

THE RELEVANCE OF GEOGRAPHICAL INDICATION IN PRESENT ERA WITH SPECIAL REFERENCE TO SIVASAGAR DISTRICT OF ASSAM

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Abstract

Geographical Indications of Goods are defined as the very inevitable aspect of Intellectual Property Right (IPR). Geographical indication (GI) is a name or sign used on products that have a specific geographical origin, identifies and possess qualities which are located or originated in a specific geographical sphere or a given place. Moreover, 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. This study highlighted the legal parameters of the GI registration procedure in India. The aim of the study is to provide an overview and importance of geographical indication on the traditional knowledge and practices products in Assam and also to provide awareness among the people regarding the importance of it in social recognition to rural upliftment and development.

Keywords: Geographical Indications, Traditional knowledge, Rural development

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INTRODUCTION

We are living in the world dominated by power of knowledge, therefore the present generation has better opportunities and facilities to acquire knowledge and transform it into creation of wealth. As well as there has been growing tendency to use false or deceptive indication or source of goods to lure customers.

Geographical indication indicates that particular goods originate from a country, region or locality and has some special characteristics, qualities or reputation which is attributable to its place of origin. These special factors such as raw material, soil, regional climate, temperature, moisture etc.; or the method of manufacture or preparation of the product such as traditional production methods; or other human factors such as concentration of similar businesses in the same region, specialization in the production or preparation of certain products and maintaining of certain quality standards.

The Geographical Indications of Goods (Registration and Protection) Act, 1999 defines geographical indication in relation to goods, as an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods, one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

OBJECTIVES

The objectives of the study are as follows:

1. To highlight the legal parameters of the GI registration procedure in India.
2. To provide an overview on the recognized geographical indications in Assam and prospective in acquiring GI on the traditional knowledge and practices products in Sivasagar District and Assam as well.
3. To provide measures so that the social recognition to rural upliftment or development can be entertained.

METHODOLOGY

In order to achieve the above objectives, the study is based on both primary and secondary data collected from various sources. Primary data are collected through field survey in the study area by interviewing and making observation in remote villages situated in Sivasagar District, Assam and the Secondary data are collected from respective journals, books, internet and other published and unpublished works.

AREA OF THE STUDY

Assam is a state in northeastern India, situated south of the eastern Himalayas along the Brahmaputra and Barak River valleys. Assam covers an area of 78,438 km² (30,285 sq mi).

Sivasagar district, the present study area is geographically a part of the Brahmaputra valley of Assam covering about 2668 Sq. Km. and the district shares common boundaries with Dibrugarh and Charaideo District on the East, Jorhat District on the West, river Brahmaputra on the North and Nagaland and Arunachal Pradesh State on the South. This District lies in between 26°59' N and 94°37' N latitude and between 94°37' E and 95°25' E longitude. Sivasagar is the heritage place of in Assam famous for the monuments of Ahom Kingdom.

LAWS REGARDING THE GEOGRAPHICAL INDICATIONS (GIS):

a) *International Perspective*

The foundation of jurisprudence of Intellectual Property Rights (IPR) has been built brick by brick through various international conventions and agreements, beginning from Paris Convention of 1883 and ending at WTO-TRIPs. A number of international treaties deal partly or entirely with the protection of geographical indications or applications of origin. Establishment of World Intellectual Property Organization (WIPO) is a landmark event in the history of promotion and protection of intellectual property rights at global level (1967). Replacing the GATT, the WTO was established in 1995 to make the structural changes in the world economy, negotiations paved the way for a new era of profound significance for the emerging trading system.

The Paris Convention for the protection of industrial property refers the said protections not as geographical indications but as “indications of source or appellation of origin” Articles 9 and 10 deals with geographical indications relating to seizure on importation of goods that unlawfully bear a mark or name, and Article 10 is more categorical when it provides that the provisions of

Article 9 shall apply in cases of direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer or a merchant.

On the other hand, Article 1(i) of Madrid Agreement provides that any product bearing a false and deceptive indication by which one of the member countries of this agreement, or a place situated within the territory of that member, is directly or indirectly indicated as the country or place of origin must be seized on importation into any member country of the agreement.

Article 2(1) of the Lisbon Agreement defines the term “appellation of origin” as geographical name of a country, region or locality which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment including natural and human factors.

However, Section 3 of TRIPs Agreement deals exclusively with the geographical indications under Articles 22 to 24. Members are expected to provide legal names for interested parties to prevent false use, or any other use of the geographical indications, which may be regarded as an unfair competition. Similarly, Article 23 deals with protections for geographical indications for wines and spirits. Negotiations be made or undertaken in the council for TRIPs to facilitate the protection of geographical indications for wines with regard to the establishment of a multilateral system for the protection in those members who become parties to the system.

b) Indian Perspective

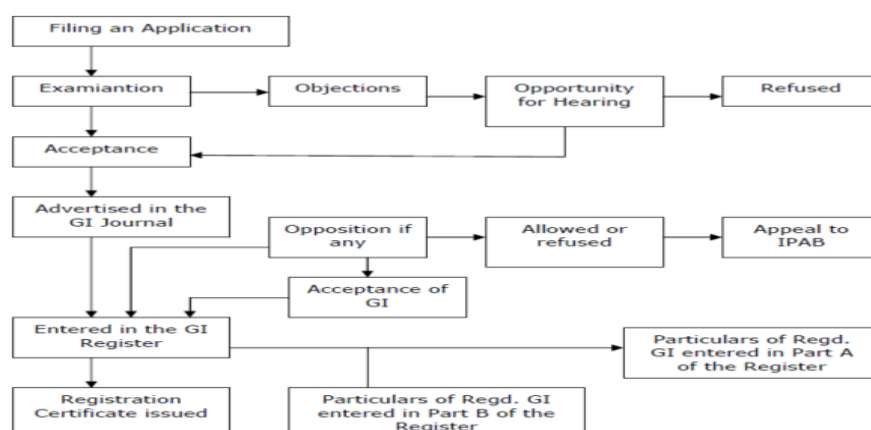
The protection of Geographical Indication in India is available through a sui generis system operationalized through the Geographical Indications of Goods (Registration and Protection) Act, 1999 and it was followed by the Geographical Indications of Goods (Registration and Protection) rules, 2002. Prior to the enactment of G.I. Act, there was no law for the protection of geographical indication in India. This Act contains provision for the establishment of a Geographical Indications Registry, maintenance of a Register of Geographical indications in two parts (Part A and Part B), registration of geographical indications of goods in specified classes, prohibition of registration of certain geographical indications, compulsory advertisement of all accepted geographical indication applications and for inviting objections, registration of authorized users of registered geographical indications and providing infringement action either by a registered proprietor or an authorized user, prohibition of registration of geographical indication as a trademark, provisions relating to offences and penalties etc.

Any association of persons or producers or any organization or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering geographical indication in relation to such goods can apply for GI's registration. An authorized user has the exclusive rights to the use of geographical indication in relation to goods in respect of which it is registered.

The following G.I. cannot be registered under the Act:

- 1) If its use is likely to deceive or cause confusion or be contrary to any law;
- 2) If it comprises or contains scandalous or obscene matter or any matter likely to hurt religious susceptibilities of any class or section of the citizens of India;
- 3) If it is a generic name;
- 4) If it has ceased to be protected in their country of origin or which have fallen into disuse in that country;
- 5) If it is falsely represented by persons claiming that goods originate in another territory, region or locality as the case may be.

Application for registration of a GI should be made in the prescribed form (GI-1A to 1D) accompanied by the prescribed fee Rs 5000/- per Class (triplicate) in the GI Registry, Intellectual Property Office Building, G.S.T. Road, Guindy, Chennai- 600 032. After the application is accepted for registration, the same is advertised in the GI journal and within 3 months of such advertisement, any person can file opposition proceedings against the registration. The registrar will forward the copy of opposition to the applicant and within two months, the applicant should lodge a counter statement against the opposition. The application would be abandoned if the applicant fails to file the counter- statement. After this, parties should submit evidence in support of their cases. Finally registrar gives an opportunity to the parties for an oral hearing and the matter gets decided for hearing.



A sentence of imprisonment for a term between six months to three years and a fine between fifty thousand rupees and two lakh rupees is provided in the Act. The court may reduce the punishment under special circumstances.

And the registration of a GI shall be for a period of ten years but may be renewed from time to time for an unlimited period by payment of the renewal fees.

GIs FOR THE PROTECTION OF TRADITIONAL KNOWLEDGE IN ASSAM

The rapid increase in international competitiveness among the different nations for a globalised world lead to the country struggle for their better dominance in world market. Exponentially, registration of products under Geographical Indications has increased and those registered products are occupying a worldwide profitable market.

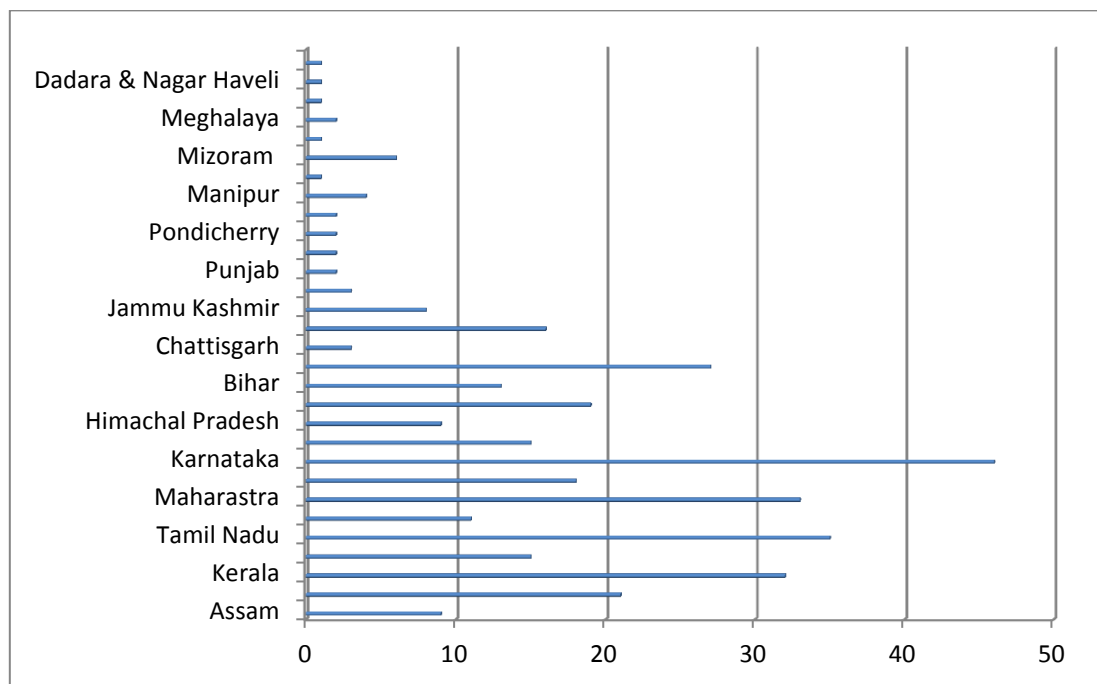
In India, registration of GI products was started in the year 2003. In the first year from April 2004 to March 2005, three products were registered- the Darjeeling Tea both word and logo under agriculture is the first GI register product follow by handicrafts product Aranmula Kannadi of Kerela and Pochampalli Ikat from Telengana. During the period April 2005 to March 2006, twenty four products from seven states register their products under G.I.

The highest registration is during April 2008 to March 2009 where 45 products from 16 states register their products mostly in handicraft follow by agriculture. Phulkari a handicraft product has been registered from three states of Punjab, Haryana and Rajasthan.

Foreign countries also register their products in India. Eight products from six countries were register for GI - out of the eight products, seven belong to alcoholic beverage and one is meat item.

Peru is the first country to register their product Peruvian Pisco, a brandy under manufactured good. This is followed by France Champagne (wine) and Cognac (brandy), USA Napa Valley (wine), United Kingdom Scotch Whisky, Italy Prosciutto di Parma (aged meat) and Portugal Porto (wine) and Douro (wine).

The following table shows GI Registration of different States in India:



Till 10th January 2020, a total 683 products were registered under GI in India. The products are mainly handicraft, agriculture, manufacture and foodstuff. Thirty states including union territories of India have registered their products under the Geographical Indication in five categories of products mainly handicraft, Agricultural, Textile, manufactured follow by foodstuff.

The states of North East are home to a number of community, tribes and sub tribes. These people have a vigorous craft tradition and every community excels in craftsmanship manifest themselves in various products. Nagaland registers for Naga Mircha, the hottest chilli in the world in agriculture. From Manipur, three manufacturing items were submitted for GI registration. They are Shaphee Lanphee, Wangkhei Phee and Moirang Pheejin in handicraft. Similarly Arunachal Pradesh applied for registration of Arunachal Orange, Assam for Muga Silk logo, Mizoram for Mizo chilli, Nagaland for Naga tree tomato and Sikkim for Sikkim large Cardomom.

This is a positive trend which needs active involvement of different stakeholders to identify the products and register for GI to prevent unauthorized use of the products. The region is still lacking in registering the products even though there are a large number of products which can be register. These call for a collective effort among the people of the region to identify the products and register for the GI.

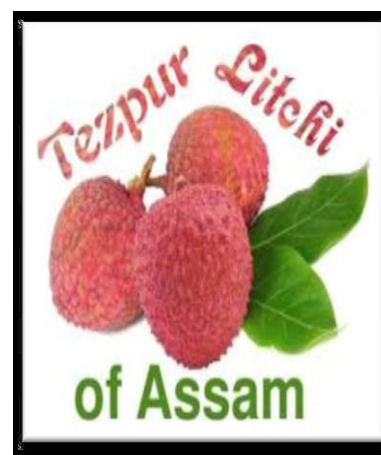
Assam is situated in the North-Eastern part of India and in this State people are very rich in their natural resources as well as in their traditional knowledge. The people of the region are very expert in making their livelihood very easily by pursuing their traditional art and crafts.

Though the State has wide range of varieties of crafts and natural treasure yet Assam has succeed in getting less number of its products and these are:

- Muga Silk of Assam,
- Assam Orthodox Tea,
- Tezpur Litchi,
- Karbi Anglong Ginger,
- Joha rice,
- Boka Chaul, (*Oryza sativa*) or soft rice- a paddy variety from Assam is mostly cultivated in Nalbari, Barpeta, Goalpara, Baksa, kamrup, Dhubri, Kokrajhar and darrang Districts of lower assam.
- Kaji Nemu (Assam Lemon)
- The Chokuwa rice of Assam is a unique gift of nature, not known in any other part of the world. It is a special class of semi- glutinous winter rice of Assam. Chokuwa rice is grown in Tinsukia, Dhemaji, Lakhimpur, Sivsagar, Jorhat and Golaghat, districts of Assam from time immemorial to cater the household needs of the farmers. Chokuwa rice of Assam has significance in social and religious ceremonies and forms a popular daily breakfast diet in rural Assam and
- Gamosa represents Assamese Community. It is the symbol of feeling & belongingness, welcoming people, respecting elders, love and care to love.



Muga Silk of Assam



Tezpur Litchi



Assam Orthodox Tea



Karbi Anglong Ginger



Joha rice



Kaji Nemu (Assam Lemon)

CHOKUWA RICE OF ASSAM



GAMOSA



TRADITIONAL PRACTICES IN ASSAM AS WELL AS SIVASAGAR DISTRICT

Assam is a junction of a number of tribes and cultures. The indigenous peoples of Assam have incomparable craftsmanship and knowledge over a variety of crafts, weaving and traditional medicinal plants and herbs that are available in the region and these people have a vigorous craft tradition and every community excels in craftsmanship manifest themselves in various products. Moreover, the said region is famous for handloom weaving carpet making, masks, painted wood vessels, bamboo and cane crafts, woodcarvings, jewellery, hand-made pottery, silver works, wood works, pottery, brass metal, fiber crafts etc. such rich resources are required to be conserved using the geographical indication so that the historical identity can be conserved and prevent the misused of the product by the other people. So, the protection of that traditional knowledge of the people or the communities of Sivasagar District and Assam Geographical Indication is the ultimate existing weapon.

Some other products which are trying to acquire the GI tags are:

- Bell metal craft of Sarthebari,
- Brass metal craft of Hajo,
- Eri silk,
- Local Liquor (Laopani),
- Bora Saul,
- Kopou Ful (Fox tail),
- Burmese Grape (Leteku),
- Ou Tenga (Assam elephant apple)
- Bhut Jolokia (Ghost pepper)

To claim GI, the following attributes regarding any item should fulfill the following geographical characteristics:

- ❖ Weather, climate or environment of a locality,
- ❖ Soil or water induced products,
- ❖ Biological attributes of the locality,
- ❖ Cultural attributes of the locality,
- ❖ Bio-cultural attributes of the locality,
- ❖ Traditional practices of the locality,
- ❖ Traditional expressions having local implications,

- ❖ Social, environmental, spiritual or religious beliefs etc.

Handlooms are environment-friendly. A Handloom is an independent and autonomous technology. The handloom industry of Assam is also known for its tradition and it is also a part of the Assamese culture. In Assam every house in a village is with a loom in which traditional clothes are produced. In spite of having such a close connection with the traditional culture and heritage, the handloom industry of Assam has not been flourished at a desired level. Sualkuchi, the city of clothes (Vastra Nagari) or the “Manchester of Assam” has the ancient origin regarding the production of a variety of elegant and sophisticated cloth materials like Muga, Paat, Eri, Nuni Paat, Gamocha etc.

From the very beginning of Ahom rule in Assam, Sivasagar was the district where the vast accession of Local Liquor (Laopani) practice was prevailed in the area. Hence, the long day practice of local liquor has also positive impact in society tremendously claims to be protected under the umbrella of GI recognition.

The Bell-Brass metal industry of Assam is another unique traditional knowledge possessed by the indigenous people and these activities in the industry are carried on by artisans. Hence Bell-Brass metal production is known as the craft. However the most renowned centres of craft in Assam are Sarthebari in Barpeta, Hajo in Kamrup, Raha and Hojai in Nagaon, Dhekiajuli in Sonitpur and Titabar in Jorhat.

Assam has the maximum resources for the cane and bamboo industry. It provides part time employment to the cultivators in their spare time and full time employment to the highly skilled artisans who produce only fine decorative baskets, furniture and mat etc. Bamboo is also used for umbrella handles, walking sticks, tool handles, fishing rods, tent poles, cordage, ladders, yokes, baskets, toys, hand fans and various domestic and agricultural implements. Various cottage and small-scale industries in Assam are dependent on the supply of different kinds of cane and reeds. It is observed that generally three species of cane are exploited in commercial quantities- Jati (*Calamus tenuis*), Tita (*Calamus leptesadix*) and Lejai (*Calamus floribundus*). Some less important qualities like Sundi (*Calamus garuba*) and Raidang (*Calamus flagellum*) are also extracted.

Assam is one of the 34 prominent and major biodiversity hotspots of the world and hence very rich in natural resources including rare agricultural and medicinal herbs which are normally used for curing many diseases. People living in remote villages have unique knowledge over the

medicinal value and composition of these herbs. Medicinal plants are one of the major natural resource in pharmaceuticals and healthcare activities. Assam has many reserve forests which are extremely rich in different variety of medicinal herbs, such as Kaziranga National Park, Manas National Park, Nameri Wildlife Sanctuary, Chakrashila Wildlife Sanctuary, Dibru-Saikhowa Wildlife Sanctuary, Deepor Bill Bird Sanctuary, Laukhowa Wildlife Sanctuary, Nambor Wildlife Sanctuary etc.

Among the thousands of unique agricultural and medicinal herbs found in the study area, some are mentioned below which need GI protection to conserve their existence on earth:

- Bor Manimuni (*Hydrocotyle asiatica* Linn. Family *Apiaceae*)

Centella asiatica, commonly known as centella and gotu kola, is a small, herbaceous, annual plant. It is used as a medicinal herb in Ayurvedic medicine. It has the capacity of curing stomach trouble, indigestion, weak memory, low appetite, dysentery, diarrhea etc.

- Soru Manimuni (*Hydrocotyle rotundifolia* Roxb. Family-*Apiaceae*)

This herb has the same features as *Centella asiatica* or Bor Manimuni. This is found anywhere in Assam.

- Tengesi Tenga (*Oxalis Corniculata*)

Indian Sorrel leaves or „Tengesi Tenga“ in Assamese is prescribed for insomniacs. The juice produced by crushing the leaves helps in facilitating sleep.

- Gol Nemu (*Citrus medica* L. Family- *Rutaceae*)

Gol Nemu limes or Assam limes are native to the Assam region of India. Gol Nemu limes are used to add sourness to spicy dishes in the Assam and Nagaland regions of Northeastern India. The limes are cut in half and juiced, the skin and seeds discarded. The Assam limes can be dried or pickled and preserved for years. It is a sour fruit that can cure dysentery, jaundice and anaemia when taken in actual proportion as directed.

- Komal Saul (Soft Rice)

This indigenous variety of rice does not require cooking or boiling to eat. Soaking the rice in cold water for half-an-hour makes it ready for serving. Soaked and drained Komal Saul mixed with curd and jiggery is ready to be consumed. This is a complete health food and a potential candidate of GI protection in Assam.

- Ou tenga (*Dillenia indica*)

Dillenia indica commonly known as elephant apple or *outenga* is an evergreen tree grown in the moist forest of sub-Himalayan region of Assam. In Assam, the unripe fruits are used to make curries because of its sour taste and ripe fruits are for making pickles. The studies show that the plant possesses various qualities like antimicrobial, antioxidant, analgesic, anti-inflammatory, dysentery, antidiabetic etc. The fruits are used for the treatment of various diseases especially diabetes.

- Omita (*Carica Papaya* L. Family- *Caricaceae*)

Carica papaya contains an enzyme known as papain, present in the fruit, stem and leaves. The milky juice is extracted, dried and used as chewing gum, medicine (digestion problems), toothpaste and meat tenderizers. Omita or papaya is an appetizer and very good for stomach diseases. It cures gastric problem and ringworms.

SOCIAL MEASURES

While the research work is in progress the researchers find that -

Promoting quality linked to geographical origin by means of Geographical Indications (GIs) can help support rural development. In this respect, governmental authorities at the national, regional and local levels, as well as other officials with public duties or representing public interests, have an important stake in ensuring the sustainability of the GI system framework, especially when targeting initiatives at the local level.

Lack of awareness among the people regarding the Geographical indication is minimal. The people were also not interested in registering such products and traditional knowledge due to lengthy procedural deadlock.

Due to the unawareness of the people they are very afraid of saying anything against the government or its policies.

Many of them, who have some idea of laws and rights, are fed up of asking government for help to improve the condition of their craft business. Therefore, they are reluctant to impart any further information to the researchers.

A sound legal (legislative and regulatory) and institutional framework, enabling the recognition and the protection of collective property rights attached to the GI in a given territory.

The artisans and the local people who are pursuing the traditional knowledge and crafts are mostly less educated. Many of them have never visited school. Therefore, they have no idea of their rights.

An essential integrated rural development policy that supports local people in order to establish and regulate a sustainable framework for GIs, several different factors should be taken into account by public authorities: the need to promote fair trade; encourage value redistribution along the food chain and for the entire locality; and protect and support public benefits, including the environment and cultural values.

CONCLUSIONS

The economic consequences for a developing country are difficult to assess. The main economic benefit of geographical indications would be to act as a quality mark which will play a part in enhancing export markets and revenues. Geographical indication will not only prevent the traditional goods from their misuse but also gain financial profit by exporting the products to other countries. The protection through GI in Assam is less comparing with the other States in India which means that the region does not get all broader aspects of potential benefits. This will help in improving the living standard of rural communities residing in the State; they are far behind in developmental activities due to poor socio-economic condition and geographical location.

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