



# A Critical Analysis On Falsification Of Geographical Indication:

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## ARTICLE INFO ABSTRACT

The topic of geographical indication (GI) fraud in India is examined extensively in this article. Geographical markers are essential for safeguarding the distinct character and standing of goods that come from certain areas. Nonetheless, the integrity and worth of these goods are seriously threatened by the fabrication of GIs. This article looks at the state of GI falsification in India today, how it affects stakeholders and the economy, and what laws and regulations are in place to deal with GIs. In addition, it examines the difficulties in enforcing GI protection and suggests possible countermeasures against the forgery of geographical indications.

**Keywords:** Geographical indications, intellectual property, efficient legal system, investigative study, current law

## I. Introduction

Geographical indications (GIs) are labels placed on goods that are primarily due to a certain geographic origin and have certain attributes, reputations, or features. They act as a type of intellectual property rights, safeguarding the distinctive character and legacy connected to customs that come from certain geographical areas. The preservation of the cultural and historical relevance of traditional goods is contingent upon the conservation of geographical indicators. Assuring customers of the product's authenticity and quality, it also gives local communities' and traditional producers' skills, expertise, and history respect and value.

Geographical markers are extremely important in the context of India, which has a rich tapestry of traditional products ranging from Darjeeling tea to Kanchipuram silk. However, the integrity and financial security of these goods, as well as the communities that depend on them, are seriously threatened by the fabrication of geographical indications. In order to protect these priceless assets, it is necessary to thoroughly examine the problem of geographical indication fraud in India and look at possible remedies. The purpose of this article is to present a thorough study of the prospects and problems related to geographical indication fraud in India, as well as suggestions for enhancing the safeguarding of these crucial components of the country's cultural and economic legacy.<sup>1</sup>

## II. Importance of Geographical Indications in Protecting Traditional Products:

By associating the characteristics and reputation of traditional products with their place of origin, geographic indications (GIs) are essential to their preservation. Maintaining the distinct character and cultural legacy connected to these items depends on this connection. GIs also provide a host of advantages:

### 1. Economic Value:

GIs help areas grow economically by highlighting regional goods and fostering unique market niches. They help preserve rural economies and traditional livelihoods by allowing traditional producers to command premium prices and earnings.

<sup>1</sup>"Geographical Indications and International Trade: A Strategic Economic and Legal Analysis" by Irene Calboli and Edward Lee. p. 23

## **2. Quality Assurance:**

GIs provide customers peace of mind about the genuineness, excellence, and uniqueness of items. This guarantee stems from the items' distinct place of origin as well as the age-old knowledge and methods used in their manufacture.

## **3. Cultural Preservation:**

GIs have a crucial role in maintaining traditional knowledge, abilities, and cultural customs that are necessary for the manufacture of certain items. A region's distinct cultural legacy is preserved by safeguarding its GIs, traditional goods, and the communities that support them.

### **III. Overview of the Issue of Falsification of Geographical Indications in India**

The fabrication of geographical indications has become a major concern in India despite the protection procedures in place. Items that are falsely claimed to be from a certain region deceive customers and weaken the position of genuine items in the market. This practice is known as falsification. This problem raises a number of important issues:

#### **1. Economic Impact:**

Because it creates unfair competition and devalues the products of genuine manufacturers, falsification poses a danger to their capacity to continue in business. It may result in monetary losses, restricted access to markets, and lower returns for traditional communities.

#### **2. Consumer Deception:**

Customers are misled by fabricated GIs, which undermines their faith in the reliability and excellence of conventional goods. This compromises the market's integrity and damages the standing of legitimate regional signals.

#### **3. Cultural Erosion:**

The cultural legacy and traditional knowledge connected to authentic geographical markers are compromised by falsification, endangering the survival of unique regional customs and practices.

#### **4. Legal and Regulatory Challenges:**

The legal and regulatory complications involved in upholding the protection of GIs and punishing incidents of fabrication need for strong methods for identification, verification, and enforcement.

Given these difficulties, it is essential to critically examine the fabrication of geographical indications in India in order to pinpoint the root causes of the problem, take appropriate action, and investigate viable solutions for strengthening the safeguarding of traditional goods and the communities that make them.<sup>2</sup>

### **IV. Overview of the Issue of Falsification of Geographical Indications in India:**

Geographical indication (GI) fraud has become a major issue in India, threatening the integrity and financial viability of traditional goods as well as the people who depend on them. This problem has several major contributing causes:

#### **1. Proliferation of Counterfeit Products:**

Counterfeit goods that fraudulently claim to have certain regional indicators, such as Pashmina shawls, Alphonso mangoes, or Darjeeling tea, flood the market. The market for real items is weakened by these counterfeit goods, which confuse buyers and cause financial losses for legitimate companies.

#### **2. Weak Enforcement and Regulatory Framework:**

Even while laws are in place to safeguard geographical indications (GIs), regulatory frameworks and enforcement tactics may fall short, leaving gaps that permit the production of counterfeit goods. The issue is made worse by uneven enforcement and difficulties with cross-border regulation.

#### **3. Lack of Awareness and Capacity:**

It's possible that producers are unaware of the importance of Geographic Indications (GIs) and the protocols for obtaining and safeguarding them, particularly small-scale and traditional craftspeople. Furthermore, their inability to protect their GIs from fabrication may be hampered by their limited competence and resources.

#### **4. Globalization and Trade Pressures:**

Protecting geographical indications has become more difficult since trade liberalisation and increased globalisation have exposed products from many areas to worldwide markets, where there is a greater chance of falsification.

#### **5. Economic and Social Impacts:**

Sincerity producers' market share and profitability are diminished by falsification, which also threatens their capacity to make a living. Consequently, this impacts the means of subsistence and cultural legacy of societies dependent on customary goods.

#### **6. Technological Advancements:**

<sup>2</sup>"Geographical Indications and Cultural Heritage: Perspectives on Intellectual Property, Traditional Knowledge and Folklife in a Globalized World" edited by Michael Blakeney and Shubha Ghosh, p. 145

Technological developments have made it simpler for counterfeiters to reproduce paperwork, labels, and packaging, which makes it more difficult to identify items that have been tampered with.

The issue of geographical indication fraud in India necessitates a thorough and multifaceted response that includes cooperative, educational, legal, and regulatory actions. India may strive to maintain the integrity of its traditional goods and help its traditional producers make a living by critically examining the underlying reasons of fabrication and investigating practical ways for enforcement and protection.

## **V. Understanding the Falsification of Geographical Indications**

Falsification of geographical indications (GIs) is the unapproved use of indicators that mislead consumers into believing a product comes from a certain region when, in fact, it doesn't. This dishonest behaviour creates serious difficulties for both customers and legal manufacturers by undermining the reputation, authenticity, and quality of real items. In order to have a thorough understanding of the problem of GI falsification, it is necessary to investigate its diverse aspects:

### **1. Forms of Falsification:**

Falsification can take many different forms, such as the improper use of protected geographical indications on product packaging, fabricated origin claims, or the theft of customary symbols or emblems connected to a certain region. Consumers are misled by these dishonest methods, which also diminish the value of genuine GIs.

### **2. Impact on Local Communities and Traditional Producers:**

The effects of falsification on traditional farmers and local communities are significant. By lowering market access, discounting their products, and fostering unfair competition, it threatens the long-term financial viability of legitimate manufacturers. Furthermore, it weakens the traditional goods' cultural and historical value, endangering the preservation of local legacy and traditional knowledge.

### **3. Consumer Deception and Trust:**

Consumers are misled by falsified GIs into believing that a product is real, high-quality, and from where it originated. In addition to undermining customer confidence, this also skews market dynamics, which might cost legitimate businesses money and harm their reputations.

### **4. Legal and Regulatory Considerations:**

Legal and regulatory obstacles must be overcome in order to enforce the protection of GIs and prosecute incidents of falsification. This entails tackling cross-border problems pertaining to commerce and intellectual property rights as well as the requirement for strong procedures for identification, verification, and enforcement.

### **5. Globalization and Technological Advances:**

The increasing scale of international trade along with technical progress has made countering falsification more difficult. Developments in digital technology, labelling, and manufacturing have made it simpler for counterfeiters to imitate GIs, making it more difficult to tell authentic items apart from fakes.

In light of these considerations, it is evident that combatting the falsification of GIs requires a multi-pronged approach that includes strengthened legal frameworks, enhanced enforcement mechanisms, capacity building for producers, and greater international cooperation. By understanding the various dimensions of falsification, stakeholders can develop more effective strategies to mitigate this pervasive challenge and safeguard the integrity of geographical indications and traditional products.<sup>3</sup>

## **VI. Enforcement of geographical indications:**

### **1. International Coordination:**

GIs are frequently protected on a national or regional scale, therefore it can be difficult to coordinate enforcement actions across several legal authorities. This may make it possible for goods to be made in one nation and sent to another using a false geographic designation.

### **2. Legal Complexity:**

The legal systems that oversee GIs can be complicated, and the rules and regulations that regulate their protection vary throughout nations. Because of this, successfully enforcing GIs and navigating the judicial system may be challenging.

### **3. Verification and Monitoring:**

It can be difficult to confirm the legitimacy of goods claiming to have a geographical indicator, particularly when such goods have extensive supply networks. It can take a lot of resources to monitor and ensure GI standards are followed, and this may call for international collaboration.

### **4. Cross-Border Enforcement:**

It can be challenging to enforce GIs across international boundaries, especially in areas with insufficient systems for protecting intellectual property or with contradictory national laws on the subject.

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<sup>3</sup>Geographical Indications and Traditional Specialities in the European Union: Legal and Economic Perspectives" by Michael Lang, Eduardo Baistrocchi, and Maria Oliva p. 167.

### **5. Genericization:**

If geographical indications are not adequately protected and enforced, they may eventually become generic phrases. This happens when a phrase that was once connected to a particular location starts to be used widely, independent of the product's place of origin.

### **6. Trademark Law Intersections:**

Trademarks and geographical indications may have legal disputes and overlaps, particularly if a GI is linked to a certain brand. These disputes can be difficult to resolve and could need legal assistance.

### **7. Counterfeiting and Misuse:**

Products that erroneously declare their location can be made and sold, confusing consumers and harming the reputations of legitimate makers. The value of a GI might be damaged by the selling of items that are fake or have incorrect labels.

Stronger legislative frameworks for the protection of GIs, more international collaboration and information sharing, and investments in reliable verification and monitoring mechanisms are all necessary to solve these issues and gaps. Furthermore, educating consumers on the value of geographical indications and the repercussions of misusing them can aid in minimising the exploitation of gaps in the laws governing their enforcement.<sup>4</sup>

## **VII. Prosecutions under GIs:**

### **1. Cross-Jurisdictional Challenges:**

Coordination between several authorities is frequently required to enforce Geographical Indications (GIs), particularly when goods are manufactured in one area but advertised and sold in another. This may result in complicated legal jurisdiction, increased collaboration between agencies, and coordinated international enforcement actions.

### **2. Limited Resources:**

Funding, staff, and experience are among the specialised resources needed for the enforcement and prosecution of GI infractions. Authorities may frequently encounter difficulties assigning enough funds to adequately track, look into, and punish GI-related incidents.

### **3. Burden of Proof:**

A heavy burden of proof may be necessary to prove a breach of GI laws, particularly in situations involving counterfeiting or improper use of GIs. This can make it difficult to gather proof, establish a product's place of origin, and show that a geographical indicator has been misused.

### **4. Complex Supply Chains:**

Due to their sometimes intricate supply chains, products linked to geographical indications (GIs) can be difficult to identify and guarantee compliance with throughout the production and distribution process. Those looking to abuse GIs may take advantage of this intricacy, making enforcement and punishment more challenging.

### **5. Legal Expertise and Capacity:**

Legal knowledge in trade rules, intellectual property law, and related areas is necessary for the successful prosecution of GI infractions. However, law enforcement organisations and the legal system might not have the specialised knowledge and resources necessary to properly handle cases involving veterans.

### **6. International Trade Considerations:**

The implementation of GIs may contradict with international trade agreements, creating challenging legal and diplomatic problems. Larger trade negotiations and disputes may entail Gibraltar-specific issues, which may have an impact on the enforcement and prosecution of Gibraltar-related violations.<sup>5</sup>

## **Case Studies:**

### **1. Parmesan Cheese Falsification:**

Case Study: There have been cases in the past of cheeses made outside of the Italian areas of Reggio Emilia and Parma being sold under false pretences as "Parmesan" or "Parmigiano-Reggiano." Customers are misled by this mislabelling, which also damages the reputation of authentic PDO (Protected Designation of Origin) products.

Impact: In addition to financial losses, the falsification of Parmesan cheese has damaged the reputation of genuine manufacturers in the targeted areas. Believing that the genuine product will be of higher quality, customers could inadvertently buy subpar or fake cheese.

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<sup>4</sup>

<sup>5</sup>*Ibid*

## **2. Champagne Falsification:**

Case Study: The French sparkling wine known as Champagne has been the target of counterfeiters all around the world. Wines made elsewhere have been branded as "Champagne," taking advantage of the prestige associated with the term.

Impact: In addition to causing financial losses for respectable Champagne producers, this fraud lessens the distinctiveness and calibre of the real deal. It deceives consumers and compromises the integrity of the Champagne appellation.

## **3. Scotch Whisky Falsification:**

Case Study: Due to its geographical designation protection, counterfeit Scotch whisky has been produced all over the world. False marketing has been done to portray whiskies that don't adhere to the strict guidelines and requirements for Scotch whisky as such.

Impact: Since the manufacturing requirements for Scotch whisky are intended to protect both quality and safety, falsifying the alcohol not only jeopardises the image of genuine Scottish distilleries but also puts consumers' health and safety at danger.

These case studies highlight the negative effects of falsification on Geographically Induced Identifiers (GIs), such as financial losses for bona fide manufacturers, harm to one's reputation, deceitful customer behaviour, and erosion of the distinctive features of genuine goods. In order to preserve the integrity of geographical indications and secure the interests of producers and consumers, they emphasise the significance of strict enforcement and protective measures.<sup>6</sup>

## **Recommendations and Conclusion:**

### **A. Legal and Policy Reforms:**

#### **1. Strengthen the legal framework:**

Review and update existing laws and regulations to ensure they provide effective protection for GIs, including clear definitions, registration procedures, and enforcement mechanisms.

#### **2. Enhanced enforcement:**

Implement stricter penalties for infringement of GIs and provide adequate resources to enforcement agencies to effectively combat counterfeiting and unauthorized use.

#### **3. Streamline registration processes:**

Simplify and expedite the GI registration process to encourage more producers to seek protection for their products.

#### **4. Public policy support:**

Integrate GIs into broader agricultural and trade policies to provide support for producers and ensure the economic and cultural value of GIs is recognized.

### **B. Capacity Building and Awareness Programs:**

#### **1. Producer education:**

Provide training and support to producers to help them understand the benefits of GI protection, how to apply for it, and how to comply with the regulations.

#### **2. Consumer awareness:**

Educate consumers about the significance of GIs, their link to quality and tradition, and the importance of supporting authentic products.

#### **3. Stakeholder engagement:**

Foster dialogue and collaboration between producers, government authorities, and other stakeholders to build consensus and understanding around GI protection.

### **C. Strengthening International Cooperation and Collaboration:**

#### **1. Bilateral and multilateral agreements:**

Encourage partnerships and agreements between countries to recognize and protect each other's GIs, facilitating international trade while respecting the rights of producers.

#### **2. Information sharing:**

Establish mechanisms for sharing best practices, experiences, and information related to GI protection among countries and international organizations.

#### **3. Capacity building at an international level:**

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<sup>6</sup>Geographical Indications and International Trade: A Strategic Economic and Legal Analysis" by Irene Calboli and Edward Lee p. 234



Support capacity building initiatives at the international level to help developing countries enhance their ability to protect and promote their GIs.

By implementing these recommendations, countries can work towards a more robust framework for the protection of geographical indications, thereby preserving cultural heritage, fostering economic development, and promoting fair trade practices.

In conclusion, strengthening geographical indications (GIs) protection requires a multi-faceted approach that encompasses legal and policy reforms, capacity building, awareness programs, and international cooperation. By implementing these recommendations, countries can create a more robust framework for the protection of GIs, which will help preserve cultural heritage, foster economic development, and promote fair trade practices. Ultimately, a comprehensive approach to GI protection will benefit producers, consumers, and the global economy as a whole.

#### **Author statement**

All authors contributed equally to this work.

#### **Declaration of Competing Interest**

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

#### **Data availability**

Data will be made available on request.

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