Website : ipindia.gov.in

Steps and process that follows the application is outlined in Fig. 1. The validity of GI Registration is for period of 10 years, which can be revalidated following the same process. Any infringement and unlawful use of GI is punishable under law.

In U. P. still only few individuals / organizations have come forward. Out of 63 GI in agriculture registered, only 3 namely, Allahabadi Surkha guava, Mango Malihabadi Dussehari and Kalanamak rice are registered under GI during 2014¹⁷. This is unacceptable situation and due efforts must be government agencies, NGOs and individuals.

5 STORY OF GEOGRAPHICAL INDICATION FOR KALANAMAK RICE

Kalanamak is the famous, prestigious and heritage rice of eastern Uttar Pradesh. An improved variety of named Kalanamak KN3 was already released and notified (Notification of govt of India No. 3 # SO2137 (E) dated 31.08.2013). Kalanamak was also protected under PPV & FRA (www.plantauthority.gov.in/pdf/application%20status.pdf 1117=REG/2009/138) by Participatory Rural Development Foundation (PRDF) Gorakhpur. NGO based in Siddharth Nagar applied to get GI on Kalanamak. The application was "advertised" on the Website (www.ipindia.nic.in) following the procedure that within 3 months any one could protest or advice on the contrary. Participatory Rural Development Foundation (PRDF) based in Gorakhpur cooperated and pointed out several flaws in the proposal. Description of the Kalanamak variety was incorrect and morpho-agronomic characters were totally wrong. The other major flaw was the indicated area for GI, it was merely 5 villages chosen haphazardly from around

Naugarh township of Siddharth Nagar district only. The villages also were not contiguous. This would have been a disaster for Kalanamak rice (Figs. 3, 4), disaster for the community and would have triggered civic strife. However, all was avoided by the timely intervention of PRDF Gorakhpur. GI was granted to Kalanamak rice on 8th September 2013 and published in the 2013-2014 issue of GI News. Now GI for Kalanamak covers Agroclimatic Zone 6 (Fig. 2) of U. P. covering 11 districts namely Bahraich, Balrampur, Basti, Gonda, Gorakhpur, Deoria, Kushinagar, Mahrajganj, Sant Kabir Nagar, Siddharth Nagar, and Sravasti, located between Nepal border in the north to Ghaghra river in the south, Bahraich in the west to Deoria in the east.

With general awareness increasing, there is increasing trend in GI registration (Table 1). Details of GI registration issued for agricultural and horticultural products are given in Table 2.

6. GI REGISTRATION IN INDIA

India has been slow to start and still going slow towards GI registration (Tables 2, 3). During 2003 till 2015 only 75 GI registrations have been done for agricultural goods (Table 2) in India although this country is centre of origin of so many plant and animal species. Rich biological diversity abounds India. In addition, there is record of more than 10,000 years of agriculture in India. Still very few GIs have been done. Out of 36 States and Union Territories in

India only 11 have opened their account for GI registration (Tables, 3, 4, 5). The trend has been slow (Table 3) like slow food²⁷ still and there appears no reason other than general lack of awareness about GI even among academicians and institutions^{13, 14, 20, 24}. Individuals do not see immediate economic gain though it will pay to county, community and individuals in the long run^{3, 4, 10}. Some applications are pending, as the process of facilitation has also been slow. Still there is no reason why so few applications are filed annually. Among states, maximum number of 17 GI

has been registered from Karnataka followed by Maharashtra (Table 4). None of the 7 Union Territories have opened their account even. Limited awareness has been generated by the concerned government agencies^{3, 4}. Although GI has not only economic¹⁵ and social benefits^{8,18}, yet also protects the national wealth from being unduly exploited by others. It also protects the traditional knowledge, traditional knowledge and germplasm^{22, 23, 25, 26} of unique quality. Thus GI is valuable³⁰ and imperative for any individual, community and country.

Table 1. Classification of goods– Name of the product in each class.

(Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other classes).

Class	Products / Goods
Class 1	Chemical used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesive used in industry
Class 2	Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordents; raw natural resins; metals in foil and powder form for painters; decorators; printers and artists
Class 3	Bleaching preparations and other substances for laundry use; cleaning; polishing; scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices
Class 4	Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels(including motor spirit) and illuminants; candles, wicks
Class 5	Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants; preparation for destroying vermin; fungicides, herbicides
Class 6	Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal;

	ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores
Class 7	Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs
Class 8	Hand tools and implements (hand-operated); cutlery; side arms; razors
Class 9	Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus
Class 10	Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials
Class 11	Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying ventilating, water supply and sanitary purposes
Class 12	Vehicles; apparatus for locomotion by land, air or water
Class 13	Firearms; ammunition and projectiles; explosives; fire works
Class 14	Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; homological and other chronometric instruments
Class 15	Musical instruments
Class 16	Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks
Class 17	Rubber, gutta percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal
Class 18	Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides, trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery
Class 19	Building materials, (non-metallic), non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20	Furniture, mirrors, picture frames; goods(not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother- of-pearl, meerschaum and substitutes for all these materials, or of plastics
Class 21	Household or kitchen utensils and containers(not of precious metal or coated therewith); combs and sponges; brushes(except paints brushes); brush making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes
Class 22	Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes) padding and stuffing materials(except of rubber or plastics); raw fibrous textile materials
Class 23	Yarns and threads, for textile use
Class 24	Textiles and textile goods, not included in other classes; bed and table covers.
Class 25	Clothing, footwear, headgear
Class 26	Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers
Class 27	Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile)
Class 28	Games and playthings, gymnastic and sporting articles not included in other classes; decorations for Christmas trees
Class 29	Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats
Class 30	Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice
Class 31	Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt
Class 32	Beers, mineral and aerated waters, and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages
Class 33	Alcoholic beverages(except beers)
Class 34	Tobacco, smokers' articles, matches

Table 2. Geographical Indications registered for various agricultural and horticultural commodities in India during 2004 to 2015 products (source: GI Journal No. 1 to 99 of years 2004 – 2017)

S.N.	Application No.	Registered Name	Crop / Product	State
Period: April 2004 – March 2005				
1	1 & 2	Darjeeling Tea (word & logo)	Tea	West Bengal
Period: April 2005 – March 2006				
2	25	Kangra Tea	Tea	Himachal Pradesh
3	33	Coorg Orange	Orange	Karnataka
Period: April 2006 – March 2007				
4	34	Mysore Betel leaf	Betel leaf	Karnataka
5	35	Nanjanagud banana	Banana	Karnataka
Period: April 2007 – March 2008				
6	69	Mysore Jasmine	Flower	Karnataka
7	70	Udupi Jasmine	Flower	Karnataka
8	71	Hadagali Jasmine	Flower	Karnataka
9	17	Navara rice	Rice	Kerala
10	36	Palakkadan Matta rice	Rice	Kerala
Period: April 2008 – March 2009				
11	49 & 56	Malabar Pepper	Black Pepper	Kerala
12	50	Allahabad Surkha	Guava	Uttar Pradesh
13	85	Monsooned Malabar Arabica Coffee	Coffee	Karnataka
14	114	Monsooned Malabar Robusta Coffee	Coffee	Karnataka
15	72	Spices - Alleppey Green Cardamom	Cardamom	Kerala
16	78	Coorg Green Cardamom	Cardamom	Karnataka
17	110	Eathomozhy Tall Coconut	Coconut	Tamil Nadu
18	81	Pokkali rice	Rice	Kerala
19	111	Laxman Bhog Mango	Mango	West Bengal
20	112	Khirsapati (Himsagar) Mango	Mango	West Bengal
21	113	Fazli Mango	Mango	West Bengal

22	109	Naga Mircha	Chillies	Nagaland
23	116 & 117	Nilgiri (Orthodox) Logo	Tea	Tamil Nadu
24	115 & 118	Assam (Orthodox) Logo	Tea	Assam
25	124	Virupakshi Hill Banana	Banana	Tamil Nadu
26	126	Sirumalai Hill banana	Banana	Tamil Nadu
Period: April 2009 – March 2010				
27	125	Mango Malihabadi Dusseheri	Mango	Uttar Pradesh
28	130 & 141	Vazhakulam Pineapple	Pineapple	Kerala
29	131	Devanahalli Pomello	Citrus	Karnataka
30	132	Appemidi Mango	Mango	Karnataka
31	133	Kamalapur Red Banana	Mango	Karnataka
Period: April 2010 – March 2011				
32	143	Guntur Sannam Chili	Chillies	Andhra Pradesh
33	154	Mahabaleshwar Strawberry	Strawberry	Maharashtra
34	163	Central Travancore Jaggery	Jaggery sugar	Kerala
35	186	Wayanad Jeerakasala Rice	Rice	Kerala
36	187	Wayanad Gandhakasala Rice	Rice	Kerala
37	165	Nashik Grapes	Grape	Maharashtra
38	129	Byadgi Chilli	Chillies	Karnataka
Period: April 2011 – March 2012				
39	185	Gir Kesar Mango	Mango	Gujarat
40	192	Bhalia Wheat	Wheat	Gujarat
41	199	Udupi Mattu Gulla Brinjal	Brinjal	Karnataka
42	228	Ganjam Kewda Rooh	Kewda Flower	Odisha
43	229	Ganjam Kewda Flower	Kewda Flower	Odisha
Period: April 2012 – March 2013				
44	238	Madurai Malli	Jasmine Flower	Tamil Nadu
45	211	Bangalore Blue Grapes	Grape	Karnataka
Period: April 2013 – March 2014				
46	205	Kalanamak Rice	Rice	Uttar Pradesh
47	242	Kaipad Rice	Rice	Kerala

48	240	Kolhapur Jaggery	Jaggery sugar	Maharashtra
49	285	Nagpur Orange	Orange	Maharashtra
Period: April 2014 – March 2015				
50	212	Bangalore Rose Onion	Onion	Karnataka
51	374	Naga Tree Tomato	Tomato	Nagaland
52	375	Arunachal Orange	Orange	Arunachal
53	376	Sikkim Large Cardamom	Cardamom	Sikkim
54	377	Mizo Chilli	Chilli	Mizoram
55	435	Assam Karbi Anglong Ginger	Ginger	Assam
56	436	Tripura Queen Pineapple	Pineapple	Tripura
57	479	Chengalikodan Nendran Banana	Banana	Kerala
58	438	Tezpur Litchi	Litchi	Assam
59	465	Khasi Mandarin	Mandarin	Meghalaya
60	466	Kachai Lemon	Lemon	Manipur
Period: April 2015 – March 2016				
61	437	Memong Narang	Orange	Meghalaya
62	470	Ajara Ghansal Rice	Rice	Maharashtra
63	472	Mangalwedha Jowar	Jowar	Maharashtra
64	474	Sindhudurg & Ratnagiri Kokum	Kokum berry	Maharashtra
65	476	Waghya Ghevada	Cucurbit	Maharashtra
66	477	Navapur Tur Dal	Pigeon pea	Maharashtra
67	489	Vengurla Cashew	Cashew	Maharashtra
68	491	Lasalgaon Onion	Onion	Maharashtra
69	145	Basmati	Rice	Punjab, Haryana, U. K., H. P., J & K, western U. P., Delhi
Period: April 2016 – March 2017				
76	490	Sangli Raisins	Grape	Maharashtra
77	494	Beed Custard Apple	Custard Apple	Maharashtra
78	495	Jalna Sweet Orange	Orange	Maharashtra
79	520	Uttarkhand Tejpat	Bayleaf	Uttarakhand
80	471	Waigain Turmeric	Turmeric	Maharashtra

81	500	Purandar Fig	Fig	Maharashtra
82	501	Jalgaon Brinjal	Brinjal	Maharashtra
83	502	Solapur Pomegranate	Pomegranate	Maharashtra
84	473	Bhiwapur Chilli	Chillies	Maharashtra
85	478	Ambemohar Rice	Rice	Maharashtra
86	493	Dahanu Gholvad Chikoo	Chikoo	Maharashtra
87	498	Jalgaon Banana	Banana	Maharashtra
88	499	Marathwada Kesar Mango	Mango	Maharashtra
89	439	Joha Rice of Assam	Rice	Assam
Period: April 2017 – Todate 17				
90	241	Banaganapalle Mangoes	Mango	Andhra Pradesh

Table 3. Trend in number of registration issued for Geographical Indication in a decade (2004 – 2017) for agricultural and horticultural crops in India (Source: www.ipindia.nic.in).

S. N.	Period	Number of Registration	S. N.	Period	Number of Registration
1	April 2004 - March 2005	1	8	April 2011 - March 2012	5
2	April 2005 - March 2006	2	9	April 2012 - March 2013	2
3	April 2006 - March 2007	2	10	April 2013 - March 2014	4
4	April 2007 - March 2008	5	11	April 2014 – March 2015	11
5	April 2008 - March 2009	16	12	April 2015 – March 2016	15
6	April 2009 - March 2010	5	13	April 2016 – March 2017	14
7	April 2010 - March 2011	7	14	April 2017 - Todate 2017	1
	Total				90

Table 4. State-wise distribution of GI done in India during 2003 to 2017.

S. N.	Name of the State	No. of GI done	S.N.	Name of the State	No. of GI done
1	Andhra Pradesh	2	13	Meghalaya	2
2	Arunachal Pradesh	1	14	Mizoram	1
3	Assam	4	15	Nagaland	2

4	Delhi	1	16	Punjab	1
5	Gujarat	2	17	Odisha	2
6	Haryana	1	18	Sikkim	1
7	Himachal Pradesh	2	19	Tamil Nadu	5
8	Jammu & Kashmir	1	20	Tripura	1
9	Karnataka	16	21	Uttar Pradesh	4
10	Kerala	11	22	Uttarakhand	2
11	Maharashtra	23	23	West Bengal	4
12	Manipur	1			
	Total				90

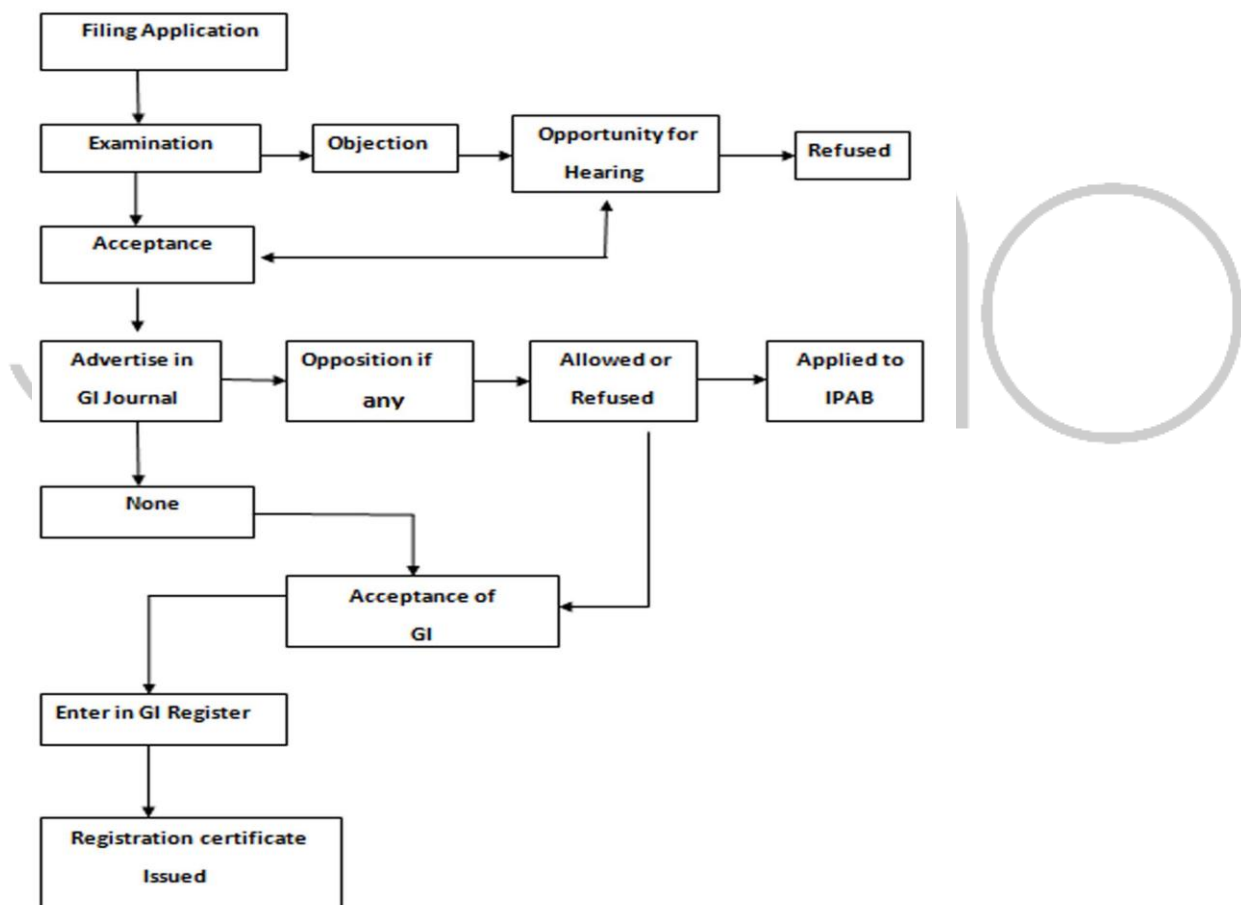


Fig. 1 Steps and processes involved in the Registration for Geographic Indications



North-East plain zone of U.P. (highlighted in light green)

[Signature]
24/01/2013

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24/01/2013
Chairman
P. R. O. F.
Gorakhpur

Fig. 2 Geographical Indications area of Kalanamak rice covering Agroclimatic Zone 6 of U. P. (Map submitted for GI registration)



Fig. 3 Kalanamak (improved) rice crop grown in the GI area of U. P., India



Fig. 4 Grain (paddy) and milled rice of Kalanamak rice

GEOGRAPHICAL INDICATIONS FOR DEVELOPING COUNTRIES

GI is a powerful tool to protect the ownership right on the natural resources, natural product and by-products based on plants and animals. It started with the developing countries like U. K., France and others. Now these countries are even registering their products like Scotch whisky and Champagne in developing countries like India under International Registration. They want to protect their products being labelled elsewhere. For the developing countries GI is a boon as it has limited costs and simpler procedure compared to the other forms of IPR. Whole community in the GI area can benefit. There is no hidden cost or hidden danger to it. After 10 years, it can be kept renewed indefinitely. Thus developing countries must go ahead for GI before someone else can stake their claim on it. GIs are embedded in a territory means that they can be effective tools for promoting local knowledge and locally based development. They can also be protected in many countries by International Registration using Madrid System. Mexican Tequila, Thai Silk, Nepal Himalayan Tea, Darjeeling Tea are many

such examples of GI multi-country registered products from developing countries.

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