

LEGAL PROTECTION OF GEOGRAPHICAL INDICATIONS IN NEPAL: PROSPECTS AND PROBLEMS



A Thesis

Submitted to

Faculty of Law, Tribhuvan University, Kathmandu

For the Award of the Degree of Doctor of Philosophy (PhD) in Law

Under the Supervision of

Prof Dr Shashi Kumary Adhikary

Submitted by

Laxmi Sapkota

PhD Scholar

Roll Number: 08PhD2076 (2020)

TU Registration Number: 8-5-28-138-2021

Bhadra, 2082 BS (August 2025 AD)

CERTIFICATION

The thesis entitled "**Legal Protection of Geographical Indications in Nepal: Prospects and Problems**" is the outcome of the research undertaken by Laxmi Sapkota under the supervision of Dr Shashi Kumary Adhikary, Professor of Tribhuvan University, Kathmandu, Nepal.

This is to certify that the research meets the university's requirements prescribed by Tribhuvan University.

We hereby give our considered view on the final submission for the degree of Doctor of Philosophy (PhD) in Law award.

Prof Dr Shashi Kumary Adhikary

Supervisor

Laxmi Sapkota

PhD Scholar

Prof Dr Krishna Prasad Bashyal

Chairman, Research Committee

Dean, Faculty of Law, Tribhuvan University

2082 BS (2025 AD)

DECLARATION

The thesis entitled "**Legal Protection of Geographical Indications in Nepal: Prospects and Problems**" is being submitted to the Faculty of Law, Tribhuvan University, Kathmandu, Nepal, for the award of the Doctor of Philosophy (PhD) in Law. The research is carried out under the supervision of Prof Dr Shashi Kumary Adhikary.

This research is original and has not been submitted earlier in whole or part in this or any other form to any university or institute, here or elsewhere, for the award of any degree.

Signature

Laxmi Sapkota

Roll Number: 08PhD2076 (2020)

TU Registration Number: 8-5-28-138-2021

RECOMMENDATION

This is to recommend that Ms. **Laxmi Sapkota** carry out research entitled "**Legal Protection of Geographical Indications in Nepal: Prospects and Problems**" for the Doctor of Philosophy (PhD) in Law award under my supervision. To my knowledge, this work has not been submitted for any other degree.

She has fulfilled all the requirements laid down by the Faculty of Law, Tribhuvan University, to submit the thesis for the award of a PhD degree.

Prof Dr Shashi Kumary Adhikary

Supervisor

Tribhuvan University

Kathmandu, Nepal

2082 BS (2025 AD)

LETTER OF APPROVAL

Date: 2082 BS

On the recommendation of Prof Dr Shashi Kumary Adhikary, this PhD thesis submitted by Laxmi Sapkota entitled "**Legal Protection of Geographical Indications in Nepal: Prospects and Problems**" is forwarded by the Faculty of Law Research Committee to the Dean, Faculty of Law, Tribhuvan University.

Head of Department
Professor
Head, Faculty of Law
Tribhuvan University
Kathmandu, Nepal

PREFACE

The most intriguing incident that inspired me to write the thesis on this topic was when, during a foreign visit, one of the members of the Cambodian delegation gifted everyone in her translation committee a shawl. She said that the shawl was a GI product of Cambodia. As there is a saying action speaks louder than words. The GIs tag in the shawl is the evidence that the product was from Cambodia, it has quality, and that quality is there because of that place, which is in Cambodia. It is the nature of humans that he/she like to give rather than to take. The same thing happened to me. I want to give a gift, but I wish I did not have to tell that the gift is from Nepal; the tag would say that the product is from Nepal. There are no such kinds in Nepal because it does not have the GI laws. Since then, in my teaching career, I have consistently written articles, conducted research, and studied and taught GIs in Intellectual Property.

In one of my research projects, I researched if Greek yoghurt is so famous in Greece, but not the Juju Dhau of Bhaktapur outside the country, because of a lack of legal protection. But now it is registered under the collective mark in the Department of Industry in Nepal. The comparative study of these two kinds of yoghurt inspired my research. The passion for a deep understanding of this topic, which holds great significance in the context of Nepal, led me to write a thesis on the GI of goods.

The thesis, “Legal Protection of Geographical Indications in Nepal: Prospects and Problems,” analyses Nepal's existing legal provisions, their incompatibility with TRIPS and the provisions of SAARC countries on GIs, the kinds of laws that Nepal needs on GIs, and the prospects and problems of implementing GI laws in Nepal.

The research in the field of GI is significant because Nepal has an abundance of GI-capable goods, which the government has not identified. The Industrial Property Bill, 2082 BS has been registered in the House of Representatives on 2082/02/23 (06 June 2025 AD), providing GI. Some cases involving GI issues were in the courts, which were not seen through the lens of GI because Nepal does not have GI law. Furthermore, the National Agriculture Research Centre (NARC) has filed a case regarding shared GIs of Basmati Rice in the European Union. International law stipulates that before

applying for product registration in the global market, the product must be protected under the geographical indication laws of the respective country. Nepal is a party to international instruments, including the TRIPS agreement and the Paris Convention, and has committed to drafting statutes on GIs. Further, Nepal is graduating from LDC status to that of a developing country. The Ministry of Industry, Commerce and Supplies and the National Gene Bank are undertaking the necessary documentation to assign geographical indication tags to certain goods. Yet, Nepal holds a low position on the Global Innovation Index, currently ranking 109th, indicating that the country needs to establish comprehensive intellectual property laws, including GIs. At the same time, Nepal's presence in international trade is not felt due to the lack of GI laws. This research will justify the necessity of *sui generis* GI law in Nepal and comment on the recently registered bill. The more Nepal delays in passing the bill into law, the more likely it is to encounter complexities in receiving international ownership of Nepal's GI- capable goods.

This thesis shall serve as the basis for protecting Nepal's GI-capable goods globally. The findings will help the federal parliament to amend the bill and provide insight into finding the country's GI-capable goods. Likewise, the thesis's findings will benefit academia, including educational institutions with library resources that students and teachers can use for learning. Only five articles on the topic have been published in eight leading journals in Nepal, and no book on GIs has been written. Therefore, this research would be one of the authentic and reliable resources on GIs in Nepal. This research will help farmers and stakeholders understand the benefits of GIs. A critical aspect of GI-capable goods is that they receive a premium price. *Sui generis* GI rights are community rights; therefore, it will be helpful to understand that GI and the entire society, including the organisations working for the protection, promotion, and research of GIs in Nepal, benefit from *sui generis* GI laws.

ACKNOWLEDGEMENTS

Many people have motivated and supported me throughout my PhD journey, especially Prof. Dr. Shashi Kumary Adhikary, my supervisor being the most significant. She has rigorously guided me in completing my thesis on time, serving not only as my motivation but also as my inspiration. I wish to express my heartfelt gratitude to her.

I am sincerely grateful to the PhD lecturers who have taught me in my PhD class. Also thankful to the respected research committee member of the PhD program of FoL who has provided valuable insights during the proposal defense, pre submission presentation, format checking including Dean of the FoL Prof Dr Krishna Prasad Bashyal, Prof Dr D. N. Parajuli, Prof Dr Gyaneshwer Parajuli, Prof Dr Binod Bashyal, Prof Dr Suresh Kumar Dhungana, Prof Dr Bijay Sijhapati, Prof Dr Tara Prasad Sapkota, Prof Dr Nutan Chandra Subedi, Prof Dr Krishna Belbase, Dr Balram Raut, Dr Nebal Chaudhary, Dr Migendra Bahadur Karki, Dr Bishnu Bashyal, Dr Vijay Prasad Jaiswal, Associate Professor Kesharmani Aryal. Also, thankful to Madam Lalita Shijapati, Mr Ram Kaji Karki, Madam Sushmita Chapagain, Mr Shyam Lageju, Mr Sushan Shrestha, Ms Sabina Lamichhane, Seema Aryal Ma'am and to the FoL family at TU.

Furthermore, I would like to thank the Kathmandu School of Law. I am indebted to the continuous support of Prof Dr Yubaraj Sangroula, Dr Ganesh Bahadur Bhattarai, Dr Kumar Innam, Prof Dr Atindra Dahal, Prof. H K Rana, Prof Anjan Kumar Dahal, Assoc Prof. Ram Prasad Aryal, Advocate Sanjay Adhikari, Dr Amritha Viswanath Shenoy, Advocate Sakila Thapa Chhetri, Mr Hari Sharan Khatri, Asst. Prof. Sudip Raj Ghimire, Asso Prof Ramchandra Phuyal, Assoc Prof Mukesh Dhungana, Asst. Prof Puja Silwal, Asst. Prof Anuj Chand, Mr Sujana Kafle, Mr Shyam Sundar Shrestha, Asst. Prof Binda Kumari Thapa, Binod Shivabhakti, Rudra Mani Subedi, and my colleagues at KSL and special thanks to Dr Ashok Kumar Poudel and Mr Keshav Gautam for their motivation.

I am profoundly grateful to the University Grant Commission, Sanathimi, Nepal, for awarding this PhD fellowship and research support grant (UGC PhD fellowship award no.: PhD 80/81- H&S-05) and to all the members of the research team of UGC for

updating with email and attending the queries asked. The presentations made in the UGC is also one reason for my strong command on the topic. Thank you for making us to do presentations too apart from the fellowship and grant.

My appreciation to all friends of PhD class batch 2076 BS: Mr Anil Kumar Shrestha, Mr Gyanu Gautam, Ms Laxmi Bakhadyo, Ashok Kumar Chhetri, Subash Acharya, Yam Yonjan, Saroj Krishna Ghimire, Manish Nepal and Chandra Shekhar Khadka.

Many thanks to all the respondents to the KII, including Dr Swarnim Wagle, Dr Govind Prasad Kusum, Anju Uprety, Bhanu Prasad Acharya, Dr Bal Krishna Joshi, Gourish Krishna Kharel, Aruna Joshi, Umesh Prasad Singh, Dr. Posh Raj Panday, Bharat Bahadur Thapa, Bisu Kumar KC, Madhu Soodan Poudyal, Sikshya Rajya Laxmi Rana, Saraswoti Shah, Dipak Silwal, Dr. Ram Bahadur Dhakal, Shikha Dangol, Sajjan Bar Singh Thapa, Tilak Bikram Panday, Usha Kala Rai, Anish Bastola, Samikshya Gaire, Dr Rudra Sharma, Lajula Maharjan, Kripa Shrestha, Narayan Chaulagain, Raj Kumar Suwal, Dr Din Mani Pokhrel, Dr Sarita Khanal, Rakshya Khanal, Ikchha Pokharel, Kritika Dahal, Sweti Deshemaru, Dikshya Rajbhadari, Amit Uprety, Maan Bahadur Basnet, Laxman Bhandari, Ranju Basnet, Ramchandra Subedi, Nina Regmi, Kiran Mainali, Ambar Bahadur Thapa, Pradip Thapa, Krishna Prasad Gyawali. Also, thanks to the Central Law Library, Nepal Law Campus Library, KSL Library, The Online library provided by TU and the authors I have cited and referred to in this thesis.

I want to remember my grandparents and parents for their nurturing support. I would like to thank my brother, sister, brother-in-law Anandaram Phuyal and family for encouraging me. My most profound appreciation goes to my husband, Advocate Jyoti Ram Phuyal, who always thought of this PhD as his dream and continuously motivated me. My daughters, Abima and Abhilasha Phuyal, keep reminding me about my thesis.

Signature

Laxmi Sapkota

Roll Number: 08PhD2076 (2020)

Bhadra, 2082 BS

ABSTRACT

Geographical indications (GIs) are intellectual property (IP) in which the goods are given the geographical indication tag. This tag is provided to goods that are available in a particular territory, region, or place of a country and have a quality and reputation because of being in that specific territory, area, or location. GIs are recognised, registered and protected in different parts of the world. The Industrial Property Bill, 2025 BS has been registered in the House of Representatives which has incorporated the provisions of GI but most of the countries of the world is not new to it.

The thesis aims to analyse the existing legal provisions of Nepal on GIs and compares the compatibility of these provisions with “Trade Related Aspects of Intellectual Property Right” (TRIPS). Further, the thesis has compared the “South Asian Association for Regional Cooperation” (SAARC) approaches to GIs protection among with the analysis on why some SAARC countries have succeeded in adopting sui generis laws. Also, the thesis conducted key informants’ interview with the expert of IPs.

The research has used mixed methods. Analysing the existing legal provisions of Nepal on GIs and to compare the compatibility of Nepal's GIs with TRIPS, and research problem two is a comparative study of the SAARC countries on the protection of GIs using the doctrinal method. Employing empirical research, KII, the research concludes that Nepal needs sui generis GI laws to protect its GI-capable goods rather than collective marks or any other laws focusing on business. Further, through the mixed method, prospects and problems of implementing sui generis GI laws are given, and it is stated that there are more prospects than problems. Hence, the empirical data are collected in the heading of identification and protection of GIs in Nepal. The researcher has studied to find what kinds of laws Nepal needs to protect its GI and concludes that Nepal needs *sui generis* GI laws that are its own kinds of laws and are also compatible with the TRIPS agreement.

Nepal's provisions on GI of goods that are the existing laws are incompatible with those of the TRIPS Agreement. In SAARC countries, among eight, four have sui generis GIs laws, and they have the standards to protect them. Through the implementation part, it is

explored that GIs are better protected in countries within SAARC. The geographical indications of goods protected in SAARC countries are through the sui generis GIs laws. Nepal is drafting the laws; therefore, sui generis laws are required to protect its GIs of goods in Nepal. Implementing Nepal's sui generis of GIs law has both prospects and problems.

This study is significant to Nepal because it has over 150 GI-capable goods. If it is not protected here in Nepal, there might be a problem of infringement of such goods. Nepal did not hear back from the shared ownership of basmati rice because of not having protection mechanism. Nepal has recognised GIs in its scattered laws like the Industrial Enterprises Act, 2076 BS and 'The National Intellectual Property Policy 2017 BS'. Further, the people themselves have been found to take invitations through litigation for the formal institutionalization of GIs. The case was appealed in the Supreme Court, but it did not entertain the issues ab initio. Further, Nepal is a party to the Paris Convention and the TRIPS agreement, which makes it an obligation to enact laws according to them. Likewise, Nepal is graduating from a least developing country to the developing country. Nepal must follow the provisions of the TRIPS Agreement, including notifying the laws about IPR and sharing information about its geographical indications. Likewise, the universities offering Law Degrees in Nepal teach GIs; it is in their syllabus on intellectual property. Some universities teach IP as a compulsory subject, whereas others teach it as an elective subject.

The GIs in the syllabus are a good sign of the recognition and awareness of a country's educational institutions. Similarly, in conjunction with the National Gene Bank, the Ministry of Industry, Commerce, and Supplies is carrying out the necessary documentation to assign geographical indication tags to Khokuko Suntala (orange) and Palpako Sakhar (jaggery). This indicates that the government is also awaiting the GI laws. Nepal's Position in IP in the Global Innovation Index is not satisfactory. It has obtained the 109th position. All these demands GIs laws in Nepal.

LIST OF ABBREVIATIONS AND ACRONYMS

5W1H	:	What, Where, Why, When, Who and How
AD	:	Anni Domini
AfCFTA	:	African Continental Free Trade Area
AO	:	Appellation of Origin
AOC	:	Appellation d’Origine Controllee
APA	:	American Psychological Association
Art.	:	Article
ASEAN	:	Association of Southeast Asian Nations
BS	:	Bikram Sambat
CAN	:	The Andean Community
CJEU	:	Court of Justice of the European Union
CM	:	Collective Mark
Const.	:	Constitution
Ct.	:	Court
DO	:	Designations of Origin
DOC	:	Denominazione di Origine Controllata
Dr	:	Doctor
EC	:	European Communities
EU	:	European Union
FITFIR	:	First in Time, First in the Right
FoL	:	Faculty of Law
FR	:	Fundamental Right
FTA	:	Free Trade Agreement
FY	:	Fiscal Year
GDP	:	Gross Domestic Product
GI/GIs	:	Geographical Indication/ Geographical Indications
GII	:	Global Innovation Index
GN	:	Generic Name
GoN	:	Government of Nepal
gov.	:	Government
HoR	:	House of Representative

i.e	:	that is
IGO	:	Indication of Geographical Origin
IO	:	Indication of Origin
IP	:	Intellectual Property
IPP	:	Intellectual Property Policy
IPR	:	Intellectual Property Right
IS	:	Indication of Source
KII	:	Key Informants Interview
KOREU	:	Republic of Korea and EU
KORUS	:	Republic of Korea and US
LDC	:	Least Developed Country
MJHR	:	Minister of Justice and Human Rights Regulation
NA	:	National Assembly
NAGRC	:	National Agriculture Genetic Resource Center
NARC	:	National Agriculture Research Center
NGO	:	Non-Governmental Organization
NIPP	:	National Intellectual Property Policy
NJA	:	National Judicial Academy
No.	:	Number
NTIS	:	Nepal Trade Integration Strategy
PDO	:	Protected Designation of Origin
PDTA	:	Patent Design and Trademark Act
P.	:	Page
PGI	:	Protected Geographical Indication
Ph.D.	:	Philosophy of Doctorate (written for the citation purpose of The Bluebook A Uniform System of Citation (Twenty-First Edition))
PhD	:	Philosophy of Doctorate
Prof	:	Professor
Pvt.	:	Private
RCEP	:	Regional Comprehensive Economic Partnership
SAARC	:	South Asian Association for Regional Cooperations
SAFTA	:	South Asian Free Trade Area
Sched.	:	Schedule

SCT	:	Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications
TM	:	Trademark
TRIPS	:	Agreement on Trade-Related Aspects of Intellectual Property Rights
TSG	:	Traditional Specialty Guaranteed
TU	:	Tribhuvan University
UK	:	United Kingdom
UN	:	United Nation
USA	:	United States of America
v.	:	Versus
WIPO	:	World Intellectual Property Organization
WTO	:	World Trade Organization

LIST OF SYMBOLS

§	:	Section
&	:	Ampersand, also called 'and' sign
%	:	Percentage
et al.	:	And others

LIST OF TABLES

	P. No.
Table 1 : List of the Key Informants of the Empirical Research.....	28-32
Table 2 : Differences between IS, AO and GIs	95-97
Table 3 : Differences between Collective Mark and Certification Mark. 123-124	123-124
Table 4 : Differences between <i>Sui Generis</i> GIs and Collective Mark ...	126-134
Table 5 : Differences between EU and US in the Protection of Glugwiser	143-144
Table 6 : List of Collective Marks of Nepal.....	158-159
Table 7 : Comparative Study between Paris Convention, Madrid Agreement, Lisbon Agreement and TRIPS Agreement for the Protection of GIs.	182-184
Table 8 : Data Demonstrate the Ranking of Nepal from 2020 AD to 2024 AD	189
Table 9 : Comparing the TRIPS with PDTA and CM Registration Relative Directive and Compatibility Assessment of Laws of Nepal.	202-203
Table 10 : Comparing the TRIPS with the National IP Policy, 2017 BS...	204-205
Table 11 : Comparing the Provisions of the Industrial Property Bill on GI with the TRIPS.....	208-211
Table 12 : SAARC Countries Status as Signatories to the Paris Agreement, Madrid Agreement, Lisbon Agreement, World Intellectual Property Organization, and TRIPS Agreement.....	217
Table 13 : Provisions for Intellectual Property in the Constitution of SAARC Countries	219
Table 14 : Legislation on <i>Sui Generis</i> GI Laws and Trademarks in SAARC Countries	224
Table 15 : Legislation of Collective Marks in SAARC Countries.....	225
Table 16 : Offence of Geographical Indications... ..	237
Table 17 : Authority of Settle Geographical Indications Dispute.....	238-239
Table 18 : Punishment in the Offence of Geographical Indications.....	239-242
Table 19 : Total Number of the GIs Registered in the SAARC Countries	243

Table 20 :	Global Innovation Index Ranking of SAARC Countries of 2023 AD and 2024 AD	244-245
Table 21 :	Details and Coding of the Key Informants of the Research.....	250-251
Table 22 :	Data Collection Medium of the Key Informants.....	252
Table 23 :	Informants as per the Provinces and the Available GIs in their Province.....	253
Table 24 :	Inclusion of Categories in GIs Capable Goods	261-263
Table 25 :	Services as the Categories in GIs Capable Goods.....	263
Table 26 :	Situations of GIs Capable Goods in Nepal.....	267-268
Table 27 :	Protection of GIs Capable Goods.....	271-272
Table 28 :	Preferred Ways of Protection of GIs	275-277
Table 29 :	Prospects of Implementing Geographical Indications Laws in Nepal	282
Table 30 :	Problems of Implementing Geographical Indications Laws in Nepal.	302
Table 31 :	Suggestions to Federal Parliament Regarding Industrial Property Bill, 2082 BS	345-352

LIST OF BAR CHARTS

	P. No.
Bar Chart 1 : Informants as per the Provinces and the Available GIs in their Province	254
Bar Chart 2 : Services as the Categories in GIs Capable Goods.	264
Bar Chart 3 : Situations of GIs Capable Goods in Nepal	269
Bar Chart 4 : Protection of GIs Capable Goods	273
Bar Chart 5 : Preferred Ways of Protection of GIs.....	277
Bar Chart 6 : Prospects of Implementing Geographical Indications Laws in Nepal.....	283
Bar Chart 7 : Problems of Implementing Geographical Indications Laws in Nepal.....	303

LIST OF PIE CHARTS

P. No.

Pie Chart 1	:	Informants as per the Provinces and the Available GIs in their Province.....	254
Pie Chart 2	:	Services as the Categories in GIs Capable Goods... ..	264
Pie Chart 3	:	Situations of GIs Capable Goods in Nepal.... ..	269
Pie Chart 4	:	Protection of GIs Capable Goods	274
Pie Chart 5	:	Preferred Ways of Protection of GIs	278
Pie Chart 6	:	Prospects of Implementing Geographical Indications Laws in Nepal.....	284
Pie Chart 7	:	Problems of Implementing Geographical Indications Laws in Nepal.....	304

LIST OF FIGURES

P. No.

Figure 1	:	Venn Diagram Showing the Differences Between IS, GIs, and AO.....	97
Figure 2	:	Difference between Appellation of Origin, Geographical Indications and Indication of Source in the International Instruments.....	98
Figure 3	:	National Geographical Indication Tag of Bangladesh	110
Figure 4	:	National Geographical Indication Tag of India	111
Figure 5	:	National Geographical Indication Tag of China.....	111
Figure 6	:	National Geographical Indication Tag of Vietnam.....	112
Figure 7	:	Geographical Indication Tag of Darjeeling Tea of India.....	112
Figure 8	:	Geographical Indication Tag of Assam Orthodox Tea of India	113

LIST OF CASES

National Cases

Supreme Court

Advocate Anju Uprety Dhakal, on Behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others (2079) Case No. 073-RI-2437, 2079/12/24 (Supreme Ct. Nepal).....10, 28, 29, 179, 189

High Court

Advocate Anju Uprety Dhakal, The Scotch Association v. Department of Industry, Tripureshwor (2073) Case No. 071-DP- 2096, Decision No. 124 (2073/03/19) (High Ct. Patan, Nepal) 10, 187, 197

Scotch Whiskey Association V. Highland Distillery Pvt. Ltd (2076) Case No. 076-DP-0292, Decision No. 97 (High Ct. Patan, Nepal).....10, 187, 197

Tea Board of India v Modern Tea Industries Pvt. Ltd. (2077) Case No. 076-DP-1030, Decision No. 169 (High Ct. Patan, Nepal).....10, 186, 197

Department of Industry

Advocate Ramchandra Subedi, on Behalf of Apex Law Chamber authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions, Decision No. 70.....

.....11, 31, 197, 185

Advocate Ranju Basnet on behalf of Apex Law Chamber, Scotch Whiskey Association UK, Quartermile 2 v. Binod Maharjan on Behalf of Scot & Scot Pvt. Ltd (Nepal), Decision No. 74 11, 31, 185, 197

International Cases

Mount Everest Mineral Water Ltd. v. Bisleri International Pvt. Ltd. & Ors., W.P. © 8875/ 2009& CM 6241/ 2009 (Delhi High Ct. Feb. 22, 2010) (India).....128, 129

Ministère Public v. Gérard Deserbais, Case 286/86, (1988) E.C.R. 4907 (EC)..... 177

Consorzio per la tutela del formaggio Gorgonzola v Käserei Champignon Hofmeister GmbH & Co. KG and Eduard Bracharz GmbH, (1999) (EC).....141

LIST OF STATUES

National Laws

Constitution

Constitution of Nepal	23, 150, 222,
The Interim Constitution of Nepal 2063 BS (2007AD)	23, 222
Constitution of the Kingdom of Nepal 2047 BS (1990 AD)	23, 150, 221
The Constitution of Nepal 2019 BS (1962 AD)	23, 150, 221
The Constitution of the Kingdom of Nepal 2015 BS (1959 AD)	23, 150, 221
The Interim Government of Nepal Act 2007 BS (1951 AD)	23, 150, 221
Government of Nepal Act 2004 BS (1948 AD)	23, 150, 221

Acts

Muluki Ain, 1910 BS (1854 AD)	149
Administration of Justice Act, 2073 BS (2016 AD)	10, 188, 197
Export and Import (Control) Act, 2013 BS (1957 AD)	21, 151, 189
The Patent, Design and Trademark Act, 2022 BS (1965 AD)	152
Nepal Standard (Certification Mark) Act, 2037 BS (1980 AD)	152
Nepal Treaty Act, 2047 BS (1990 AD)	155
Competition Promotion and Market Protection Act, 2063 BS (2007 AD)	153
Right to Information Act, 2064 BS (2007 AD)	335
Customs Act, 2064 BS (2007 AD)	153, 349, 350
Local Governance Operation Act, 2074 BS (2017 AD)	153
The Muluki Civil Code, 2074 BS (2017 AD)	151
The Consumer Protection Act, 2075 BS (2018 AD)	154
The Right to Food and Food Sovereignty Act, 2075 BS (2018 AD)	154
The Industrial Enterprises Act, 2076 BS (2020 AD)	154
Legislation Act, 2081 BS (2025 AD)	193

Regulation

Nepal Standards (Certification Mark) Rules, 2040 BS (1983 AD)	152

Directives

Collective Mark Registration-Related Directive, 2067 BS (2010 AD).....	156

Budget

Budget Speech of Fiscal Year 2081/82 BS (2024/25 AD).....	9
Budget Speech of Fiscal Year 2082/83 BS (2025/26 AD).....	159

Guideline

Trademark Work-Conduction Guidelines 2072 BS (2015 AD).....	161

Plan and Policies

Industrial Policy, 2067 BS (2011 AD)	159
Trade Policy, 2072 BS (2015 AD)	159
Nepal Trade Integration Strategy, 2072 BS (2016 AD)	161
National Intellectual Property Policy, 2073 BS (2017 AD).....	160
Nepal Trade Integration Strategy, 2079/80 BS (2023 AD)- 2084/85 BS (2028 AD).....	161
The Sixteenth Plan (Fiscal Year 2081/82- 2085/86 BS (2024/25- 2028/2029 AD).....	160
Annual Policies and Programs of the Government of Nepal	160

Bills

Custom Bill, 2080 BS (2023 AD).....	153
Industrial Property Bill, 2082 BS (2025 AD).....	162

Foreign Laws

Constitutions

Constitution of Pakistan	219
Constitution of the Kingdom of Bhutan	219
Maldives's Constitution of 2008 AD	219
The Constitution of India	219

The Constitution of the Democratic Socialist Republic of Sri Lanka	219
The Constitution of the Islamic Republic of Afghanistan.....	219
The Constitution of the People’s Republic of Bangladesh.....	219

Acts

Law Against Unfair Competition, 1984 (Australia).....	125
Geographical Indication (Registration and Protection) Act 2013, (Bangladesh).....	224
Geographical Indications Goods (Registration and Protection) Act, 1999 (India)	224
Geographical Indications Act 2000 (Malaysia).....	167
Geographical Indications Registration Act 2006 (New Zealand)	415
Intellectual Property Act, 2003 (Sri Lanka)	225
The Copyright Act of the Kingdom of Bhutan, 2001 (Bhutan)	219
Geographical Indications Act, 2014 (Singapore)	167
The Geographical Indication (Registration and Protection) Act, 2020 (Pakistan).....	224
The Industrial Property Act of the Kingdom of Bhutan, 2001 (for collective Trademarks) (Bhutan)	224
Geographical Indication Rules and Regulations of Bhutan 2025.....	83
The Intellectual Property (Amendment) Act 2022, No. 8 (Sri Lanka)	224
Trademark Act, 2009 (Bangladesh)	225
Trademark Ordinance, 2001 (Pakistan).....	224
Trademark Registration Process of Maldives.....	224
Act on Protection of Geographical Indications, 2003 (Thailand)	167
Law on Trademarks and GIs 20/2016 (Malaysia).....	167
Intellectual Property Law 2005 (Vietnam).....	167
Law on GIs (Jan. 20, 2014) (Cambodia).....	167
Law on Intellectual Property 2012, Decision of the Minister of Science and Technology on the Implementation of GIs under the Law on Intellectual Property, 2016 (Laos).....	167
Trademark Law, 2019 (Myanmar).	167
Act on Protection of the Names of Specific Agricultural, Forestry, and Fishery Products and Foodstuffs, Act No. 84 of June 25, 2014 (Japan).	167

Regulations

Geographical Indications Regulations 2001 (Malaysia)	167
Geographical Indications Goods (Registration and Protection) Rules, 2002 (India)	224
The Geographical Indications of Goods (Registration and Protection) Rules, 2015 AD (Bangladesh)	224
Trademark Registration Process of Maldives.....	224

Regional Laws

African Intellectual Property Organization (OAPI) March 2, 1999 AD.....	286
Andean Community May 26, 1969 AD	166
Association of Southeast Asian Nations (ASEAN) August 8, 1967 AD	167
Bangui Agreement (West Africa) March 2, 1977 AD	169
European Union November 1, 1993AD	163
Mercosur March 26, 1991AD.....	168
North American Free Trade Agreement (NAFTA) January1, 1994 AD.....	83
South Asian Association for Regional Cooperation (SAARC) December 8, 1985 AD	168

International Laws

Paris Convention for the Protection of Industrial Property, 1883 AD	170
Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891 AD.....	172
Madrid Agreement Concerning the International Registration of Mark, 1891 AD	173
The Versailles Peace Treaty, 1919 AD	174
International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951 AD	176
The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD	177
World Intellectual Property Organization 1967 AD	11

Draft Treaty on the Protection of Geographical Indications 1975 AD	180
Trade-Related Aspects of Intellectual Property, 1994 AD.....	180
Convention for the Safeguarding of the Intangible Cultural Heritage, 2003 AD.....	184
Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications, 2015 AD.....	178

GLOSSARY OF TERMS

Alainchi	:	Cardamom (Black or Large Cardamom)
Amaala	:	Fruits
Amkhora	:	Pot
Ampko Achaar	:	Mango Pickle
Anadi	:	A Type of Indigenous Rice Variety
Arna Buffalo (Bubalusarnee):	:	Wild Water Buffalo
Ate, Belguti, Chirakhe	:	A Kind of Rice
AtteMarsi, DudheMarsi	:	Indigenous Rice Varieties
Basaune Ghiraula	:	Sponge Gourd
Basmati	:	A Kind of Rice
BhadgaunleTakuwaTopi	:	Bhaktapur Traditional Cap
Bhaktapure Juju dhau	:	Bhaktapur's King Curd (Yogurt)
BhatePhaper	:	Buckwheat
Bhirmauri Ko Maha	:	Wild Bee Honey
BhoteChiya	:	Tibetan Tea
BhoteLasun/Garlic	:	Tibetan Garlic
BhyaaguteNeuro	:	Vegetables
Bhyaglung Sheep	:	Indigenous Sheep Breed
Bibliography	:	It is Referred as Reference as per the APA 7 th edition Citation Rule whereas as per the PhD rule, the word bibliography must be written
Bjhang/Simikotko Simi	:	Beans from Bajhang/Simikot
Buddha Chitta	:	Bodhi Beads (Sacred Buddhist Beads)
Chakku	:	It is a cuisine made from jaggery, concentrated sugarcane juice, nuts, and ghee, and the word is derived from the Nepa language
Cheese/Chhurpi prepared from yak milk:	:	Yak Cheese (Hardened Yak Milk Cheese)
Champa	:	Flour of Baked Wheat or Barley
Chilly/ JyanmaraKhursani	:	Hot Chili Pepper

Chiraito (Swartia Chirata)	: Medicinal Herb
Choto Mula	: Small Radish
Chuk Amilo	: Fermented Sour Liquid
Chukauni	: Spiced Yogurt Potato Dish
DaanhteNeuro	: Vegetable from Dry Opteriscochleata
Dal Bhat	: A Unique Nepali Cuisine Lentil Soup and Rice
Dalechuk	: Wild Himalayan Sour Berry
Dalle, Kodo, BarsheKodo	: Indigenous Finger Millet Varieties
DamberkumariKhasto/Pachhaura	: Traditional Nepali Shawl
Deshemaru Jhyal	: Handicraft (the picture of window is made of wood)
Dharan ko Kaalo Sungur	: Black Pig of Dharan
Dhunibansi/TokhakoUkhu	: Sugarcane from Dhunibansi/Tokha
Dhunibensi ko Ambaa	: Mango from Dhunibensi
Ekle, Jhinuwa, Lekali, Basmati	: Indigenous Rice Varieties
Empirical	: The words Empirical and Non-doctrinal are Interchangeably used in this thesis
Ex -ante	: Based on Forecasts rather than actual result
Ex -post	: Having Retrospective Effect or Force
Fibre from Allo	: Himalayan Nettle Fiber
Fibre from Hemp	: Hemp Fiber
Fibre from Odal	: Fiber from Sterculiavillosa
Gagro	: Water pot
Ghaiya, Chattar, Chobo, Pakhe, Jhinuwa	: Indigenous Upland Rice Varieties
Ghalcha	: Water Pot
GhiuKera	: A type of Banana
GIs Goods	: Instead of GIs goods the word GI- protected goods, GI-tagged product and GI-capable goods is used
Gudura	: A type of Rice
Gundruk	: Fermented Leafy Greens
Haakupatasi	: Newari Women's Dhoti (sadi)
Halhale	: Medicinal Herb

Hattipau	:	Colocasia
Highland Coffee	:	High-Altitude Coffee
Himalayan Honey	:	Pure Himalayan Honey
Himali Jira	:	Himalayan Cumin
Humla Chyapu	:	Indigenous Woolen Fabric from Humla
Ilam ko Alainchi	:	Ilam Cardamom
Ilame Chiyaa	:	Ilam Tea
Jarneli	:	A type of Rice
Jhinuwa	:	A Variety of Indigenous rice
Jire Neuro	:	A Type of Herb
Juju Dhau	:	Juju means King, and Dhau means Curd in Nepal Language
Jumli Bean	:	Beans from Jumla
Jumli Ghoda	:	Jumli Horse
Jumli Marshi	:	Jumla's Indigenous Rice
Jumli/Helambu/MarphakoSyau	:	Apples from Jumla, Helambu, and Marpha
Junde Masino	:	A Variety of fine Rice
Kaalo Neuro	:	Black Neuro (Local Herb)
Kadu	:	Bitter Gourd
Kalo and Seto Till	:	Black and White Sesame Seeds
Kalo Mass	:	Black Lentils
Karuwa, Amkhora, Ghalcha, Gagro: Traditional Metal Water Jug and Containers		
Khario Till	:	Brown Sesame Seeds
Khichaa Bhyaatah	:	Blumealacera
Khokhanako Tori ko Tel	:	Mustard Oil from Khokana
Khoku ko Suntala	:	Oranges from Khoku
Khukhuri	:	Traditional Nepali Knife
Khulu-Simali	:	Likely a Tree or Wood
Khupu	:	Traditional Woolen Cap
Koche Neuro	:	Vegetable from Thelypterismultilineata
Koshi ko Jalkapoor	:	Jalkapoor's Fish

Kulekhaani ko Asla Maachhaa	:	A Type of Fish from Kulekhani
Label	:	Lebal term is used in case of list of Collective Marks of Nepal
Lapsi	:	Nepali Hog Plum
Local Mayal	:	A type of Pear
Lukla ko Simi	:	Beans from Lukla
Maakacha	:	Metal Earring worn by Peasants of Lalitpur
Madale Kaakro	:	A kind of Cucumber
Malbhog Keraa	:	A type of Banana
Mallaji	:	Black Husked Rice
Manaa of Newar	:	Traditional Newari Measurement Unit
Manihari ko Taamaa	:	Fermented bamboo shoot
Mansara	:	A type of Indigenous rice
Marcha	:	Fermented Rice Starter
Masyoraa	:	Sun-Dried Lentil Nuggets
Maulik Laws	:	Unique or own types of laws
Moodeko Aalo	:	Potato from Moode
Moolako Chaanaa	:	Radish Chips
Mountain Chyangra	:	Himalayan Mountain Goat
Mulpaniko Saag	:	Leafy Greens from Mulpani
Muluki	:	The word 'national' has been used somewhere instead of Muluki; however, the official translation still needs to be made. The Nepal Bar Council Journal uses the word Muluki.
Mungre Kera	:	A Type of Banana
Murali Makai	:	Variety of Corn
Naaphal	:	Wheat
Nalu Lakan	:	Shoes and slippers made of Agave fiber
Nepali Aaloo ko Achaar	:	Nepali Potato Pickle
Nepali Cloth/Velvet Lounge Slipper	:	Traditional Nepali Cloth/Velvet Slipper
Nepali Lasunko Achaar	:	Nepali Garlic Pickle

Nepali Makai Bodi	:	Nepali Corn Beans
Nepali Moola ko Achaar	:	Nepali Radish Pickle
Nepali Sutho	:	Herb
NigaloTusa	:	Bamboo Shoots
Nigar	:	Corn and Millet Wine
Organic Highland Coffee	:	Organic Mountain Coffee
Origin link	:	The link between the product and the place
Orthodox Tea	:	Traditional Handcrafted Tea
Palaanchoke Jutta	:	Handmade Shoes from Palanchok
Palpali Dhaka	:	Palpa's Traditional Fabric
Paschim Nepal ko Chiuri Gheu	:	Butter of Chiuri (Aesandrabutyracea)
Pashmina Khasto/Pachhaura	:	Nepali Pashmina Shawl
Pharping/Chhaimal Naspaati	:	Pear
Pigeon Pea	:	Dhanusha Local
Pigmy Hog	:	Smallest pig
Pokharali Battain	:	Quail of Pokhara (popular fighting bird)
Polkareli Masino	:	A type of Rice
Problem	:	For this chapter the problems include legal problems, implementation and organisational problems, supplychain, limitations, market, technological, quality control problems stated by key informants.
Prospect	:	For this chapter the prospect includes economic growth, protection of farmers and producers, recognition, legal protection and identification of goods, protection of culture, consumer, traditional knowledge, rural development, protection of environment and fulfillment of international obligation as stated by key informants.
Pyuthaane Moola	:	Radish from Pyuthaan
Raithane	:	Local
Respondent	:	The word respondent and informant are interchangeably used in this thesis.

Rukh Neuro	:	Young Fronds of Tree Fern
Rumjhatarko Suntala	:	Rumjhatara Orange
Sahar Machha	:	Himalayan cold-water Fish
Sallyani/Pyuthane Timoor	:	Nepali Pepper
Sano Keraauko	:	Pickle of Small Pea
Sattu	:	Flour of Baked Wheat
Sindhuli ko Junaar	:	A type of Orange from Sindhuli
Sine quo non	:	An Essential Condition
Sisno	:	Vegetable from Urticadioica
<i>Sui generis</i>	:	<i>Sui generis</i> means Constituting a Class alone, Unique
Swutpati	:	The Self-origin goods.
Taichen Baji	:	Flattened Rice made from Taichin rice
Terhathume Dhaka	:	Dhaka Cloth and Dhaka Cap
Terroir	:	Territory or origin in the French language
Tikin Baji	:	Rice flakes of Bhaktapur
Titaura	:	Nuggets of Moong
Tokha ko Chaaku	:	Jaggery of Sugarcane
Tutrun Tarul	:	Hibiscus sabdariffa
Utpati	:	The origin of the goods.
Wolaa Waa	:	Hill Paddy
Yarsha Gumba	:	Himalayan Caterpillar Fungus

TABLE OF CONTENTS

P. No.

CERTIFICATION.....	ii
DECLARATION	iii
RECOMMENDATION.....	iv
LETTER OF APPROVAL	v
PREFACE.....	vi
ACKNOWLEDGEMENTS	viii
ABSTRACT.....	x
LIST OF ABBREVIATIONS AND ACRONYMS.....	xii
LIST OF SYMBOLS	xv
LIST OF TABLES.....	xvi
LIST OF BAR CHARTS.....	xviii
LIST OF PIE CHARTS	xix
LIST OF FIGURES	xx
LIST OF CASES.....	xxi
GLOSSARY OF TERMS.....	xxvii
TABLE OF CONTENTS	xxxiii

CHAPTER I

1. INTRODUCTION OF THE STUDY

1.1. General Background.....	1
1.2. Statement of Problem.....	16
1.3. Research Questions	16
1.4. Objectives of the Study	17
1.5. Significance of the Study.....	18
1.6. Scope of the Study	19
1.7. Methodology of the Study.....	20
1.7.1 Research Design	21
1.7.2 Research Study Area.....	26
1.7.3 Data Collection and Procedure	27
1.7.4. Data Analysis Method	33
1.7.5. Citation Style	34

1.8. Review of Literature	34
1.8.1 Research Report, PhD Thesis	35
1.8.2 Books	39
1.8.3 Journal Articles	50
1.8.4 Literature Gaps	81
1.9. Limitations of the Study.....	82
1.10. Organisation of the Study	84

CHAPTER II

2. CONCEPTUAL FRAMEWORK OF GEOGRAPHICAL INDICATIONS

2.1. Meaning and Definition of Geographical Indications.....	87
2.2. Importance of Geographical Indications Protection.....	91
2.3. Historical Development of Geographical Indications	92
2.4 Philosophical Aspects of Geographical Indications	98
2.5. Theories Relating to Geographical Indications	100
2.6. Features of Geographical Indications.....	109
2.6.1 GI is a Sign	110
2.6.2 GI Identifies Goods.....	113
2.6.3 GI Should come from a Specific Location.	114
2.6.4 GI Should have Certain Qualities, Reputation or Other Characteristics	114
2.7. Types of Geographical Indications	115
2.7.1 Direct GIs.....	115
2.7.2 Indirect GIs	116
2.7.3 Quality-Neutral GIs	116
2.8. Functions of Geographical Indications.....	116
2.8.1 Function of Identifying the Origin of Goods	116
2.8.2 Functions of Suggesting Quality, Reputation and Other Characteristics of Goods	117
2.8.3 Function of Promoting Goods.....	117
2.8.4 Advertising Functions.....	117
2.8.5 Community Representation Functions.....	117
2.9. Grounds of Protection of Geographical Indications	118
2.9.1 Sui generis Geographical Indications Protection.....	119
2.9.2 Trademark Protection of Geographical Indications.....	120

2.9.3	Laws Focusing on Business Practices	124
2.10.	Comparing Geographical Indications and Trademark	125
2.11.	Importance of the <i>Sui generis</i> Geographical Indications Law over Collective Marks.....	135
2.12.	Conflict Between Geographical Indications and Trademarks	136
2.13.	Comparing Sui generis Geographical Protection of the EU and Collective Mark Protection of the US Debate	141
2.14.	Conclusion	145

CHAPTER III

3. LEGAL FRAMEWORKS ON GEOGRAPHICAL INDICATIONS

3.1	Legal Framework on Geographical Indications in Nepal	149
3.1.1	Constitution of Nepal.....	150
3.1.2	The Muluki Civil Code, 2074 BS (2017 AD).....	151
3.1.3	Statutes.....	151
3.1.4	Directive.....	156
3.1.5	Budget Speech	159
3.1.6	Policies.....	159
3.1.7	Guideline.....	161
3.1.8	Bill	162
3.2.	Regional Legal Frameworks on Geographical Indications	163
3.2.1	European Union (EU)	163
3.2.2	Andean Community	166
3.2.3	Association of Southeast Asian Nations (ASEAN).....	167
3.2.4	Mercosur	168
3.2.5	South Asian Association for Regional Cooperation (SAARC)	168
3.2.6	Others.....	169
3.3.	International Legal Framework on Geographical Indications	169
3.3.1	“The Paris Convention for the Protection of Industrial Property, 1883 AD”..	170
3.3.2	“Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods 1891, AD (Madrid Agreement)”	172
3.3.3	Madrid Agreement Concerning the International Registration of Marks, 1891 AD.....	173
3.3.4	The Versailles Peace Treaty, 1919 AD.....	174

3.3.5	“International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951 AD”	176
3.3.6	“The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD (Lisbon)”	177
3.3.7	“Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications, 2015 AD”	178
3.3.8	“Attempts to Revise the Multilateral System of Protection after 1958 and Draft Treaty on the Protection of Geographical Indications (1975)”	179
3.3.9	Trade-Related Aspects of Intellectual Property, 1995 AD	180
3.3.10	Convention for the Safeguarding of the Intangible Cultural Heritage, 2003... ..	184
3.4.	Judicial Decisions on Geographical Indications	185
3.4.1	Cases Decided by the Department of Industry	185
3.4.2	Cases Decided by the High Court.....	185
3.4.3	Case in the Supreme Court	188
3.5.	Nepal's Position in the IP in the Global Innovation Index	189
3.6.	Analysis of the Existing Legal Mechanism of Nepal on Geographical Indications	189
3.7.	Comparison of the Compatibility of Nepal's Provisions on GIs with that of the TRIPS Agreement	200
3.8.	Comparing the TRIPS Provisions on GIs with the National Intellectual Property Policy, 2074 BS.....	203
3.9.	Comparing the TRIPS Provisions on GIs with the Industrial Property Bill, 2082 BS	206
3.10	Analysis.....	211
3.11.	Conclusion	213

CHAPTER IV

4. PROTECTION OF GEOGRAPHICAL INDICATIONS GOODS IN THE SAARC COUNTRIES

4.1	Introduction	215
4.2.	SAARC Countries' Status on the Ratification of International Instruments on GIs Laws	217
4.2.1	Analysis	218
4.3.	Constitutional Protection of Intellectual Property in the SAARC Countries	219
4.3.1	Analysis	220
4. 4.	Ways Adopted for the Protection of the Geographical Indicatons Goods by the SAARC Countries	223

4.5. Common Provisions of Sui generis Geographical Indication Laws of Goods	226
4.5.1 Own Kinds of Laws.....	226
4.5.2 Administration of Geographical Indications.....	227
4.5.3 Objective.....	227
4.5.4 Definition of Geographical Indications	227
4.5.5 Goods.....	228
4.5.6 Generic Name	229
4.5.7 Indication	230
4.5.8 Applicant.....	230
4.5.9 Registration of Geographical Indications	231
4.5.10 Ground for Refusal of Registration of Geographical Indications.....	232
4.5.11 Prohibition to Assign, Transfer of Geographical Indications	234
4.5.12 Registration of Homonymous Geographical Indications.....	234
4.5.13 Renewal of GI.....	235
4.5.14 Prohibition in Registration of Trademark.....	235
4.5.15 Unregistered Geographical Indications	235
4.5.16 Provision of Foreign Geographical Indication.....	236
4.5.17 Legal Provision for Quality Control	236
4.5.18 Offence of Geographical Indications	237
4.5.19 Authority Responsible to Settle Geographical Indications Dispute	238
4.5.20 Punishment in the offence of Geographical Indications	239
4.6. Implementation Aspect of Geographical Indications in SAARC Countries.....	242
4.6.1. Registration of <i>Sui generis</i> Geographical Indications	243
4.6.2. Global Innovation Index	244
4.6.3. Members of the “WIPO's Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications”	245
4.6.4 Legal Protection of Goods	246
4.7. Conclusion	247

CHAPTER V

5. LEGAL MEASURES REQUIRED TO PROTECT GEOGRAPHICAL INDICATIONS GOODS OF NEPAL

5.1. Introduction	249
5.2. Key Informants Interview	249
5.3 Introduction of Geographical Indication Capable Goods	252

5.3.1 Geographical Indication Capable Goods from KII	252
5.3.2 Geographical Indication Capable Goods from Doctrinal Studies	255
5.3.3 Analysis	259
5.4. Identification of Categories of Geographical Indications Capable Goods.....	260
5.4.1 Identification of Categories of Geographical Indications Capable Goods from KII	260
5.4.2 Identification of Categories of Geographical Indications Capable Goods from Doctrinal Studies.....	265
5.4.3 Analysis	265
5.5. Situation of Geographical Indications Capable Goods in Nepal	265
5.5.1 Situation of Geographical Indications Capable Goods in Nepal from the KII	265
5.5.2 Analysis	270
5.6. Protection of Geographical Indications Capable Goods.....	270
5.6.1 Protection of Geographical Indications Capable Goods from KII	270
5.6.2 Analysis	274
5.7. Preferred Ways of Protection of Geographical Indications Capable Goods	274
5.7.1 Preferred Ways of Protection of Geographical Indications Capable Goods from KII.....	274
5.7.2 Analysis	278

CHAPTER VI

6. PROSPECTS AND PROBLEMS OF IMPLEMENTING THE GEOGRAPHICAL INDICATIONS LAW OF GOODS IN NEPAL

6.1. Introduction	280
6.2. Prospects of Implementing Geographical Indications Laws in Nepal.....	280
6.2.1 Question Description	281
6.2.2 Summary of the Responses.....	281
6.2.3 Tabular Representation	282
6.2.4 Bar Chart Representations	282
6.2.5 Pie Chart Representations.....	283
6.3. Analysis of Prospects of Implementing Geographical Indications Laws in Nepal	284
6.3.1 Economic Growth	284
6.3.2 Protection of Farmers and Producers.....	287
6.3.3 National and International Recognition of the Region and Nepal.....	290

6.3.4	Legal Protections of the Goods.....	291
6.3.5	Identification of Goods	291
6.3.6	Protection of Culture.....	292
6.3.7	Protection of the Consumers.....	293
6.3.8	Protection of Traditional Knowledge	295
6.3.9	Rural Development.....	297
6.3.10	Protection of the Environment.....	298
6.3.11	Commitment under International Obligation.....	299
6.4.	Problems of Implementing Geographical Indications Law in Nepal.....	300
6.4.1	Question Description	300
6.4.2	Summary of the Responses	300
6.4.3	Tabular Representation	301
6.4.4	Bar Chart Representation.....	302
6.4.5	Pie Chart Representation	303
6.5.	Analysis of Problems of Implementing Geographical Indications Law in Nepal....	304
6.5.1	Legal Problem.....	305
6.5.2	Implementation and Organisational Problems.....	306
6.5.3	Problem of Limitation.....	307
6.5.4	Supply Chain Problems	308
6.5.6	Market Problems.....	309
6.5.7	Technological Problem.....	309
6.5.8	Quality Control Problem.....	309
6.5.9	Problem of Undocumented and Unrecorded Traditional Knowledge	310
6.6.	Way out to the Problems of Implementing Geographical Indications Laws in Nepal.....	311
6.7.	Conclusion.....	316

CHAPTER VII

7. FINDINGS, CONCLUSION AND SUGGESTIONS

7.1.	Findings	317
7.2.	Conclusion	327
7.3	Suggestions	342
7.4.	Future Caveat to Future Researchers	353
BIBLIOGRAHY		354
References.....		358

Appendices.....	400
Appendix 1: List of Potential GIs Products of Nepal	400
Appendix 2: List of Export Potential Goods and Services	404
Appendix 3: Products of Nepal at the International Markets	406
Appendix 4: List of Potential GI-capable goods of Nepal (Popular Geo-Linked Agri-Product).....	407
Appendix 5: List of Potential GI-capable goods of Nepal (Geo-linked Popular Crop Landraces and their Important Traits)	409
Appendix 6: Goods and Services Identified by Nepal Trade Integration Strategy, 2023	410
Appendix 7: List of Potential GI-capable goods of Nepal (Location Specific Unique Crop Landraces)	411
Appendix 8: Location-Specific Crops Having Unique Properties Indicating GIs of Nepal.....	414
Appendix 9: Some of the Potential Geographical indications (GIs) of Agriculture Commodities, Products, Indigenous foods, and Ethnic-based Endemic Itinerary of Nepal.....	417
Appendix 10: List of Potential GIs Products of Nepal	429
Appendix 11: List of National Collective Marks	437
Appendix 12: Export Performance of Nepal's Major Exported Commodities	442
Appendix 13: Nepal's Exports by Commodities	443
Appendix 14: Nepal's Exports by Commodities and Partner Countries	444
Appendix 15: List of Universities of Nepal Offering GIs in their Syllabus.....	446
Appendix 16: List of Countries Having Sui generis Geographical Indications Law	448
Appendix 17: Details of the Informants of Key Informant Interview	456
Appendix 18: List of Peer Reviewed Journals in Nepal in Law and Articles on GIs.....	463
Appendix 19: WTO Report of Article 24.2 of the TRIPS Agreement on Geographical Indications.....	464
Appendix 20: Recognition of Property in the Constitutions of Nepal	467
Appendix 21: Consent From of Key Informant Interview	467
Appendix 22: Key Informant Interview Questionnaire.....	469

CHAPTER I

1. INTRODUCTION OF THE STUDY

1.1. General Background

Intellectual Property (IP) is the result of human creativity. It transforms intangible and abstract creations into legally recognised entities by embedding them in a tangible medium.¹ An Intellectual property right (IPR) is an entitlement granted to an IP owner that is recognised, protected, and enforced by law.² IPR can be reproduced and exploited like tangible objects for profit, which justifies its inclusion in property law.³

IP covers two aspects: copyright and industrial property.⁴ Conventionally, the only two categories of intellectual property were literary property (copyright and neighbouring rights) and industrial property.⁵ Copyright and related rights are called 'authors and artists' rights. Industrial property rights include patents and trademarks.⁶ Further, it has been developed that there are three central types of IPR – copyright for literary and artistic works and associated products, patents for inventions and trademarks and names for the goodwill attached to marketing symbols.⁷ Later, industrial property includes industrial designs, trade secrets, layout protection, integrated circuits, and geographical indications.

“According to The Convention Establishing the World Intellectual Property Organization (WIPO), 1967 AD, IP includes literary, artistic, and scientific works;

¹ RAKESH KUMAR SINGH & ARUNABHA BANERJEE, INTELLECTUAL PROPERTY RIGHTS 1 (1st ed. LexWorth 2022).

² LAXMI SAPKOTA, GENERAL CONCEPT OF LAW 6 (Shahayatra Publication Pvt. Ltd. 2018).

³ Kamsilaniah Almusawir et al., *Protection of the Economic Rights of Geographical Indication Holders in the Indonesian Trademark and Geographical Indication Law*, 5 SCHOLARS INT’L J. L. CRIME AND JUST. 128, 128–141 (2022), <https://doi.org/10.36348/sijlcj.2022.v05i03.006> (last visited Mar. 5, 2025).

⁴ BAL BAHADUR MUKHIA, INTELLECTUAL PROPERTY LAW 27 (Mission Legal Service Pvt. Ltd. 2015).

⁵ G.B. REDDY, INTELLECTUAL PROPERTY RIGHTS AND THE LAW 9 (Gogia Law Agency 2023).

⁶ FREDERICK M. ABBOTT ET AL., INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY 53 (4th ed. Aspen Publishing 2019).

⁷ WILLIAM CORNISH ET AL., INTELLECTUAL PROPERTY: PATENTS, COPYRIGHT, TRADEMARKS AND ALLIED RIGHTS 7 (8th ed. Sweet & Maxwell 2016).

performances of performing artists; phonograms and broadcasts; scientific discoveries; inventions; trademarks; industrial designs; service marks, protection against unfair competition; commercial names; and it encompasses all rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields.”⁸

In the “Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) 1994 AD”, an international convention under the “World Trade Organization (WTO),” there is no segregation of intellectual property. “It incorporates copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs (topographies) of integrated circuits, protection of undisclosed information and control of anti-competitive practices in contractual licenses⁹ as intellectual property.” Although there are several significant differences between the various forms of IP, “one factor they share is that they establish property protection over intangible things such as inventions, ideas, information, and signs.”¹⁰

TRIPS is the first multilateral instrument to use the word geographical indications (GIs). It has stated that there are two types of GIs, along with two ways of protection for those types: goods with general protection¹¹ and wines and spirits with special protection.¹²

GIs refer to products that originate in a particular territory or region and have certain qualities, reputations, and characteristics because of such territory or area. It identifies a source and indicates the quality of goods¹³ through the geographical indications (GI) tag. Hence, GI indicates a product originating in “a country's territory, region, or locality, where a given quality, reputation or other characteristic of the good is due to

⁸ Convention Establishing the World Intellectual Property Organization, art. 2 (viii), Jul. 14, 1967, 828 U.N.T.S.3.

⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

¹⁰ LIONEL BENTLY & BRAD SHERMAN, *INTELLECTUAL PROPERTY LAW* 1 (Oxford Univ. 2003).

¹¹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 23, Apr. 15, 1994, *Compilation of Multilateral Treaties* 412 (Government of Nepal, 2024).

¹² *Id.* at 411.

¹³ Vandana Singh, A Study of Law of Geographical Indications as an IPR and Tool for Economic Development, (May 2011) (PhD dissertation, University of Delhi) (on file with Sodhganga Library).

its geographic origin.”¹⁴ Thus, the main job of a GI is to identify the “quality, reputation, and other characteristics of products linked to their geographical origin.”¹⁵ Also, it helps buyers by describing the geographical location of the origin of goods.¹⁶

GIs give collective rights that protect the reputation of the goods rather than innovation.¹⁷ Once GIs are protected, all producers in that area have the exclusive right to use them. However, the producer should comply with specific production conditions.¹⁸ GI is typically used for “agricultural products, handicrafts, foodstuffs, wine and spirit drinks, and industrial products.”¹⁹ It varies from place to place. For instance, Brazil includes agri-food types (cocoa and chocolate, cocoa or chocolate coffee, flour, fruits, dairy) and non-agri-food goods and services such as handicrafts, decorative stones, and ceramics.²⁰

Any country's lack of legal provisions for registering GIs creates difficulties in protecting and promoting valuable GIs domestically and internationally.²¹ Writer Rudra Sharma & Yudda Oli writes, in context to Nepal, the GI is the emerging dimension of IP.²² Nepal is a landlocked country. It is in the Himalayan region of South Asia. It shares its borders with China in the North and India in the South. Tony Hagen classifies "Nepal into Tibetan Marginal Mountains, Inner Himalayas, Himalayas, Midlands,

¹⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

¹⁵ World Intellectual Property Organization, World Intellectual Property Indicators (2022), https://www.wipo.int/edocs/pubdocs/en/wipo-pub-941-2022-en-world-intellectual-property-indicators2022.pdf?fbclid=IwAR0eMS0ZibRgd1cnMcIxbEfrdgiFhYAYvJiP8DY_WBNLpoOMeRIHzZiFl_A (last visited Mar.5, 2025).

¹⁶ LATHA R. NAIR & RAJENDRA KUMAR, GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY 12 (LexisNexis Butterworths 2005).

¹⁷ Hankie Uluko et al., *Protecting Geographical Indications in Malawi: Current Situation and Future Prospects*, 17 J. INTELL. PROP. RTS. 226, 232 (2012), https://www.researchgate.net/publication/259829537_Protecting_Geographical_Indications_in_Malawi_Current_Situation_and_Future_Prospects (last visited Mar. 6, 2025).

¹⁸ Ana Ricki Marinković, *Civil Enforcement of Geographical Indications in Europe*, 17 J of IP L & P, 65, 650-70 (2022), <https://doi.org/10.1093/jiplp/jpab175> (last visited Mar.6, 2025).

¹⁹ World Intellectual Property Organization, *Geographical Indications: An Introduction*, https://www.wipo.int/geo_indications/en/ (last visited Mar.7, 2025).

²⁰ Alex Victor do Rosário et al., *Brazilian Goods and Services Protected by Geographical Indication*, 12 Int'l J. Dev. Rsch. 59117, 59118 (2022), https://www.journalijdr.com/sites/default/files/issue-pdf/25373_0.pdf (last visited Mar.7, 2025).

²¹ H.L.N.S Chandrasiri, *Protection of Geographical Indications (GI) in Sri Lanka: A Critical Legal Analysis*, 6, KDU J. MULTIDISCIPLINARY STUDIES, 35, 36 (2024).

²² RUDRA SHARMA & YUDDHA OLI, INTELLECTUAL PROPERTY LAW, SOCIETY AND ECONOMIC DEVELOPMENT 72 (Yuba Bikashko Lagi Sambaidanik Kendra 2022).

Mahabharat, Siwaliks, and Terai."²³ It is located at 26.4831N to 29.8412N latitude,²⁴ and 80.3333E to 88.0943E longitude.²⁵ It falls in the temperature zone North of the Tropic of Cancer.

Nepal lies in a transition zone that includes six floristic regions: Sino-Japanese in the east, Central Asiatic in the North, Indian in the South, Southeast Asia-Malaysian in the southeast, Iran Turranean in the west, and Sudano Zambian in the southwest.²⁶ The country occupies 40.36% of the forest area²⁷ and 23.39% of the protected area within 20 Protected Areas, including a Wildlife Reserve, 12 National Parks, six Conservation Areas, one Hunting Reserve, and 13 Buffer Zones²⁸ and wetland sites.²⁹ Nepal's species richness is disproportionately high. The country comprises only 0.09 % of the global land area,³⁰ So far, 13,067 plant species have been described, including algae (1,001 species), fungi (2,467 species), lichens (792 species), bryophytes (1,213 species), pteridophytes (580 species), gymnosperms (41 species), and angiosperms (6,973 species).

The varieties of agricultural and horticultural non-indigenous crops have been successfully introduced in Nepal for ages, and they have been naturalised as indigenous because of their climate. Also, the goods existed within the locality because of remoteness and isolated conditions. Many local products, including native and naturalised varieties, contribute to Nepal's domestic economy;³¹ as a result, the agriculture sector contributed 24.9% of GDP in the fiscal year 2080/81 BS (Economic

²³ TONI HAGEN, NEPAL- THE KINGDOM IN THE HIMALAYAS 3 (Kul mmerly Frey 1998).

²⁴ *World Atlas Map*, <https://malissiazgerta.pages.dev/search/?q=Where%20Is%20Nepal%20In%20The%20World%20Map> (last visited Mar. 7, 2025).

²⁵ *Id.*

²⁶ Government of Nepal, Ministry of Forests and Soil Conservation, *Nepal Fourth National Report to the Convention on Biological Diversity* (2018).

²⁷ Department of Forest and Soil Conversation et al., *Forest Resource Assessment Nepal* (2019).

²⁸ Department of National Park and Wildlife Conservation et al., *Welcome to Department of National Park and Wildlife Conservation* (2020), <https://dnppwc.gov.np/en/> (last visited Mar. 7, 2025).

²⁹ Food and Agriculture Organization of United Nations, *National Ramsar Strategy and Action Plan (2018-2024)*, <https://leap.unep.org/countries/np/national-legislation/national-ramsar-strategy-and-action-plan-2018-2024#:~:text=The%20National%20Ramsar%20Strategy%20and,analysis%20and%20finally%20the%20Ramsar> (last visited Mar. 7, 2025).

³⁰ Government of Nepal, Ministry of Forests and Soil Conservation, *Nepal Fourth National Report to the Convention on Biological Diversity* (2018).

³¹ Samar B. Malla & Puspa R. Shakya, *The TRIPS Agreement: Potential Products for Geographical Indications*, 9(1) DOCREP (2004), <http://www.fao.org/docrep/pdf/008/ae896e/ae896e09.pdf> (last visited Mar. 7, 2025).

year 2020/21 AD).³² This demonstrate Nepal is rich in natural goods. Apart from it, there are different reason that Nepal needs GIs law.

Nepal has abundance of GI-capable goods, and it has recognised the term GIs in national laws and policies. Some cases involving GI issues enter the court. Further, the National Agriculture Research Centre (NARC) has filed a case for the shared GIs in the European Union. International law requires that before applying for registration of a product in the global market, it must be protected under the GIs law of the respective country. Nepal is a party to international laws and has committed to drafting statutes on GIs. Further, it is graduating from a least developed (LDC) to a developing country. Also, the “Ministry of Industry, Commerce and Supplies” and the “National Gene Bank” are undertaking the necessary documentation to assign geographical indication tags to certain goods, and it has no good position on the Global Innovation Index, which is 109th position, which implies that Nepal needs to have all IP laws, including GIs.

The first reason Nepal needs GI laws is that there are 157 GI-capable goods in Nepal. (A report lists 88 potential GI products from Nepal³³ (See Appendix 1: List of Potential GIs Products of Nepal.), Trade Policy 2072 BS has identified lists of potential export goods and services in Nepal, including a list of 26 goods³⁴ (See Appendix 2: List of Export Potential Goods and Services.), eight GI products from Nepal in the international market³⁵ (See Appendix 3: Products of Nepal at the International Markets.), 21 potential GI-capable goods of Nepal³⁶ (See Appendix 4: List of Potential GI-capable goods of Nepal.), eight potential GI-capable goods of Nepal³⁷ (See

³² Nepal Government, Ministry of Finance, *Economic Survey (2023/24)*, https://giwmscdnone.gov.np/media/pdf_upload/MOF_Economic%20Survey%20ENG%202023-24%20book%20Final_for%20WEB_miwtpw0.pdf (last visited Mar. 7, 2025).

³³ Ramesh P. Sharma, *The Implication of WTO Membership in Nepalese Agriculture*, FAO Nepal (Food & Agric. Org. of the U.N. & U.N. Dev. Program, 2005), <https://un.info.np/Net/NeoDocs/View/History/Default.aspx?RefId=1776> (last visited Mar. 5, 2025).

³⁴ Trade Policy, sched. 1 (2015).

³⁵ Bal Krishna Joshi et al., *Conservation and Utilisation of Agricultural Plant Genetic Resources in Nepal* 60 (2017).

³⁶ Bal Krishna Joshi et al., *Conservation and Utilization of Agricultural Plant Genetic Resources in Nepal*, FDD DoA MoAD, Proceedings of the 2nd National Workshop, May 22–23, 2017, Dhulikhel, at 50 (2017), https://nepalindata.com/media/resources/bulkuploaded/Plant_Genetic_Resources_CUAPGR_Nepal_OCT17.pdf (last visited Mar. 5, 2025).

³⁷ Bal Krishna Joshi et al., *Geographical Indication: A Tool for Supporting On-Farm Conservation of Crop Landraces and for Rural Development*, 6(1) J. NEPAL AGRIC. RES. COUNCIL

Appendix 5: List of Potential GI-capable goods of Nepal (“Geo-linked Popular Crop Landraces and their Important Traits.”), Nepal Trade Integration Strategy (NTIS) 2079/80- 2084/85 has identified 32 products³⁸ (See Appendix 6: Goods and Services Identified by Nepal Trade Integration Strategy, 2023.), MN Poudel has listed 40 potential GI-capable goods of Nepal with location-specific unique crop landraces³⁹ {See Appendix 7: List of Potential GI-capable goods of Nepal (“Location Specific Unique Crop Landraces.”)}, 37 location-specific crops having unique properties indicating GIs of Nepal⁴⁰ (See Appendix 8: “Some of the Location-Specific APGRs and Land Races of Crops Having Unique Properties Indicating GIs of Crops Available in Nepal.”⁴¹), 98 different potential GIs of agriculture commodities, products, ethnic-based endemic itinerary and Indigenous foods of Nepal⁴² (See Appendix 9: “Some Potential GIs of Agriculture Commodities, Products, Indigenous Foods, and Ethnic-based Endemic Itinerary of Nepal.”⁴³)

The GIs capable goods of Nepal are Amaala, Amkhora, Ampko Achaar, Anadi, Arna Buffalo, Ate, Belguti, Chirakhe, AtteMarsi, DudheMarsi, Taichen Baji, Basaune Ghiraula, Basmati Rice, Bhadgaunle TakuwaTopi, Bhaktapur Juju dhau, BhatePhaper, BhirmauriKo Maha, BhoteChiya, BhoteLasun/Garlic, BhyaaguteNeuro, Bhyaglung Sheep, Bitten Rice, Bjhang/Simikotko Simi,⁴⁴ Buddha Chitta, Cheese/Chhurpi prepared from yak milk, Chhampa, Chilly/ JyanmaraKhursani, Chiraito, Choto Mula, Chuk Amilo, Chukauni,⁴⁵ Alainchi, Cold water fish, DaanhteNeuro, Dal Bhatn (a unique

(2020), <https://cgspace.cgiar.org/bitstream/handle/10568/109652/geographical.pdf> (last visited Mar. 7, 2025).

³⁸ Department of Industry, Trade & Commerce, *Nepal Integration Strategies* (2023), https://api.giwms.gov.np/storage/6/posts/1706525149_47.pdf (last visited May 17, 2024).

³⁹ M.N. Paudel, *Patenting Need of Unique Geographical Indicator Commodities and Products to Enhance Livelihoods and Resources Conservation in Nepal*, 5 AGRONOMY J. NEPAL 1 (2021), <https://doi.org/10.3126/ajn.v5i01.44718> (last visited Mar. 5, 2025).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Bal Krishna Joshi et al., *Geographical Indication: A Tool for Supporting On-Farm Conservation of Crop Landraces and for Rural Development*, 6(1) J. NEPAL AGRIC. RES. COUNCIL (2020), <https://cgspace.cgiar.org/bitstream/handle/10568/109652/geographical.pdf> (last visited Mar. 5, 2025).

⁴⁵ M.N. Paudel, *Patenting Need of Unique Geographical Indicator Commodities and Products to Enhance Livelihoods and Resources Conservation in Nepal*, 5 AGRONOMY J. NEPAL 1 (2021), <https://doi.org/10.3126/ajn.v5i01.44718> (last visited Mar. 5, 2025).

Nepali cousin), Dalechuk, Dalle khurasni, Kodo, BarsheKodo, DamberkumariKhasto/Pachhaura, Dharan ko Kaalo Sungur, Dhunibansi/TokhakoUkhu, Dhunibensi ko Ambaa, Ekle, Jhinuwa, Lekali, Fibre from Allo, Fibre from Hemp, Fibre from Odal, Gagro, Ghaiya, Chattar, Chobo, Pakhe, Jhinuwa, Debkotini, KaloJhinuwa, Ghalcha, GhiuKera, Gudura, Gundruk, Haakupatasi, Halhale, Hattipau, Highland Coffee, Himalayan Honey, Himalayan musk deer, Himali Jira, HumlaChyapu, Ilame chiyaa, Ilam ko Alainchi, Illam ko Cheese, Jarneli, Jhinuwa, Jire Neuro, Jumli Bean, Jumli/Helambu/MarphakoSyau, Jumli Ghoda, Jumli Marshi, Junde Masino, Kaalo Neuro, Kadu, Kalo and Seto Till, Kalo Mass, Karuwa, mkhora, Ghalcha, Gagro, Khario Till, Khichaa Bhyaatah, Khokhanako Toriko Tel, Khoku ko Suntala, Khukhuri, Khulu-Simali, Khupu, Kidney beans/Simi, Koche Neuro, Koshiko Jalkapoor, Kulekhaani ko Asla Maachhaa, Lapsi, Local Mayal, Lukla ko Simi, Maakacha, Madale Kaakro, Malbhog Keraa, Mallaji, Manaa of Newar, Rumjhatarko Suntala, Manihari koTaamaa, Mansara, Marcha, Masyoraa, Medicinal mushroom (Ganoderma, Merchella, Sitake and many more), Moodeko Aalo, Moolako Chaanaa, Mountain goat/Chyangra, Mountain Sauf, Mulpaniko Saag, Mungre Kera, Murali Makai, Naaphal, Nalu Lakan, Nepali Aaloo ko Achaar, Nepali Cloth/Velvet Lounge Slipper, Nepali LasunkoAchaar, Nepali Makai Bodi, Nepali Moolako Achaar, Nepali Sutho, NigaloTusa, Nigar, Organic Highland Coffee, Orthodox Tea, Palaanchoke Jutta, Palpali Dhaka, Paschim Nepal ko Chiuri Gheu, Pasma Khasto/Pachhaura, Pharpinge/ChhaimalNaaspaati, Pigeon Pea, Pigmy Hog, Pokharali Battain, Pokhareli Masino, Popcorn, Pyuthaane Moola, Rukh Neuro, Saano Keraau ko Achaar, Sahar Machha (Tor putitora), Sallyani/PyuthaneTimoor, Sattu, Sea Buck thorn/ DaaleChuk, SelRoti-Achaar, Sindhuli ko Junaar, Sindur, Sisno, Soybean, Spinach/Palungo and cress/Methi, leaves/Fenugreek, Sthaniya, Tarkhole, Terhathume Dhaka, Thotne, Tikin Baji, Titaura, Tokhako Chaaku, Toosaa, Trishuli ko Asala Maachhaa, Trisuli/Gorkha/Palpako Pindaloo, Turmeric Powder, TutrunTarul, Uwa, Wolaa Waa, Yak and Yak Cheese, Yam, Yarsha Gumba, Zuzube/Bel. (See Appendix 10: List of Potential GIs Products of Nepal.)

To protect the goods mentioned above, nationally and internationally, Nepal needs GI laws. Basmati's recent case involved ownership; India filed for ownership in the European Union (EU) in 2018. Nepal submitted opposition on December 9, 2020, along with evidence of the origin of Basmati in Nepal and India. However, it did not receive

a response because we don't have the laws to protect our goods under the GIs laws.⁴⁶ It is an urgent call for Nepal to conserve and promote its rice⁴⁷ and other GIs-capable products.

The second reason Nepal needs GIs law is that it recognises GIs in its national laws and policies. The Constitution of Nepal has recognised IPR as property in its explanation clause. It states, property means any form of movable and immovable property, containing an intellectual property right.⁴⁸ Likewise, the Constitution has given a list of federal powers⁴⁹ that work in IP⁵⁰ recognizing patents, designs, trademarks, and copyrights.⁵¹

Equally, the Patent, Design, and Trademark Act 2022 BS is Nepal's prevailing law for industrial property. However, this Act does not mention the collective trademark, whereas some of the provisions of the trademarks is applicable to collective marks. The Collective Mark Registration Related Directive, 2067 BS, is Nepal's first directive for registering collective marks. The list received from the Department of Industry states that only seventeen national collective trademarks have been registered up to January 2, 2025, AD under the directive in Nepal. (See Appendix 11.)

Politically, Nepal is divided into seven provinces⁵² and sub-divided into 77 districts;⁵³ the district is further separated into 753 local government units and 460 rural municipalities. There are six metropolitan cities and eleven sub-metropolitan cities in Nepal. The Federal, Provincial and Local Governments share the governance power, including responsibility for managing natural resources. The Local Governance

⁴⁶ Bal Krishna Joshi et al., *Intellectual Property Rights on Basmati Rice: Current Scenario and Evidence of Origin, Diversity, Cultivation and Use Values of Basmati Rice in Nepal* 9 *N.J of Biotechnology* 9 (2021), <https://doi.org/10.3126/njb.v9i1.38671> (last visited Mar. 5, 2025).

⁴⁷ Kamana Rayamajhi et al., *Nepalese Fine and Aromatic Rice Landraces: A Review*, 24 *JAE*, 197, 197 (2023).

⁴⁸ CONST. OF NEPAL. art. 25.

⁴⁹ *Id.* at sched. 5.

⁵⁰ *Id.* at No. 24.

⁵¹ *Id.*

⁵² *Id.* at sched. 4.

⁵³ *Id.*

Operation Act, 2018 AD (2074 BS)⁵⁴ states that the protection, promotion, and documentation of the local IP (GI) are municipalities' responsibilities, duties, and rights.⁵⁵ The Fifteenth Plan (Fiscal Year 2019/20-2023/2024) had been scheduled to promote innovations by protecting intellectual property rights.⁵⁶ Similarly, the Sixteen Plan (Fiscal Year 2024/25-2028/29),⁵⁷ has the provision of the transformative strategies of country for the smooth graduation to developing country, “Nepal shall make legal arrangement for the protection of GI and develop capacity of related organizations for implementation.”⁵⁸

The Budget Speech 2023/24 AD addressed the significance of intellectual property for economic development.⁵⁹ "Let's be proud of Indigenous" is the slogan which has ensured the protection and expansion of the cultivation of traditional, natural, and nutritious indigenous food crops and guards the brand and market marsi paddy from Jumla, ginger from Palpa and Salyan, coffee from Gulmi, and potatoes from Mustang—also ensured the purchase of Indigenous crop productions such as kaguno, marsi, phapar, millet, latte, barley, and beans from several places in the Karnali province through the Food and Trade Company.⁶⁰ Similarly, the Budget Speech 2024/25 AD has covered the GIs.

Trade Policy, 2015 AD (2072 BS) aims to protect and promote IPR at the regional and international levels by promoting and increasing trade expansion related to IPR in the global market.⁶¹ The National Intellectual Property Policy 2017 AD (2073 BS) aims to create a new legal framework, especially for GIs, and revise the existing ones for copyright and industrial property.⁶² Industrial property includes patents, designs,

⁵⁴ Local Governance Operation Act, § 11(2)(j) (2017).

⁵⁵ Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1), JGRA, 28, 29, (2023).

⁵⁶ National Planning Commission, *The Fifteenth Five-Year Planning* 36 (2019/20-2023-24).

⁵⁷ *Id.* *The Sixteen Five-Year Planning* (2024/25-2028/29).

⁵⁸ NEPAL GOVERNMENT, NATIONAL PLANNING COMMISSION, *THE SIXTEENTH FIVE- YEAR PLAN* 224 (2025).

⁵⁹ Government of Nepal, Ministry of Finance, *Budget Speech of Fiscal Year 2023/24* (2023).

⁶⁰ *Id.* at No. 27.

⁶¹ Nepal Government, Ministry of Commerce and Supplies, No. 9 (9) (2015).

⁶² Laxmi Sapkota (2021). *Evolution of Geographical Indication in Nepal: A Way Forward* 20 N.B.C L. J 383, 384 (2021).

trademarks, plant species, integrated circuits, trade secrets, traditional and indigenous knowledge, layout design, traditional cultural expression and folklore, biodiversity, and genetic resources.⁶³ Further, the Government of Nepal has registered the Industrial Property Bill 2082 incorporating the provisions of GI in the House of Representative.⁶⁴

The third reason Nepal needs GIs law is that the people themselves have been found to take invitations through litigation for the formal institutionalisation of GIs. However, the Supreme Court did not entertain the issues of the GIs instituted in the case of, The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others.⁶⁵ It refused the revision of the case, stating that it does not satisfy the provisions of section 12 of the Administration of Justice Act, 2073 BS, as there is no serious constitutional or legal error, a failure to follow or misinterpret Supreme Court precedent, misappropriation or loss of public property due to improper evaluation of evidence, or if justice is affected due to inadequate representation of vulnerable individuals such as children, women, disabled persons, or those over seventy-five years old.

Three cases on GIs-related issues reached the High Court, Patan, in the “Tea Board of India v Modern Tea Industries Pvt Ltd, Nepal,”⁶⁶ Advocate Anju Uprety Dhakal, on behalf of the Scotch Association v. Dhanusha Distillery Pvt. Ltd and Others,⁶⁷ and Scotch Whiskey Association V. Highland Distillery Pvt. Ltd.⁶⁸ Also, the issue that was brought before the Department of Industry in the case of Advocate Ramchandra Subedi, on behalf of Apex Law Chamber authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions⁶⁹ and Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quatermile 2 v. Binod Maharjan on behalf

⁶³ National Intellectual Property Policy, No. 8 (2) (e) (2017).

⁶⁴ Industrial Property Bill, 2025.

⁶⁵ Advocate Anju Uprety Dhakal, on Behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others (2079) Case No. 073-RI-2437, 2079/12/24 (Supreme Ct. Nepal).

⁶⁶ Tea Board of India v Modern Tea Industries Pvt. Ltd. (2077) Case No. 076-DP-1030, Decision No. 169 (High Ct. Patan, Nepal).

⁶⁷ Advocate Anju Uprety Dhakal, The Scotch Association v. Department of Industry, Tripureshwor (2073) Case No. 071-DP- 2096, Decision No. 124 (2073/03/19) (High Ct. Patan, Nepal).

⁶⁸ Scotch Whiskey Association V. Highland Distillery Pvt. Ltd (2076) Case No. 076-DP-0292, Decision No. 97 (High Ct. Patan, Nepal).

⁶⁹ Advocate Ramchandra Subedi, on behalf of Apex Law Chamber authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions, Decision No. 70 (Dept. Industry, Nepal).

of Scot & Scot Pvt. Ltd (Nepal)⁷⁰ has incorporated the issues of GIs. The court could give way when the laws are absent. Knocking on the court's door provides Nepal's foundation for GI laws.

The fourth reason Nepal needs GI law is that it is a party to international instruments, which makes it an obligation to enact laws according to them. Nepal is a party to the “Paris Convention for the Protection of Industrial Property, 1883,” on March 22, 2001,⁷¹ and the “Trade-Related Aspects of Intellectual Property, 1994 AD,” on April 23, 2004; the date of accession to the Convention Establishing the WIPO, 1967, is November 4, 1996;⁷² and the date of accession to the protocol on accession to the WTO, 1994, is March 23, 2004.⁷³

The fifth reason Nepal needs GI laws is that it graduates from a least developed country (LDC) to a developing country in 2026 AD. This poses many challenges,⁷⁴ including economic costs due to the potential loss of access to international support measures for least-developed countries (LDCs). As an LDC country, Nepal receives trade support that includes institutional, analytical, and productive capacity support, such as that provided by the Enhanced Integrated Framework.⁷⁵ Annual Foreign Trade Statistics Book 2079-80 shows that significant export destinations of Nepal include India, the USA, Germany, and China. (See Appendix 12: Nepal's Exports by Commodities and Partner Countries.) The major commodities exported to China in FY 2079/80 include carpets, other textile floor covering, medicinal plants, and handicraft paintings, also considered potential GI-capable goods of Nepal (See Appendix 13: Nepal's Exports by

⁷⁰ Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quartermaine 2 v. Binod Maharjan on behalf of Scot & Scot Pvt. Ltd (Nepal) Decision No. 74 (Dept. Industry, Nepal).

⁷¹ Ministry of Law, Justice and Parliamentary Affairs, Nepal Government, List of Multilateral Treaties to Which Nepal is a Party and a Signatory,⁷ (2018), <https://www.moljpa.gov.np/wp-content/uploads/2019/04/List-of-Multilateral-Treaties-Signed-by-Nepal.pdf> (last visited Mar.5, 2025).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Arhan Sthapit, *Nepal's Graduation from Least Developed Country to Developing Country by 2026: Challenges for Handicraft Sector MSMEs*, in RESEARCH GATE (2022), https://www.researchgate.net/publication/361727280_Nepal's_Graduation_from_Least_Developed_Country_to_Developing_Country_by_2026_Challenges_for_Handicraft_Sector_MSMEs (last visited Mar. 7, 2025).

⁷⁵ International Trade Centre, Nepal after LDC Graduation: New Avenues for Exports, <https://intracen.org/file/nepalldcgraduationfinalwebpdf> (last visited Mar. 5, 2025).

Commodities.) Similarly, primary Nepali goods exported to the United States in fiscal year (FY) 2079/80 are woollen carpets, readymade garments, pashmina and handmade paper. Handmade paper, garments, carpets, and pashmina shawls are the primary exported goods to the UAE.⁷⁶ The primary impact on Nepal's carpet and apparel exports to the EU, UK, and Canada.⁷⁷ (See Appendix 14: Export Performance of Nepal's Major Exported Commodities.). Likewise, Japan makes its currency Yen from the Lokta paper imported from Nepal. Such Lokta papers could be registered as Nepali GIs.⁷⁸

TRIPS obliges developed countries to maintain an incentive system for their institutions and private sector to transfer technology to LDCs.⁷⁹ In this regard, graduating LDCs experience a fundamental transformation in their standing within global IP rules, like complete and sudden loss of the special provisions within the TRIPS Agreement as they graduate from the LDC category and are consequently obligated to implement all substantive clauses stated in the TRIPS Agreement.⁸⁰

Another significant change graduating LDCs, including Nepal, will face is the need for more special flexibility in implementing the TRIPS Agreement. Initially, TRIPS has allowed the flexibility to delay the implementation of the Agreement's provisions aside from those containing the core non-discrimination principles until 2005.⁸¹ This transition period has been extended three times (2005, 2013, and 2021), with the latest extension valid until July 1, 2034, or when a member is no more to be an LDC, whichever is prior. However, as Nepal graduates in 2026, it will also lose this

⁷⁶ Government of Nepal, Nepal Foreign Trade Statistics, <https://customs.gov.np/storage/DoC/2080-81/Statistics/Annual%20Foreign%20Trade%20%20Statistics%20Book%202079-80.pdf> (last visited Mar. 5, 2025).

⁷⁷ National Planning Commission, LDC Graduation Status of Nepal, https://www.unescap.org/sites/default/d8files/event-documents/Session%20I%20-%20Nepal_1.pdf (last visited Mar. 5, 2025).

⁷⁸ Laxmi Sapkota, Necessity of Geographical Indications Law, Kantipur Daily Newspaper (Nov. 5, 2024), at 5.

⁷⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.66(2), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁸⁰ Tom Pengelly, *Graduating with Momentum: Intellectual Property Issues, Challenges and Opportunities for Least Developed Countries* (2024), https://unctad.org/system/files/non-official-document/Pengelly_IPR_Graduating_LDCs_2024.pdf (last visited Mar. 7, 2025).

⁸¹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 66.1, Apr. 15, 1994, *Compilation of Multilateral Treaties* 430 (Government of Nepal, 2024).

flexibility, which could have significant implications for its ability to implement the TRIPS Agreement.⁸² LDCs heavily reliant on agriculture must maintain farmers' rights and protect traditional and indigenous food, as included in the Rights to Food and Food Sovereignty Act, 2018.⁸³

India, Bangladesh and Sri Lanka are the only members of the SAARC that grant additional preferences to Nepal due to its LDC status. Once Nepal graduates to a developing country status, it will move to the standard South Asian Free Trade Area (SAFTA) preferences.⁸⁴ Graduation signifies a shift in tariffs and the rules of origin with which Nepal must comply to qualify for preferential treatment. Stricter rules of origin frequently result in lower preference utilisation rates. Due to LDC graduation tariff changes, Nepal may forfeit \$59 million in export revenues. Nepal must follow the provisions of the TRIPS Agreement,⁸⁵ including notifying laws about IPR up to 2024 BS. It must also share information about its GIs and the patentability of plants and animals in its territory.⁸⁶

Sixth, the universities offering the law degree in Nepal teach GIs; it is in their syllabus on intellectual property. Some universities teach intellectual property as a compulsory subject, whereas others teach it as an elective subject. However, including GIs in the syllabus is a good sign for the recognition and awareness of a country's educational institutions (See Appendix 15).

Seventh, the Ministry of Industry, Commerce and Supplies, alongside the National Gene Bank, is undertaking the necessary documentation to assign GI tags to Khokuko Suntala (Orange) and Palpako Sakhar (Jaggery).⁸⁷ This shows an urgent need to make GIs laws in Nepal.

⁸² Commission on Intellectual Property Rights (2002).

⁸³ The Right to Food and Food Sovereignty Act, § 12 (2018).

⁸⁴ International Trade Centre (2022). Nepal after LDC Graduation: New Avenues for Exports, <https://intracen.org/file/nepalldcgraduationfinalwebpdf> (last visited Mar. 5, 2025).

⁸⁵ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.63, Apr. 15, 1994, *Compilation of Multilateral Treaties* 428 (Government of Nepal, 2024).

⁸⁶ POSH RAJ PANDEY ET AL., NEPAL'S GRADUATION FROM THE LDC CATEGORY IMPLICATIONS FOR INTERNATIONAL TRADE AND DEVELOPMENT COOPERATION 87 (Swatee 2022).

⁸⁷ Nepal Agro- Biodiversity Bulletin, Year 2, Issue 2 (May 2024) National Agri. Research Ctr.

Nepal's position in the international market is not felt applauding. It has obtained the 109th position in the Global Innovative Index 2024⁸⁸ while securing the 110th position in innovation inputs and the 102nd position in innovation outputs.⁸⁹ The data reveals Nepal's standing in the Global Innovation Index is unsatisfactory. Therefore, it is imperative to make GIs law.

WIPO lawyer Marcus Hopperger says GIs are the sleeping beauty of the IP world. While they have long existed, their business value is gaining recognition. However, many governments are still figuring out international policies surrounding them.⁹⁰ This should not match with us; Nepal needs the GI laws.

There are four ways of protecting GIs. They are:

- a. By obtaining protection directly in the jurisdiction concerned,
- b. By taking advantage of a bilateral agreement established between countries,
- c. "Through WIPO's Lisbon system for the international registration of an appellation of origin,"⁹¹
- d. "The Madrid system allows for the international registration of marks."⁹²

Countries have different options for protecting their GIS under the direct protection of the relevant jurisdiction. The US and EU debate the ways of protecting GIs, and TRIPS does not specify the ways of protection. The EU focuses on sui generis GI protection for agriculture and foodstuffs, and the US protects from collective marks. It is understood that TRIPS do not specify the ways of protection because of the debate between the North and the South.⁹³

⁸⁸ World Intellectual Property Organization, Global Innovation Index 2024, <https://www.wipo.int/gii-ranking/en/nepal> (last visited Mar. 5, 2025).

⁸⁹ *Id.*

⁹⁰ World Intellectual Property Organization, IPO Magazine, Geographical Indications: From Darjeeling to Doha, https://www.wipo.int/wipo_magazine/en/2007/04/article_0003.html (last visited Mar.5 2025).

⁹¹ Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1) JGRA 28 (2023).

⁹² Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur 'Juju Dhau' and Greece 'Greek Yogurt'*, 11(1) KSLR 60 (2022).

⁹³ Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1) JGRA 28 (2023).

TRIPS Agreement is a framework convention that advises protecting the GIs, although it does not state the ways of GI protection. Generally, there are three ways of protecting GIs, one of which is obtaining protection directly from the jurisdiction concerned. They are safeguarded through the trademark system (collective marks, certification marks also somewhere as guarantee marks),⁹⁴ The *sui generis* system (making its kinds of GI laws), the list of the countries with *sui generis* GI laws (See Appendix 16: List of Countries having Sui generis GIs Law.), and laws focusing on business practices system.

Additionally, GIs may be safeguarded through a bilateral agreement between countries, which implies that these countries could protect their GIs via bilateral treaties. For instance, the Agreement between the EU and the Government of the People's Republic of China focuses on cooperation and the protection of geographical indications⁹⁵ or through the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (as adopted on May 20, 2015)⁹⁶ and through the Madrid System for the international registration of marks.⁹⁷

Other countries provide very different types of protection. For example, India, Malaysia, Thailand, and Vietnam provide the TRIPS standard. Singapore, Myanmar, Indonesia, and Laos provide high security, the TRIPS-plus. Further, Cambodia, the EU, and Japan provide super-high protection.

The thesis analyses the existing legal provisions of Nepal. Further, it compares Nepal's provisions on GIs with those of the TRIPS Agreement. Nepal is a party to the TRIPS agreement, which requires it to make its laws compatible. The study has explored the

⁹⁴ Dwijen Rangnekar, *Geographical Indications and Localization A Case Study of Feni*, (2017), UNIVERSITY OF WARWICK, 23 (2017).

⁹⁵ Agreement Between the European Union and the Government of the People's Republic of China on Cooperation on and Protection of Geographical Indications, O. J. L 408/3 (EU 2020), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=urisrv%3AOJ.LI.2020.408.01.0003.01.ENG&toc=OJ%3AL%3A2020%3A408I%3ATOC> (last visited Sept. 5, 2024).

⁹⁶ World Intellectual Property Organization, *Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications* (2015), <https://www.wipo.int/wipolex/en/text/370115> (last visited Nov. 28, 2024).

⁹⁷ Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, Apr. 14, 1891, https://www.wipo.int/edocs/pubdocs/en/wipo_pub_261.pdf (last visited Mar. 4, 2025).

legal mechanisms necessary to protect Nepal's GI goods. It has compared *sui generis* GI laws with trademarks. TRIPS has stated options for protecting GI through *sui generis*, trademarks, or other laws. There are two trends in protecting the GIs in the world. Australia, Canada, the USA and other countries protect their GIs through trademarks, whereas the European Union, India, Pakistan, Afghanistan and Bangladesh protect them through *sui generis*; some countries have both protection provisions. The thesis explores how GI-capable goods are protected in SAARC countries. Further, the researcher examined the legal mechanism required to protect Nepal's GIs through the key informant interview (KII). Additionally, the thesis has identified the prospects and problems of implementing GI laws in Nepal.

1.2. Statement of Problem

Nepal doesnot have the dedicated GIs laws on GI. There are the scartered laws which also recognized GI, but they are not sufficient. The National Intellectual Property Policy 2017 has the provisions of GI and the Industrial Property Bill, 2082 is registered in the house of representative, that has incorporated the provisions of GI. The problem is that the bill lacks have implementation aspects. It is necessary to materialize the bill into the 'Act.' Presently, Nepal is registering the collective mark of GI-capable goods through the Collective Mark Registration Related Directive, 2067 BS. The Patent Design and Trademark Act 2022 BS, the principal act has not recognized it. There is a problem that although Nepal has directive to register the collective mark, but it is not stated that it shall protect the GI through collective mark or there is any GI act. The ownership claim on the Basmati rice on the EU by India, Pakistan and Nepal shows that GI is the concerns of the SAARC countries too. Among the eight SAARC countries Nepal lacks the dedicated *sui generis* GI laws, but Bangladesh, India, and Pakistan have GIs laws.

1.3. Research Questions

Nepal has drafted the Industrial Property Bill, 2082 BS incorporating the provisions of geographical indications. Nepal needs a GIs law to preserve, protect, promote and

sustain its GI-capable goods and recognized them globally. The thesis has the following research questions:

1. What are the existing legal mechanisms for the protection of geographical indications of goods in Nepal? How compatible are the provisions of GIs of Nepal with the Trade-Related Aspects of Intellectual Property Agreement?
2. How are geographical indication goods protected in the South Asian Association for Regional Cooperation countries?
3. What kinds of legal mechanisms are required to protect the geographical indication of goods in Nepal?
4. What are the prospects and problems of implementing the geographical indications law in Nepal?

1.4. Objectives of the Study

Nepal is in the phase of drafting its new IP laws because it has already brought the National Intellectual Property Policy, 2073 BS. Nepal registers goods as a collective mark through the Collective Mark Registration Related Directive 2067. Nepal should have the GIs laws to protect its GIs capable goods, but kinds of laws are essential is another important question. Based on the above research questions, the thesis has the following objectives:

1. To analyse the existing legal mechanisms of geographical indications of goods of Nepal. And, to compare the compatibility of the existing legal provisions with that of the Trade-Related Aspects of Intellectual Property Rights agreement
2. To find out the ways geographical indication goods are protected in the South Asian Association for Regional Cooperation countries
3. To explore the legal mechanism required to protect Nepal's geographical indications goods
4. To identify the prospects and problems of implementing the geographical indications law in Nepal

1.5. Significance of the Study

There is significance in studying the legal protection of GIs and the prospects and problems of implementation. Nepal has an abundance of GI-capable goods. It has recognised the term "GI" in its national laws and policies and registered the industrial property bill incorporating the provisions of the GIs. Some cases involving GI issues are currently in the courts. Furthermore, the National Agriculture Research Centre (NARC) has filed a case regarding shared GIs in the European Union. International law stipulates that before applying for product registration in the global market, the product must be protected under the geographical indication laws of the respective country. Nepal is a party to international laws and has committed to drafting statutes on GIs. It is graduating from LDC status to that of a developing country. The Ministry of Industry, Commerce and Supplies and the National Gene Bank are undertaking the necessary documentation to assign geographical indication tags to certain goods. Yet, Nepal holds a low position on the Global Innovation Index, currently ranking 109th, indicating that the country needs to establish comprehensive intellectual property laws, including GIs. At the same time, Nepal's presence in international trade is not felt due to the lack of GI laws. This thesis will justify the necessity of *sui generis* GIs law in Nepal.

The more Nepal delays in drafting GI laws, the higher the chances of getting complexities in receiving international ownership of our GIs. For example, America registered Basmati by another name, and India claimed ownership and received it. Similarly, Nepal has also claimed the 'shared GIs' in the European Community but has not received the ownership because Nepal does not have a GIs law. It is a fact that Basmati is grown in Nepal. Hence, this thesis shall make the basis for protecting Nepal's GI-capable goods in the international community.

The findings will help the Nepal government to provide insight into finding the country's GI-capable goods.

The theisis's findings will benefit academia, including educational institutions with library resources that students and teachers can use for learning.

Similarly, this finding offers valuable insights to guide and inform legislators, judges, and lawyers. The finding of the thesis shall be useful to the Federal Parliament as this thesis can serve as reference while amending Industrial Property Bill 2082 BS and will further aid in understanding Nepal's *sui generis* GI laws.

During the research, it was discovered that there needs to be more literature on GIs. Only five articles on the topic have been published in eight leading journals in Nepal, and no book on GIs has been written. Therefore, this research would be one of the authentic and reliable resources on GIs in Nepal.

This research will help farmers and stakeholders understand the benefits of GIs. A critical aspect of GI-capable goods is that they receive a premium price. *Sui generis* GI rights are community rights; therefore, it will be helpful to understand that GI and the entire society, including the organisations working for the protection, promotion, and research of GIs in Nepal, benefit from *sui generis* GI laws.

The University Grant Commission considers this research to be associated with the national priorities outlined in the Nepal government's 15th-year plan. This thesis contributes to agriculture and national resources. Therefore, it received the University Grant Commission Award 2080/81(PhD 80/81-H&S-05).

It will help facilitate discussion on contentious issues, such as protecting wines, spirits, and other unique GI-capable goods in Nepal.

1.6. Scope of the Study

The scope of this research is limited to the GIs of goods in Nepal but not to the wine and spirits. It analyses the existing laws of Nepal on GIs along with the TRIPS Agreement. The scope for research problem number which analyse the constitutional provisions of GIs, Statutes and Directives and the Industrial Property Bill, 2082 BS of Nepal. Also, it has taken the international agreement on GIs. It has taken the TRIPS agreement to compare the compatibility of Nepal's provisions on GIs with those of the TRIPS Agreement. Regarding the judicial decisions, only one case is available in the

Supreme Court, but it did not get a revision order from the court. The cases in the High Court regarding the issues of GIs from the 2067 BS have been the study area.

Further, the scope of the study for problem two compares the GI laws in the SAARC countries and the GI laws of the SAARC countries. The research covers the constitutional provisions of these countries on the protection of the IP, the SAARC Countries Status as Signatories to the Paris Agreement, Madrid Agreement, Lisbon Agreement, World Intellectual Property Organization, and TRIPS Agreement, legislation on *sui generis* GI Laws and Trademarks in SAARC Countries, Comparative Analysis of Geographical Indications Legal Provisions in India, Bangladesh, Pakistan and Sri Lanka, Number of the GIs of the Countries with Sui generis GIs Law and Global Innovation Index Ranking of SAARC Countries of 2023 AD and 2024 AD.

Likewise, the scope for the study for problems three, and four incorporates the 45 key informant's interviews a. to explore the legal mechanisms necessary for protecting goods with geographical indications in Nepal. b. identifies the prospects and problems of implementing GI laws in Nepal. The research is confined to the GI expert who can lend their knowledge to this research. Participants are chosen through purposive sampling from parliamentarians, academics, judges, Ministry of Department representatives, National Agriculture Research Centre representatives, and lawyers, all serving as key informants contributing their expertise and experience to the study. The areas of study for the problem three is the introduction of GIs capable goods, the identification of categories of GIs capable goods, their situations, their protection, the preferred ways of protection for GIs capable goods. The scope of the study for problem four is the prospects and problems of implementing GI laws in Nepal.

1.7. Methodology of the Study

This research employed both non-doctrinal and doctrinal methods. The doctrinal method is applied in research problem one to analyse the existing legal provisions of Nepal, and it compares the compatibility of Nepal's provisions on GIs with that of the TRIPS agreement. Research problem two is determining how GI-protected goods are protected in the SAARC countries using the doctrinal research method. Research

problem three uses the empirical method to explore the legal mechanism required to protect Nepal's GI-protected goods. Similarly, research problem four is related to identifying the prospects and problems of implementing GIs laws in Nepal using doctrinal and empirical methods. It has analysed doctrinal studies and the key informant's perspectives on the measures of GI protections, including prospects and problems.

1.7.1 Research Design

Regarding the source of data, the research uses both primary and secondary sources. Secondary sources, such as books, articles, theses, and reports, are used throughout this thesis. The virtual materials available at the TU online library are referenced, and the physical materials available at the following journals are taken to including Judicial Academy Law Journal, Nepal Bar Council Journal, Nepal Law Campus Journal, Kathmandu School of Law Review, and the National Agricultural Research Center Journal. The physical libraries of the Nepal Law Campus Library, Central Law Library in Jamal, Nepal Bar Association Library, Kathmandu School of Law Library, and the Ministry of Trade, Industry, Commerce and Supplies and TU Central Library have been visited.

In addition to the secondary source of data, the primary sources of authority are employed in research problem one to analyse the legal provisions of Nepal and compare the compatibility of Nepal's provisions on geographical indications with those of the TRIPS Agreement. The primary sources include the Constitution of Nepal, the Muluki Civil Code, 2074 BS (2017 AD), several acts including the Export and Import (Control) Act, 2013 BS (1957 AD), the Patent, Design and Trademark Act, 2022 BS (1965 AD), the Nepal Standard (Certification Mark) Act, 2037 BS (1980 AD), the Competition Promotion and Market Protection Act, 2063 BS (2007 AD), the Customs Act, 2064 BS (2006 AD), the Local Governance Operation Act, 2074 BS (2017 AD), the Consumer Protection Act, 2075 BS (2018 AD), the Right to Food and Food Sovereignty Act, 2075 BS (2018 AD), the Industrial Enterprises Act, 2076 BS (2020 AD), and the Nepal Treaty Act, 2047 BS (1990 AD); directives including the Collective Mark Registration-Related Directive 2067 BS (2010 AD), the Budget Speech for the Fiscal Year 2081/82 BS (2024/25 AD), policies including the Trade Policy 2072 BS (2015 AD), the National

Intellectual Property Policy 2073 BS (2017 AD), Industrial Property Bill, 2082 BS (2025 AD) the Sixteenth Plan (Fiscal Year 2081/82- 2085/86 BS (2024/25- 2028/2029 AD), the Nepal Trade Integration Strategy (NTIS) 2079/80 BS (2023 BS) – 2084/85 BS (2028 AD), and guidelines related to Trademark Work Conduction established in 2015 AD (2072 BS) published by the Law Book Management Board, Ministry of Law, Justice and Parliamentary Affairs, Government of Nepal, or available on the Official Portal of Nepal (Nepal. Gov.NP), have been referenced.

Furthermore, it encompasses regional legal frameworks on geographical indications from entities such as the European Union (EU), the Andean Community, the Association of Southeast Asian Nations (ASEAN), Mercosur, and SAARC. Likewise, it includes international legal frameworks on geographical indications along with the Paris Convention for the Protection of Industrial Property, 1883 AD, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods 1891 AD (Madrid Agreement), the Madrid Agreement Concerning the International Registration of Marks, 1891 AD, the Versailles Peace Treaty, 1919 AD, the International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951 AD, the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD (Lisbon), the Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications, 2015 AD, efforts to revise the multilateral system of protection post-1958, and the Draft Treaty on the Protection of Geographical Indications (1975), as well as the Trade-Related Aspects of Intellectual Property 1995 AD. The treaties' Official Websites, the World Intellectual Property Organization, the World Trade Organization, and other official websites for authentic documents have been referred to.

Additionally, the judicial decisions regarding geographical indications comprise cases decided by the High Court, including Tea Board of India v. Modern Tea Industries Pvt. Ltd, Advocate Anju Uprety Dhakal, on behalf of the Scotch Association v. Dhanusha Distillery Pvt. Ltd and others, and Scotch Whisky Association v. Highland Distillery Pvt. Ltd. Notably, there is a case in the Supreme Court involving Advocate Anju Uprety Dhakal on behalf of the Scotch Whisky Association of Scotland, UK against the Department of Industry, Tripureshwor and others but the revision to this case was not given by the court.

Research problem two has used primary sources of authority and secondary sources of data to examine how GI-capable goods are protected in the South Asian Association for Regional Cooperation countries. In addition to the international laws stated in research problem one, it incorporates the constitutions of Nepal, including the Government of Nepal Act 2004 BS, the Interim Government of Nepal Act 2007 BS, the Constitution of the Kingdom of Nepal 2015 BS, the Constitution of Nepal 2019 BS, the Constitution of the Kingdom of Nepal 2047 BS, and the Interim Constitution of Nepal 2063 BS. The constitutions of SAARC countries are also referenced, including the Constitution of the Islamic Republic of Afghanistan 2004, the Constitution of the People's Republic of Bangladesh 1972, Bhutan's Constitution of 2008, the Constitution of India, the Maldives Constitution of 2008, the Constitution of Pakistan, the Constitution of the Democratic Socialist Republic of Sri Lanka, the Law on Trademark Registrations 2009, the Trademark Act 2009, the Industrial Property Act of the Kingdom of Bhutan 2001, the Copyright Act of the Kingdom of Bhutan 2001, and the Copyright and Related Rights Act, along with the Trademark Registration Process of Maldives and the Trademark Ordinance 2001, The Trademarks Rules, 2004, Intellectual Property Act, 2003, No. 36 and Amended in Intellectual Property (Amendment) Act, No. 8 of 2022.

Research problems three and four use the primary sources of data collected from the key informants' interviews to explore the legal mechanisms necessary for protecting goods with geographical indications in Nepal. They also identify the prospects and problems of implementing GI laws in Nepal.

The planning of the key informant's interview is done as per the following steps:

- i. Criteria of the key informants: For the KII, the criteria for selecting the key informants are prepared. They are as follows:
 - a. Parliamentarian who knows GIs
 - b. Judge and retired Judge who worked on intellectual property
 - c. Government official

A representative from the Ministry of Industry, Commerce and Supplies

A representative from the Ministry of Culture, Tourism and Civil Aviation

A representative from the Ministry of Agriculture and Livestock Development

- d. Retired government officials who had worked on IP
 - e. Academic scholars and experts teaching in different universities (any five universities)
 - f. Writers of intellectual property
 - g. PhD completed students who have researched intellectual property.
 - h. Master and bachelor students who have done their thesis on the area of geographical indications
 - i. Book writers who have researched on intellectual property
 - j. Journal articles writers who have written articles on geographical indications
 - k. A columnist who has written articles on geographical indications
 - j. Lawyer who has worked on geographical indications
 - k. Representatives of the different organisations working on intellectual property
 - l. Representatives of the municipalities who know the GIs
 - m. Consumers (from the municipalities of the Kathmandu district)
 - n. Producers (from the municipalities of the Kathmandu district)
 - o. Retailers
 - p. Representatives from the collective trademark's owner of Nepal
 - q. Expert of the geographical indications
 - r. Organisations working on intellectual property
- ii. Chosen the cluster of the key informant: The key informant was determined based on the respective key informants' consent and their knowledge, experience, and in-depth understanding of the geographical indications. The key informants are selected from different clusters for the various perspectives. The cluster includes parliamentarians, professionals with expertise (High Court Judge, Patan), government officials, a representative from the Ministry, a

representative from the Department of Law, representatives from the Department of Industry, retired government officials, former government officers, academic scholars and experts from various universities, individuals who have completed PhDs in the field of Intellectual Property from the FoL, TU, authors of intellectual property law texts; organisations focused on intellectual property, researchers who have written theses on geographical indications, policymakers, lawyers experienced in GIs and collective marks, politicians, and those who have penned articles on GIs in various newspapers and journals.

- iii. Purposive sampling: The informants are selected from the purposive sampling. The key informant's checklist has been updated according to the research needs.
- iv. Listing of key informants: The key informants were segregated according to the two criteria. The key informants willing to participate, willing to give information, and present during data collection are included in the study. Those not willing to participate, not willing to give an answer, and absent during data collection are excluded from the research study.
- v. Chosen type of interview: The face-to-face interview was the priority. Therefore, 44 key informants gave face-to-face interviews, but one of the key informants was outside the country. Therefore, questions were sent first via email, and then, after receiving the answer, the summary recitation formality was done through messenger.
- vi. Developed an interview tool: The interview tool was developed. The very first step was the introduction, including the introduction of the researcher and the research, the objective of the research, the key question, and a summary of what the researcher understood, which was read to the informants.
- vii. Setting of the research: The convenient time of the informant was prior fixed, the interview was taken in a place where there was no disturbance, the probing questions were made so the informant was encouraged to answer.
- viii. The questions were pre-tested for the validity and accuracy of the data. Minor errors were corrected, and the questions were restructured and finalised.

- viii. Determined the documentation method: The note-taking method was determined for the documentation method of the research.
- ix. Interviewer: The researcher has taken the interview with all the key informants.
- x. Conducted key informant interview: The questionnaire developed was used for the key informant's interview. The informants were asked open-ended questions (Appendix 22).
- xi. Compiled and organised: The data collected was compiled and translated, and then narrative, discourse, and conversation were created.

1.7.2 Research Study Area

The research study area is limited to the geographical indications of the protection of goods in Nepal and examines the laws of Nepal along with the TRIPS Agreement. The research study area for research problem number one is the existing legal provision of Nepal on GIs, which analyse the constitutional provisions of GIs, Statutes and Directives and bill related to GI of Nepal. Also, it has taken the international agreement on GIs. It has taken the TRIPS agreement to compare the compatibility of Nepal's provisions on geographical indications with those of the TRIPS Agreement. Within TRIPS, it has also taken the GIs of the goods, not wine and spirit. Regarding the judicial decisions, only one case is available in the Supreme Court, but it did not get a revision order from the court. The cases in the High Court regarding the issues of GIs from the 2067 BS have been the study area.

Further, the research study area for problem two compares the GI laws in the SAARC countries and the GI laws of the SAARC countries. The research has seen the constitutional provisions of these countries on the protection of the IP, the SAARC Countries Status as Signatories to the Paris Agreement, Madrid Agreement, Lisbon Agreement, World Intellectual Property Organization, and TRIPS Agreement, legislation on Sui generis Geographical Indications Laws and Trademarks in SAARC Countries, Comparative Analysis of Geographical Indications Legal Provisions in India, Bangladesh, Pakistan and Sri Lanka, Number of the GIs of the Countries with

sui generis GIs Law and Global Innovation Index Ranking of SAARC Countries of 2023 AD and 2024 AD.

Likewise, the research study area for research problems three, and four incorporates the 45 key informant's interviews a. to explore the legal mechanisms necessary for protecting goods with geographical indications in Nepal. b. identifies the prospects and problems of implementing GI laws in Nepal. The research study is confined to the GI expert who can lend their knowledge to this research. Participants are chosen through purposive sampling from parliamentarians, academics, judges, Ministry of Department representatives, National Agriculture Research Centre representatives, and lawyers, all serving as key informants contributing their expertise and experience to the study.

The study area for research problem three is the introduction of geographical indications capable goods, the identification of categories of geographical indications capable goods, the situation of geographical indications capable Goods in Nepal, the protection of geographical indications capable goods, and the preferred ways of protection for geographical indications capable goods. The research area for problem four concerns the prospects and problems of implementing GI laws in Nepal.

1.7.3 Data Collection and Procedure

For research problems 1 and 2, the data were collected using content analysis of the SAARC countries' constitutional provisions, laws, and relations with the Paris Convention, Madrid Agreement, Lisbon Agreement, WIPO, and TRIPS Agreement.

Regarding the legal protection mechanism required to protect Nepal's GI-protected goods, KII tools have been employed to collect the qualitative data. The KII questions are structured. The questionnaire is divided into a consent signature of the questions forms. The structured questions have helped to address the research problems stated. Similarly, the unstructured questions helped to get the experiences, opinions, and perspectives of the experts and provided lots of descriptions of the domains of GIs.

The following are the key informants of the KII: (For more details, see Appendix 17).

Table 1: List of the Key Informants of the Empirical Research.

SN	Designations	Ways of Contribution to GIs
01	Parliamentarian	He has worked on the area of the GIs and has given expert opinions on GIs in China.
02	Former Secretary Nepal Government	He has worked on IP as a secretary during his service period.
03	Judge High Court Patan, Bench Number 9	He has worked on IP also case file by her in Supreme Court: Advocate Anju Uprety Dhakal, on behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others, Case No. 073-RI-2437, 2079/12/24 (Nepal).
04	Former Auditor General and Former Finance Secretary in the Government of Nepal	He has played a role in signing the WIPO Agreement and one of the delegates from Nepal to WIPO and TRIPS.
05	Senior Scientist, Chief of the National Agriculture Genetic Research Center, National Gene Bank	He has written articles on GIs Mandarin Orange Landraces: Diversity, Conservation and Potential for Geographical Indication, ⁹⁸ and much more research. ⁹⁹
06	Advocate on the case of Basmati Case	He has contributed on the filling process of Basmati as a GI.
07	Joint Secretary	She is from the Ministry of Law, Justice and Parliamentary Affairs, Singha Darbar, Kathmandu.
08	President	He is the president of the Federation of Nepal Cottage and Small Industry.
09	Executive Chairman of SAWTEE	He has contributed to the publication of the GIs published by South Asia Watch on Trade, Economics and Environment.
10	Former Director General of the Department of Industry	He is the founder of the Intellectual Property Protection Society.

⁹⁸ Santosh Sharma et al., Case Study of Geographical Indication of Mandarin Orange in Dailekh District, MANDARIN ORANGE: HISTORY, SCIENCE AND TECHNOLOGY IN NEPAL: A HISTORICAL SOCIO-CULTURAL AND TECHNICAL COMPENDIUM 139, 159 (Shanta Karki ed., 2024).

⁹⁹ GOVERNMENT OF NEPAL, AGRICULTURAL RESEARCH COUNCIL NATIONAL AGRICULTURE GENETIC RESOURCE CENTRE, ANNUAL REPORT (2023/24) 97 (Bal Krishna Joshi et al. eds., 2024).

SN	Designations	Ways of Contribution to GIs
11	“Principal, Kathmandu School of Law”	He has done PhD on the topic, ‘Role and Impacts of WTO for the Economic Development of Least Developed Countries in Particular Nepal: A Legal Perspective’ (2017).
12	President	He is the president of Intellectual Property Protection Society of Nepal (IPPSON).
13	Former President, Former LDO, former Assistant Professor	He was the former president of Intellectual Property Protection Society of Nepal (IPPSON).
14	Assistant Professor, Kathmandu School of Law	She is teaching intellectual property Law for LLM.
15	Assistant Professor, Kathmandu University School of Law	She is teaching intellectual property Law for BBM LLB.
16	Course Contract Teacher, Nepal Law Campus	He is teaching intellectual property Law for BA LLB.
17	Professor, Chakrabarti HaBi Education Academy (College of Law)	He is teaching intellectual property Law for LLM.
18	Assistant Lecturer, Khwopa College of Law	She has done master’s thesis on GI entitled: Geographical Indication Protection in Nepal for Local Alcoholic Beverages: An Analysis, Published article on the topic of <i>Anusilan</i> , Bhaktapur Bar Journal 2081on the topic Protection of Wine and Spirit in Context of Nepal.
19	Advocate	He has worked on the area of the geographical indications.
20	Advocate	He has pleaded in the case of Advocated the case of Anju Uprety Dhakal, on behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others, Case No. 073-RI-2437, (2079/12/24) (Nepal).

SN	Designations	Ways of Contribution to GIs
21	Former Minister for Social Development of Koshi Province	She is an activist for the branding of the alcoholic beverage of Nepal in the international market.
22	Advocate and faculty of Intellectual Property	He is teaching the subject intellectual property in Kathmandu School of Law for BA LLB.
23	Food and Agriculture Organisation, Operation Assistant	She has completed her thesis on the area of the geographical indication title entitled, 'Prospects of Geographical Indications in Nepal.'
24	Author & Assistant Professor at National Law College	He has authored the books on intellectual property, entitled, Intellectual Property Law, Society and Economic Development. ¹⁰⁰
25	Advocate	She is the corporate lawyer, practicing the intellectual property.
26	Advocate	She is an advocate of the collective trademark and practicing lawyer.
27	Advocate	He is a corporate lawyer working around the intellectual property.
28	Representative of the Bhaktapur Juju Dhau: Byabasyi Sangh	The former teacher of the intellectual property law and one of the members of Bhaktapur Juju Dhau: Byabasyi Sangh.
29	Researcher, PhD from the Faculty of Law, Tribhuvan University	He has completed his PhD from Faculty of Law, Tribhuvan University on the topic, "Legal Analysis of the Implication of Intellectual Property Rights Regime for the Protection of Biogenetic Resources: A Case Study of Nepal (2016)."
30	Researcher, PhD from the Faculty of Law, Tribhuvan University	She has completed her PhD from Faculty of Law, TU on the topic, "TRIPS Agreement and Its Implementation in Nepal (2022)."
31	Researcher	She has written article on the topic, Battle over Basmati, Rising Nepal, July 29, 2022, available at

¹⁰⁰ RUDRA SHARMA AND YUDDHA OLI, INTELLECTUAL PROPERTY LAW, SOCIETY AND ECONOMIC DEVELOPMENT (Yuba Bikashko Lagi Sambaidanik Kendra 2022).

SN	Designations	Ways of Contribution to GIs
		https://risingnepaldaily.com/news/14633 also done her thesis on the area of GI.
32	Researcher	She has done her research on the topic, “Situation of GIs and Legal Frameworks.”
33	Researcher	She has done her research on the topic, “Protection of Mad Honey through GIs in Nepal.”
34	Researcher	She has done her research on the topic, “Geographical Indications: Comparison with TRIPS Agreement.”
35	Researcher	She has done research on the topic of ‘Assessment of GI Laws in the Context of Nepal.’
36	Deputy Attorney General, Office of Attorney General	He has done his research on the area of the geographical indication. ¹⁰¹
37	Deputy Secretary, Legal Department, Department of Industry	He sees all the cases of the Department of Industry related with intellectual property.
38	Section Officer, Ministry of Law, Justice and Parliamentary Affairs, Singha Darbar, Kathmandu	He is working on the laws of intellectual property.
39	Advocate	She has represented the case by herself, the case Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quatermile 2 v. Binod Maharjan on behalf of Scot & Scot Pvt. Ltd (Nepal) Decision No. 74 (Department of Industry).
40	Advocate	He has represented the case by himself, the case Advocate Ramchandra Subedi, on behalf of Apex Law Chamber authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions, Decision No. 70 (Department of Industry).

¹⁰¹ Amit Uprety, *Need of the Sui generis Mode of Protection of Geographical Indication in Nepal* (LL.B. thesis, Kathmandu Sch. of L. 2011) (unpublished).

SN	Designations	Ways of Contribution to GIs
41	Apex Law Chamber Associates Advocate	She has written article on Geographical Indications, available at https://thehimalayantimes.com/opinion/geographical-indication-with-reference-to-basmati-rice , published on December 24, 2020, in The Himalayan Times, on the topic Geographical Indication: Concerning Basmati Rice
42.	Food and Agriculture Organization, Mountain Products Expert	He has written article on GIs Geographical Indication and Identity of Nepali Products, available at https://myrepublica.nagariknetwork.com/news/geographical-indication-and-identity-of-nepali-products , accessed on January 7 25 published on November 18, 2022, Republica
43	Vice President of Intellectual Property Protection Society and Advocate	He has worked around intellectual property.
44	Technical Officer of National Agriculture Research Center	He has done a study of Gulmeli Gud (a kind of jaggery from the Julmi district of Nepal) to incorporate it as GIs, also written an article on the topic Geographical Indications on Agriculture Goods.
45	Past President of the Intellectual Property Protection Society, Former Secretary of Nepal Government	He has worked on and working on the area of intellectual protection.

The researcher has contributed to the area of GIs in various ways. The purposive sampling is used to find the key informants.

The data has been collected through various published and unpublished materials. For the secondary sources of data, the physical libraries like the Kathmandu School of Law Library, Central Law Library, and Nepal Law Campus Library have covered the response to the inquiry. However, the study was based on secondary data. For this purpose, the relevant literature on geographical indication has been collected and cited

in the proper places of the research. Similarly, secondary data was collected through the WIPO website and other related Conventions for the Protection of Intellectual Property. For this purpose, different libraries, Central Electronic Library, Central Law Library, Jamal, Nepal Bar Association Library, Singh Durbar, Nepal Law Campus Library, Library of Federation of Nepalese Chambers of Commerce and Industry, Library of Ministry of Trade, Industry, Commerce and Supplies, have been retrieved and checked.

1.7.4. Data Analysis Method

The data analysis for research problem one, is done through the tables comparing the Paris Convention, Madrid Agreement, Lisbon Agreement, and TRIPS Agreement for the Protection of GIs. A comparative study of these agreements is included, along with an analysis of judicial decisions on geographical indications, encompassing cases decided by the High Court and the Supreme Court. Furthermore, the compatibility of Nepal's GIs with those of the TRIPS Agreement is assessed, and a comparison of Nepali GIs with the TRIPS Agreement is provided. A table also presents data demonstrating Nepal's ranking in the Global Innovation Index from 2020 to 2024 AD. Moreover, a comparison of the TRIPS provisions on GIs with the National Intellectual Property Policy, 2074 BS, is conducted.

The data analysis for problem two is presented in the table, which incorporates provisions for Intellectual Property in the Constitution of SAARC Countries, legislation on *sui generis* GI laws and trademarks in SAARC Countries, a comparative analysis of geographical indications legal provisions in India, Bangladesh, Pakistan, and Sri Lanka; the implementation aspect of GIs in SAARC Countries (registering *sui generis* GIs, the number of GIs in countries with *sui generis* GI laws, the Global Innovation Index rankings of SAARC Countries for 2023 and 2024), along with an analysis of the members of WIPO's Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications.

For research problems three and four, data collected from KII were cleaned, edited and translated. The theme was analysed, and finally, a thematic analysis was done. On the basis of the theme identified, thematic analysis is shown in the tabular representation

(Table 21: Details and Coding of the Key Informants of the Research, Table 22: Data Collection Medium of the Key Informants, Table 23: Informants as per the Provinces and the Available GIs in their Province, Table 24: Inclusion of Categories in GI-protected Goods, Table 25: Services as the Categories in GIs Capable Goods of GIs Capable Goods in Nepal, Table 26: Situations of GIs Capable Goods in Nepal, Table 27: Protection of GI Capable Goods, Table 28: Preferred Ways of Protection of GIs, Table 29: Prospects of Implementing Geographical Indications Laws in Nepal, Table 30: Problems of Implementing Geographical Indications Laws in Nepal), bar chart representation (Bar Chart 1: Informants as per the Provinces and the Available GIs in their Province, Bar Chart 2: Services as the Categories in GIs Capable Goods, Bar Chart 3: Situations of GIs Capable Goods in Nepal, Bar Chart 4: Preferred Ways of Protection of GIs, Bar Chart 5: Prospects of Implementing Geographical Indications Laws in Nepal, Bar Chart 6: Problems of Implementing Geographical Indications Laws in Nepal), and pie chart representation (Pie Chart 1: Informants as per the Provinces and the Available GIs in their Province, Pie Chart 2: Services as the Categories in GIs Capable Goods, Pie Chart 3: Situations of GIs Capable Goods in Nepal, Pie Chart 4: Preferred Ways of Protection of GIs, Pie Chart 5: Prospects of Implementing Geographical Indications Laws in Nepal, Pie Chart 6: Problems of Implementing Geographical Indications Laws in Nepal).

1.7.5. Citation Style

Research Report Writing Guideline¹⁰² is used for the general rule of citation. The Bluebook: A Uniform System of Citation (Twenty-First Edition) has been used for footnote citations. At the same time, the Publication Manual of the American Psychological Association (APA—7th edition) has been followed in the reference section, ensuring uniformity and consistency throughout the research work.

1.8. Review of Literature

The following literature review presents a comprehensive analysis of 75 literatures, which include two reports, five theses, 16 books and 52 journal articles. Following the

¹⁰² FACULTY OF LAW, OFFICE OF THE DEAN, TRIBHUVAN UNIVERSITY, RESEARCH REPORT WRITING GUIDELINE 4 (Tribhuvan University 2080).

guidelines set by the Faculty of Law at Tribhuvan University,¹⁰³ the literature review is written in a succinct narrative of 10 sentences. The review introduces selected literature, states how the resources contribute to the research and identifies the gaps within the literature.

1.8.1 Research Report, PhD Thesis

The two reports are taken for the literature review, and both are government reports. Similarly, the four dissertations are reviewed for this part, which are discussed below in the given order.

1. “Report of the Task Force Formed to Make More Effective Work Related to Industrial Property, 2077”¹⁰⁴

The task force report, prepared by the Department of Industry, was formed to make more effective work related to industrial property in 2077. The report is critical to knowing policies, laws, and institutional situations associated with Nepal's administration and promotion of industrial property. It is also helpful to realise the international laws and the position of Nepal in applying them. The report suggests enacting laws to provide GIs for the goods, linking them to their geographic identity. The current directive on collective mark registration, 2067, should be amended to simplify the registration process for collective marks. Furthermore, it indicates no explicit provision for collective mark registration in Nepal under the Patent, Design and Trademark Act 2022¹⁰⁵.

Furthermore, the Collective Mark Directives also require an explicit provision. Therefore, it is essential to establish an explicit provision for collective marks, and the laws regarding GIs must be drafted. The gap in the report prepared by the government is that it could also include data on the number of collective marks registered over the past decade and data on Nepal's GI products, and it should suggest the best ways to protect Nepal's GIs.

¹⁰³ *Id.*

¹⁰⁴ Binda Acharya et al., *Report of the Task Force formed to make more Effective Work Related to Industrial Property, 2077*, DEPARTMENT OF INDUSTRY (2020).

¹⁰⁵ Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur “Juju Dhau” and Greece “Greek Yogurt”* KSLR 60, 73 (2022).

2. Annual Report (2080/81 (2023/24))¹⁰⁶

The National Agriculture Genetic Resource Center (NAGRC) has published its annual report highlighting its work. The report states that NAGRC has done significant research on *Gulmeli Gud* (Jaggery from Gulmi, a district in Nepal) and that, in collaboration with the Department of Industry, it has organised a program on Gulmi, the famous place for *Gulmeli Gud*.

The report is critical as it outlines the challenges of protecting local AGRs and their products through geographical indications.¹⁰⁷ The report only covers part of the agricultural goods, especially one product, *Gulmeli Gud*. Thus, the researcher can use only one aspect of the report.

3. Trademarks and Geographical Indications: Conflict or Coexistence?¹⁰⁸

The thesis entitled “Trademarks and Geographical Indications: Conflict or Coexistence” is submitted by Melissa A. Loucks of the University of Western Ontario, London, for the partial fulfilment of her master’s degree in 2012. It questions whether coexistence between the devices in the TRIPS Agreement is possible. Are the concepts of trademarks and geographical indications related? The thesis finds trademarks and GI are neither "equal" nor "identical" or interchangeable. However, coexistence is possible through legislation adopting a harmonious approach to protect both.

Countries that protect GIs under sui generis legislation, such as the EC *Regulation*, allow subsequent GIs to take precedence over prior trademarks. Under certain circumstances, the Regulation foresees the coexistence of trademarks and geographical indications.

This thesis helps us understand the difference between GIs and trademarks. However, Nepal has protected its goods only through trademarks and has committed to drafting laws in the IPR policy. The paper is stuck on coexistence;

¹⁰⁶ Government of Nepal, Nepal Agricultural Research Council National Agriculture Genetic Resource Centre (Gene bank) Kumaltar, Lalitpur, Nepal, *Annual Report (2023/24)* (B. K. Josh et al. eds., 2024).

¹⁰⁷ *Id.* at 97.

¹⁰⁸ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?* (2012) (Ph.D. dissertation, The University of Western Ontario) (on file with Sodhganga Library).

however, some countries like Nepal should not bother about coexistence as it has only one way of protection.

4. “The Why of Geographical Indications: The Transformation of the Link between the Product and its Place of Origin in Europe”¹⁰⁹

The doctoral thesis, "The Why of Geographical Indications: The Transformation of the Link between the Product and its Place of Origin in Europe" was submitted by Adrea Zappalaglio to the Somerville College University of Oxford in 2018. The thesis is beneficial to understanding the history of *terroir*. This IPR could successfully protect the cultural heritage of which the product is a tangible expression. The gap in the thesis is it has done a remarkable job of finding the historical background of the *terroir*; however, it is the starting point for further research in the field of *sui generis* GI rules since the conclusions that are in the thesis raised many more questions 'like what's next of *terroir*?' which should be further researched. Finally, the thesis concludes by suggesting some policy prescriptions that should achieve the crucial goal of strengthening the original function of GIs. This can be taken as the starting point for further research. It has proposed (1) whenever possible, the historical element should be supported by *terroir* and vice versa; (2) the mere commercial reputation, based solely on the perception of consumers, is very weak and should not be considered a self-sufficient linking factor, able on its own to justify the granting of a GI and (3) the standards applied by the different domestic competent authorities to examine the applications must be further harmonised because, until the present time, they are still different.

5. “Law Relating to Trademark and Geographical Indications in Protection of Consumers Rights in India Issues and Challenges”¹¹⁰

Meenakshi Sahiya submitted the PhD thesis entitled “Law Relating to Trademark and Geographical Indication in Protection of Consumers Rights in India Issues

¹⁰⁹ Andrea Zappalaglio, The Why of Geographical Indications: The Transformation of the Link Between the Product and its Place of Origin in Europe, (2018) (PhD dissertation, University of Oxford) (on file with University of Oxford).

¹¹⁰ Meenakshi Dahiya, Law Relating to Trademark and Geographical Indications in Protection of Consumers Rights in India Issues and Challenges, (2018) (PhD dissertation, Maharshi Dayanand University) (on file with Sodhganga Library).

and Challenges” to Maharishi Dayanand University in 2020. Among many other objectives, the important one related to my paper is the consumer protection analysis through TM and GIs. This paper differentiates between TM and GI, one of my thesis chapters. The researcher assesses whether TM and GI can co-exist or if they will remain in conflict. This is necessary because if both devices cannot co-exist, then the TRIPS agreement is a mistake on the assumption of coexistence of these two. Although the paper is beneficial, it has just stated the law relating to trademark and GI protection of consumer rights in India. India has regulations regarding the GI; however, the situation in Nepal is different. There are no GI laws, and the registered collective mark in Nepal is just 17.

6. Legal Protection of Geographical Indications in India: An Analysis¹¹¹

This PhD thesis, 'Legal Protection of Geographical Indications in India: An Analysis', is submitted by Sivakumar in to partially fulfil the Doctor of Philosophy in Law under the supervision of Prof Dr N. Balu in 2012, University of Madras. Amongst various objectives of the thesis, tracing the historical background behind enacting the Geographical Indication of Goods (Registration and Protection) Act of 1999 is more relevant to my paper. As the research in the thesis has been done on the Nepalese context, the study of the paper helps me relate the Indian context to the Nepalese and thus pinpoint the legislative significance to all concerned in Nepal.

The thesis contends that, before the GI laws, the judiciary applied the principle of passing off to protect GI. The thesis explains the Indian case laws, which are reasons for the Parliament to enact separate legislation for Geographical Indications. The Indian judiciary has played a significant role, particularly the Pre-GI, in protecting GIs, applying the common law principle of passing off as suited under Indian conditions in cases of GIs. The research gap in the thesis is that updated research can be done in the future, as the thesis was completed in 2012. Therefore, there have been many changes in law, and GI registration has

¹¹¹ Sivakumar. S, Legal Protection of Geographical Indications in India: An Analysis, (2012) (Ph.D. dissertation, University of Madras) (on file with Sodhganga Library).

also increased in the present context. In my paper, I will be doing a case study of Nepal.

7. “Law of Trademark and Geographical in India Issues and Challenges”¹¹²

The thesis entitled, “Law of Trademark and Geographical in India Issues and Challenges” is written by Jyoti Rani and submitted to M. D. University, Department of Law, Rohtak for the degree of Doctor of Philosophy under the supervision of Prof. A.S Dalal in 2017. The thesis helps us understand many facets of trademark and GI. For my paper, chapter 5 is beneficial. It has analysed the relationship (difference and relationship) between TM and GI and, most importantly, the sources of conflict and confusion between GI and TM. The thesis helps to understand the relationship between coexistence and conflict between trademarks and geographical indications; more importantly, the conflict between TM and GI has been discussed. The gap in the paper is that it is more theoretical than the textbook. The paper could have given a comparative study with other countries.

1.8.2 Books

In reviewing the books for this thesis, the researcher did not find sufficient texts published after 2020. Most importantly, the books written before 2020 have extensively incorporated the historical development of GIs. Consequently, the researcher examined 16 essential and available books for the review.

1. Relocating the Law of Geographical Indications¹¹³

Dev Gangjee wrote the book "Relocating the Law of Geographical Indications," which was published by Cambridge University Press in 2012. The author explores geographical indications' conceptual, institutional, and epistemic understandings and related issues such as controversies, interests, and contributions.

¹¹² Jyoti Rani, Law of Trademark and Geographical in India Issues and Challenges, (2017) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library).

¹¹³ DEV GANGJEE D., RELOCATING THE LAW OF GEOGRAPHICAL INDICATIONS (Cambridge Univ. Press 2012).

The book proved very helpful to the research in conceptualising the understanding of GI terminologies and overlapping regimes of protection in GIs. Primarily through the terminology, the chronological development of GIs from the Paris Convention to the TRIPS Agreement has been given. The book's gap is that it is written from a theoretical point of view; more coverage should have been given to the early history of the laws of Indication of Geographic Origin and their development in modern times. The book does not include the 'Draft Treaty on the Protection of Geographical Indications 1975 AD' as the draft act did not come into practice but played a role in developing the TRIPS agreement.

2. The Protection of Geographical Indications¹¹⁴

The book, written by Michael Blakeney and published by Elgar Intellectual Property Law and Practice, is about the laws protecting geographical indications and their practices in the UK.

The book reviews historical contexts, including the predecessors to TRIPS, and assesses international geographical indication regimes and other GIs laws in Europe. Understanding the historical development of GIs is an area of concern for the research, which is helpful, although the book was written in 2014 AD. Generally, it is known that there are four contributory international laws on GIs, including the Paris Convention, the Madrid Agreement, the Lisbon Agreement, and the TRIPS Agreement. The book has incorporated the International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951 AD. Also, before the Lisbon Agreement, the Stresa Convention proposed a system for the protection of designations for cheese and appellations of origin contained in an annexe to the convention that came into force to develop GIs, providing for the free movement of goods. The book has incorporated much more about historical development, which is helpful for researchers. Nevertheless, the gaps in the literature are that the book has yet to be written in the chronological order of the historical development regarding international instruments. Many new developments have been observed in the

¹¹⁴ MICHAEL BLAKENEY, THE PROTECTION OF GEOGRAPHICAL INDICATION, LAW AND PRACTICE (Elgar Intellectual Property Law and Practice 2014).

GIs, like the concept of TRIPS Plus, which is not incorporated in the book. The most important thing for developing GIs is the Versailles Peace Treaty, 1919 AD, which is missing from the book. The Treaty addressed intellectual property matters by restoring German-owned IP rights in Allied and Associated Powers and regulating GIs.¹¹⁵

3. Geographical Indications in the Free Trade Agreements Signed by Asian Countries¹¹⁶

K D Raju and Ananthu S Hari wrote the book Geographical Indications in the Free Trade Agreements Signed by Asian Countries in 2023 BS. The book incorporates the historical development of GIs in South Asian Countries.

The most important part of the GIs in its inclusion of the chronological development that starts with the Paris Convention for the Protection of Industrial Property, 1883 AD, Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891 AD, Madrid Agreement Concerning the International Registration of Mark, 1891 AD, The Versailles Peace Treaty, 1919 AD, International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951AD, The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD, Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications, 2015 AD, Draft Treaty on the Protection of Geographical Indications 1975 AD and Trade-Related Aspects of Intellectual Property, 1994 AD. The Draft Treaty on the Protection of Geographical Indications 1975 AD is also essential and included here. Most important is its inclusion in the North and South debate on GIs' provision for protecting GIs in Article 22 of the TRIPS agreement. The literature has focused more on the Indian part of GIs; however, the title demonstrates that the paper connotes the free trade agreement signed by Asian countries.

¹¹⁵ TREATY OF PEACE WITH GERMANY (TREATY OF VERSAILLES), art. 274 (1919).

¹¹⁶ ANANTHU S HARU & RAJU K.D, GEOGRAPHICAL INDICATIONS IN THE FREE TRADE AGREEMENTS SIGNED BY ASIAN COUNTRIES (Cambridge Scholar Publishing 2024).

4. “Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific”¹¹⁷

The book “Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific,” edited by Irene Calboli and Wee Loon Ng-Loy and published by Cambridge University Press, focuses on the difficulties faced by some of the countries in the Asia-Pacific Region in protecting and dealing with GI despite being predominantly agriculturally and culturally rich.

It reflects on how Sri Lankan cinnamon and tea producers are seriously concerned about the lack of local GI registration, what impacts Indonesia's decentralised governance has on the protection of Local GI and highlights various intervening issues and effects of GI protection in the Asia-Pacific region. It contends that because GI plays a crucial role in rural development, local producers must be encouraged to use it, and that the existing legal framework must complement a coherent national policy on GI. The book has fulfilled the research inquiry. Although written from the Sri Lankan perspective, the book helps get insight into the experience of Ceylon Tea and Ceylon Cinnamon. Like Nepal, the current regime for the protection of GIs in Sri Lanka is sufficient to obtain the necessary legal protection locally, not internationally.

5. Geographical Indications: A Search for Identity¹¹⁸

Latha R Nair and Rajendra Kumar wrote the book *Geographical Indications: A Search for Identity*, published by Lexis Nexis Butterworths. This book is useful for understanding GI, even for readers unfamiliar with legal texts.

It distinguishes between GI and trademark. The book further states that GI is very relevant to boosting the economy of any country, especially a developing one. As Nepal is also a developing country that relies heavily on agriculture, there is undoubtedly scope for genuine products, indicating GI, in their quest for quality, is being deceived. Another interesting issue about the book is how Civil and

¹¹⁷ IRENE CALBOLI & NG-LOY WEE LOON, *GEOGRAPHICAL INDICATIONS AT THE CROSSROADS OF TRADE AND DEVELOPMENT IN ASIA* (Naazima Kamardeen 2017).

¹¹⁸ LATHA R. NAIR & RAJENDRA KUMAR, *GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY* (LexisNexis Butterworths 2005).

Common Law systems treat GI protection differently. Most EU countries, including France and Russia, follow civil law, whereas the USA, the UK, India, Canada, Australia, and New Zealand follow common law. Although the book was written in 2004, and the content in chapter 8 must be updated, it is essential and can be referred to as the difference between civil and common law. The researcher intended to do research from a Nepali perspective, which is not inclined to civil or common law but has a mixed system heavily inclined towards the Hindu Legal System.

6. Extending the Protection of Geographical Indication Case Studies of Agricultural Products in Africa¹¹⁹

The book, 'Extending the Protection of Geographical Indication Case Studies of Agricultural Products in Africa,' was edited by Michael Blakeney, Thierry Coulet, Getachew Mengistie, Marcelin Tonye Mahop in 2012. There are parts 1 and 2 in the book. Part 1 is about the policy context, and Part 2 is about the case studies. More than the case studies, this research requires the policy context. In part 1, there are six articles. Chapter 5 is about assessing the economic impact of GI protection. Written by Thierry Coulet, it has potential positive and negative effects on GI.

The book helps us understand GI protection's potential benefits and losses. A significant part of this study will be the problem and prospects of GI benefits, which this book has addressed. The research gaps the researcher finds in the book is that it has positive and negative effects on GI protection. However, it could have given a comparative study of both and should have given the conclusion.

7. Guide to Geographical Indications: Linking Products and their Origins¹²⁰

“Guide to Geographical Indications: Linking Products and Their Origins” is a book by Daniele Giovannucci, Tim Josling, William Kerr, Bernard O'Connor,

¹¹⁹ MICHAEL BLAKENEY ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* (Routledge 2017).

¹²⁰ DANIELE GIOVANNUCCI ET AL., *GUIDE TO GEOGRAPHICAL INDICATIONS: LINKING PRODUCTS AND THEIR ORIGINS* (International Trade Centre 2009).

and May T. Yeung. It was published by the International Trade Centre in 2009. The book has eight chapters and eight similar case studies.

The book states the success factors that influence GIs have four components. The first component is the solid organisational and institutional structures to sustain the market and monitor the GIs. The second component is equitable participation in cost benefits and the control and decision of producers and enterprises in GI regions. The third component is the strong market partners committed to promoting and commercialising over the long term, and the fourth component is about adequate legal protection, including a domestic solid GIs system. Also, the book has given the key points to consider when undertaking GIs, including assessment and strategic planning as the first steps towards GIs. The book's gap is that it has only included the case study of countries with GI legislation. In contrast, this thesis concerns the problems and prospects of GIs in Nepal, which only has the collective mark directive, not legislation on GIs.

8. “The Importance of Place: Geographical Indications as a Tool for Local and Regional Development”¹²¹

The book "The Importance of Place: Geographical Indications as a Tool for Local and Regional Development" was edited by William Van Caenegem and Jen Cleary and published by Springer in 2017. The book is an accumulation of articles that are the outcome of their research on GI's role, potential, and place in the Australian agricultural context.

Chapter seven, entitled 'From Geographical Indications to Collective Place Branding in France and Morocco', benefits the research. The chapter has brought the status and enabling conditions of GI in Europe and their challenges regarding developing countries, then collectively placed the brand distinct from GI and discussed their importance as a territorial developmental strategy. Finally, the result of two place branding cases and their result contrasting the differences between collective place branding and GIs have been presented. Further, the north-south debate and the consequences of the Free Trade Agreements between

¹²¹ WILLIAM VAN CAENEKEN & JEN CLEARY, THE IMPORTANCE OF PLACE: GEOGRAPHICAL INDICATIONS AS A TOOL FOR LOCAL AND REGIONAL DEVELOPMENT (Springer 2017).

the EU and the US to South Korea is significant. The researcher found the US and EU debate very important in the study. Moreover, since the area of the book is different from the research, the researcher is focusing on a Nepali context that needs more specific legislation on GIs rather than thinking of individual free trade agreements between the US and the EU.

9. “The Effects of Protecting Geographical Ways and Means of their Evaluation”¹²²

"The Effects of Protecting Geographical Ways and Means of their Evaluation" is a book written by Giovanni Belletti, Andrea Marescotti, Marguerite Paus, Sophie Reviron, Angela Deppeler, Hansueli Stamm, Erik Thevenod—Mottet, and edited by the Swiss Federal Institute of Intellectual Property.

This book tries to evaluate the effects of the protection of GI. As far as we know, there are no studies on the registration of GI in Nepal. However, a common perception is that 'GI registration gives many benefits; especially it guarantees benefits for rural development'. This book states that GI registration guarantees neither fair value distribution to producers nor positive environmental and social changes. Thus, the intended research paper has studied the potential mechanism for protecting GI in Nepal and its prospects and problems.

10. “Developing Geographical Indications in the South: The Southern African Experience”¹²³

The book, “Developing Geographical Indications in the South: The Southern African Experience” was edited by Cerkia Bramley, Estelle Bienabe, and Johann Kirsten and was published by Springer in 2013.

Chapter two reflects on considerations in designing an appropriate institutional framework for protecting GI in Southern countries. The comparison is made

¹²² GIOVANNI BELLETTI ET AL., THE EFFECTS OF PROTECTING GEOGRAPHICAL WAYS AND MEANS OF THEIR EVALUATION (2d ed. Swiss Federal Institute of Intellectual Property 2011).

¹²³ CERKIA BRAMLEY ET AL., DEVELOPING GEOGRAPHICAL INDICATIONS IN THE SOUTH THE SOUTHERN AFRICAN EXPERIENCE (Springer 2013).

between the EU sui generis framework and GI protection under US trademark laws. The discourse at the international level is to protect GI either from sui generis or trademarks. The paper showed the merits of developing an institutional framework for protecting GI in southern Africa and evaluating the need for a sui generis legal system. It is rightly concluded that local communities successfully preserve resources and differentiate production through sui generis GI protection. Nevertheless, like South Africa, it needs the sui generis GI protection. With the help of this book, the researcher has done further research on the need for sui generis legal protection of GI in Nepal. The paper also missed other ways of protecting GI as a collective mark, laws focusing on the business and different ways of protection.

11. **“The Transformation of EU Geographical Indications Law: The Present, Past and Future of the Origin Link”¹²⁴**

The book entitled, “The Transformation of EU Geographical Indications Law: The Present, Past and Future of the Origin Link,” is written by Andrea Zappalaglio, in 2021AD.

In this book, GIs are investigated from three perspectives: the history of the Protection of Indications of Geographical Origin, the empirical analysis of the trends emerging from the practice of GIs of the EU and the policy debates on the general goals of the EU standard agricultural policy. It has studied the EU laws on GIs from the past to the present and the future of GIs. The book analyses the evolving nature of EU sui generis GIs by focusing on their key element, the origin link. It concludes that the history of the product in the broad sense has become a significant factor in proving the link between a good and a specific place. The researcher has taken the understanding of the terroir concept part for the thesis. Thus, the origin link, which means the link between the product and place, is essential from the origin link. The book includes a significant part of the debate on sui generis GIs laws, focusing on the French terror issue. The contextual study completes with the US debate on GIs. In the present context, the two ways of

¹²⁴ ANDREA ZAPPALAGLIO, THE TRANSFORMATION OF EU GEOGRAPHICAL INDICATIONS LAW: THE PRESENT, PAST AND FUTURE OF THE ORIGIN LINK (Routledge 2021).

protecting GIs are sui generis and trademark protection, especially collective mark protection, which are promising in the GIs arena.

12. Geographical Indication Protection in India the Evolving Paradigm¹²⁵

The book titled; “Geographical Indication Protection in India: The Evolving Paradigm,” edited by Niharika Sahoo Bhattacharya, comprises nine articles. The article authored by Surya Mani Tripathi and Sravanti Dash titled Managing Geographical Indications: Challenges and Opportunities is very relevant to this thesis.

The book presents valuable insights for the researcher. It explains the opportunities available to stakeholders while delving into their procedural and business challenges. Remarkably, the article underscores the necessity for government initiatives to promote and safeguard GIs in India. It cites instances such as India's efforts, including initiatives 'Make in India' 'Vocal for Local' and '*Atmanirbhar Bharat*'. Though my research primarily focuses on Nepal, and the article pertains to India, it is a valuable reference point. It contributes to my research and provides insights that could be beneficial in advocating for the protection and promotion of GIs in Nepal through distinct initiatives.

13. “Strengthening Sustainable Food Systems Through Geographical Indications: An Analysis of Economic Impacts”¹²⁶

The book prepared by the Nutrition and Food Systems Division and the Investment Center Division “Strengthening Sustainable Food Systems Through Geographical Indications: An Analysis of Economic Impacts” is authored by Emilie Vandecastelaere et al.

The book begins with introductory parts that provide a background to GIs and their economic impacts, as drawn from a literature review, followed by a short

¹²⁵ NIHARIKA SAHOO BHATTACHARYA, GEOGRAPHICAL INDICATION PROTECTION IN INDIA THE EVOLVING PARADIGM (Springer 2022).

¹²⁶ EMILIE VANDECASTELAERE ET AL., STRENGTHENING SUSTAINABLE FOOD SYSTEMS THROUGH GEOGRAPHICAL INDICATIONS AN ANALYSIS OF ECONOMIC IMPACTS (Food and Agriculture Organization 2018).

description of the analytical framework. The study results are then presented, starting with a synthesis of economic impacts (overview of the GI process, impacts on price, production, and market access, with preliminary findings regarding resilience and territorial effects. The main causal mechanisms (specific quality, governance, marketing efforts, legal and institutional framework) are synthesised. The main lesson learned, as well as the conclusion and recommendation, are given. The book undertakes a comprehensive examination of nine distinct case studies, particularly emphasising a thorough investigation of the economic ramifications of GIs. In the forthcoming research, the author intends to reference this work in analysing the economic impacts of GIs in Nepal. However, it is essential to mention that the research paper will focus exclusively on a specific aspect of the economic effects of GIs rather than encompassing the entire scope presented in the book.

14. Why Geographical Indications for Least Developed Countries?¹²⁷

The free online book titled, “Why Geographical Indications for Least Developed Countries?” was posted by UNCTAD. It is an outcome of the United Nations Conference on Trade and Development.

The book has stated the three significant ways of protection of GI based on the TRIPS Agreement that include Appellation of origin, current EU legal scheme (Protected Designation of Origin and Protected Geographical Indication), and private protection in the absence of specific GI legislation (trademark protection, certification mark, and collective mark). The book has discussed why the least developing countries need GI. Although Nepal graduated to developing countries in 2026, this encouraged the drafting of the GI laws in Nepal. The book has 13 case studies and cross-case/cross-country comparisons, essential for the researcher. The book has stated four differences between trademark and protection of geographical indication. However, the researcher has incorporated at least 15 differences between the GI and trademark.

¹²⁷ UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, WHY GEOGRAPHICAL INDICATIONS FOR LEAST DEVELOPED COUNTRIES? (United Nation 2016).

15. Geographical Indications of Indian Handlooms¹²⁸

Nidhi Buch and Hetvi Trivedi's book *Geographical Indications of Indian Handlooms*, published in 2022 by Routledge Taylor & Francis Group, explores the significance of geographical indications in promoting the unique identity of Indian handlooms.

The book covers four chapters. There is a debate in international law about the intersection of GIs, whether GIs are intellectual property, agricultural policy, or international trade. The first chapter discusses based on GIs as intellectual property with the IP's evolutions and rationale. Similarly, the second chapter discusses the legal recognition of Indian handlooms and evaluates the success of GI status. The third chapter includes policies for reviving the handloom sector in India. The most important part of the book is the inclusion of the functions of GIs, such as the origin function, advertising function of GIs and promoting, identifying and recognising traditional knowledge, as well as the preservation of such knowledge. The book discusses the post-registration problem of the GIs. Nepal is still in the development phase of the laws. The book's introduction chapter on page number 11 states that the scope of the GI is broader than Appellations of Origin and Indication of Source. However, the area of GI is wider than the AO and smaller than the IS.

16. The Cambridge Handbook of International and Comparative Trademark Law¹²⁹

In the Cambridge published handbook is an article by Dev S. Gangjee entitled "Sui generis or Independent GI Protection." It has been stated that a sui- generic or independent GI protection system is one of the prominent means adopted internationally to achieve the end of GI protection. This article is an excellent source of further justification for the necessity of independent GI in Nepal as it is in the stage of bringing the laws on GI. This article generalises and supports the

¹²⁸ NIDHI BUCH & HETVI TRIVEDI, *GEOGRAPHICAL INDICATIONS OF INDIAN HANDLOOMS: BETWEEN LEGAL RIGHT AND REAL RIGHT* (Routledge 2022).

¹²⁹ IRENE CALBOLI & JANE C. GINSBURG, *THE CAMBRIDGE HANDBOOK OF INTERNATIONAL AND COMPARATIVE TRADEMARK LAW* (Cambridge Univ. Press 2020).

sui generis GI laws. Meanwhile, the researcher in the thesis focuses on the best mechanism for protecting the GIs of Nepal. And it cannot be said that the sui generis GIs system of protection is the best method to preserve its GIs.

1.8.3 Journal Articles

For this chapter, 52 peer-reviewed journal articles are reviewed. Additionally, articles published in or after 2020 AD are taken for review.

1. “Protection of Geographical Indication Under Trademark System: To Fit the Square into the Triangle?”¹³⁰

Mas Rahmah authored the article “Protection of GI under Trademark Systems: To Fit the Square into the Triangle,” published in 2016. The author's central proposition is that there should be an alternative protection under sui generis law. The article first describes the legal basis for a sui generis system for GI and the minimum elements in sui generis law. The principal finding of the research is that the GI in Indonesia is more appropriately protected under sui generis law.

The paper's gap is that it considers only the Indonesian population, whereas the researcher wants to pursue research in Nepal. Most importantly, the paper has focused on the sui generis; the researcher in this paper is also researching the need for *sui generis* GI protection in Nepal. Thus, the researcher will draw on a comparative study.

2. “Twenty-Four Approaches for Conservation of Non-Orthodox Agricultural Plant Genetic Resources in Nepal”¹³¹

The article, “Twenty-Four Approaches for Conservation of Non-Orthodox Agricultural Plant Genetic Resources in Nepal,” was written by Bal Krishna Joshi and published in the Journal of Nepal Agricultural Research Council in 2019.

¹³⁰ Mas Rahman, *Protection of Geographical Indication Under Trademark System: To Fit the Square into the Triangle?* 27 MIMBAR H.536 (2015).

¹³¹ Bal Krishna Joshi, *Twenty-Four Approaches for Conservation of Non-Orthodox Agricultural Plant Genetic Resources in Nepal*, 5(1) J. NEPAL AGRICULTURAL RESEARCH COUNCIL. 22, 33 (2019).

According to the paper, the geographical indication is among Nepal's twenty-four approaches for conserving non-orthodox agricultural plant genetic resources. One of the approaches for on-farm conservation is geographical indication. The main point the researcher wants to borrow and refer to from this paper is that one of the techniques for the on-farm conservation of the non-orthodox agricultural plant species is the geographical indication, as there are locally specific products that are better in terms of quality compared with products of other areas. This paper talks about prioritising GIs for both conservation and harvesting economic benefits, which is crucial; however, the paper demands further inquiry about the protection of GIs. That protection of GI could be done through the laws. So, there should be laws to protect GIs in Nepal, at least for the conservation of non-orthodox agricultural plant genetic resources.

3. Good Practices for Agro Biodiversity Management¹³²

The research article, 'Good Practices for Agro Biodiversity Management,' written by Bal Krishna Joshi, Devendra Gauchan, Bharat Bhandari, and Devra Jarvis and published in 2020, has identified and verified the geo-linked genes and traits of native agricultural genetic resources and products associated with a particular location. The paper has used three methods to determine the geographically associated agricultural genetic resources and their products. They were survey, field and lab evaluation, and identification of geo-linked genes and traits. The paper has included successful cases and practices of selling agricultural products in the name of the country's local origin. This paper has listed five products (apple, apricot, bean, potato, and rice) as geo-linked popular crops and their important traits. Similarly, other 8 (banana, bean, black cumin, black gram, Colocasia, mountain dill, potato, and rice) geo-linked popular crop landraces and their important traits; furthermore, four marketplaces of geo-linked products for sales in Nepal have been listed. The abovementioned paper is important because it has been easier to learn about geo-linked popular crops and their important traits, geo-linked popular crop landraces and essential traits, and geo-linked

¹³² BAL KRISHNA JOSHI ET AL., EDS., GOOD PRACTICES OF AGRODIVERSITY MANAGEMENT (NAGRC, LI-BIRD & Alliance of Bioversity International and CIAT 2020).

products for sale in Nepal. Through this paper, the researcher could identify potential GI products in Nepal.

4. **“Geographical Indication: A Tool for Supporting On-farm Conservation of Crop Landraces and for Rural Development”**¹³³

The article “Geographical Indication: A tool for supporting on-farm conservation of crop landraces and for Rural Development,” written by Bal K Joshi, Anil K Acharya, Devendra Gauchan, Deepa Singh, Krishna H Ghimire, and Bhuwan R. Sthapit, is the proceedings of the 2nd National Workshop, 22-23 May 2017. The author's question is whether there should be alternative protection under sui generis law by first describing the legal basis for the sui generis system for GI and minimum elements in sui generis law. The author's research methodology includes the focus group discussion, questionnaire, and shared knowledge of experts. The paper is beneficial for getting information about the location-specific unique crop landraces and geo-linked crop landraces; popular geo-linked products, listed goods, along with the marketplace of geo-linked products for sales in Nepal, and products being sold from Nepal at an international market. The gap in the paper is that the literature has not discussed the GI or the collective mark. The paper needs to be updated; for example, 75 districts have been converted to 77 districts, and many other essential GI products have already been registered as the collective mark.

5. **Geographical Indication: How can GI Application Prosper Nepal**¹³⁴

The article, 'Geographical Indication: How can GI Application Prosper Nepal,' was written by Surendra Raj Acharya. The research paper has stated that GI has many significances, such as helping to sustain Nepali GI and promoting the economic prosperity of producers. Further, it helps to secure the IP rights of communities as many products are renowned and recognised globally, like Shilajit, Yarsagumba, etc. Moreover, GI helps sustain Nepali GI and promotes the economic prosperity

¹³³ Bal Krishna Joshi et al., *Geographical Indication: A Tool for Supporting on Farm Conservation of Crop Landraces and for Rural Development*, 6(1) NARC 50 (2020).

¹³⁴ Surendra Raj Acharya, *Geographical Indication: How can GI Application Prosper Nepal*, 1(1) LBEF J. 38, 43 (2019).

of producers. The paper has also made aware that if GI-capable goods are domestically consumed, there is no sign of protecting them. Internal consumption does not help to earn enough revenue. Luckily, Nepal has many products which are globally consumed. If Nepal protects our local geographic goods, the respective region and the community would benefit economically and socially, and Nepal would be recognised and known for such products. It has even been suggested that the Nepal government should start finding geographically known goods and their global consumption (produce locally and consume globally); it has been taken as the best start for further research.

6. The TRIPS Agreement: Potential Products for Geographical Indications¹³⁵

The article "The TRIPS Agreement: Potential Products for Geographical Indications" is written by Samar B. Malla and Puspa R. Shakya. The paper has discussed 10 selected Nepali agricultural products considered candidates for GI if the time comes for claiming GI rights under the WTO multilateral registration framework. Eighty-seven popular GI products are identified in the paper as plant and animal products for GI. Some of them are cultivated, and some are collected from wild sources and marketed as such. Some are processed for use, sold in local markets, or exported abroad.

Additionally, all the listed products have already established their reputation and represent their GI. Besides contributing to the country's economy, most products possess greater cultural and age-old traditional values. At the same time, the taste of these products is becoming more popular among tourists from abroad. Many originated in the region, and some have been naturalised in some suitable areas for a long time.

The paper can reference the listing of the 87 products; also, the 10 products, along with their commercial values, are presented, which is highly appreciated. However, the paper lacks the reason for selecting only 10 items out of so many products.

¹³⁵ Samar B. Malla & Puspa R. Shakya, *The TRIPS Agreement: Potential Products for Geographical Indications*, 9(1) DOCREP (2004).

7. “Geographical Indication of Agriculture Commodity and their Products: An Issue of Genetic Resources Conservation in Nepal”¹³⁶

The research article "Geographical Indication of Agriculture Commodity and their Products: An Issue of Genetic Resources Conservation in Nepal" is written by Mina Nath Paudel. The paper has given 86 commodities with unique GI and Nepali GI indicators. It has made efforts to document 86 agriculture and agriculture-related crops, indigenous and ethnic foods, and products having unique GI, along with Nepali GI indicators that are very important and endemic to Nepal as geographical indicators of the country.

The paper is essential for understanding the historical part of GI in Nepal. In Nepal, *Bala Chaturdashi* is a festival celebrated by Nepalis, sowing seeds of hundreds of crops since immemorial in Pashupatinath areas and Shiva temples across Nepal. It is the earliest evidence of plant genetic resource conservation since the Vedic period in Nepal. Most importantly, the summary of the paper is also given in Nepali, which is much appreciated. The paper needs some corrections. It has missed the content on number 8 (it is blank) after taking the historical part, like ancient Nepal and biodiversity conservation, and most importantly, *Bala Chaturdashi*. The researcher can build on this historical insight to further advocate for the need for the legal protection of GI.

8. Geographical Indications in Nepal: In Search of Identity¹³⁷

Pratyush Nath Upreti, the author of the article 'Geographical indications in Nepal: In search of identity,' has very briefly inserted the ideas of GI in co-existence with rural development. The author of the article acknowledges high GI prospects in

¹³⁶ Mina Nath Paudel, *Geographical Indication of Agriculture Commodity and their Products: An Issue of Genetic Resources Conservation in Nepal*, RESEARCH GATE (2018), https://www.researchgate.net/profile/Mina-Nath-Paudel/publication/324798281_Geographical_indication_of_agriculture_commodity_and_their_products_an_issue_of_genetic_resources_conservation_in_Nepal/links/5ae3119ba6fdcc9139a10bb8/Geographical-indication-of-agriculture-commodity-and-their-products-an-issue-of-genetic-resources-conservation-in-Nepal.pdf (last visited Mar. 7, 2025).

¹³⁷ Pratyush Nath Upreti, *Geographical Indications in Nepal: In Search of Identity*, RESEARCH GATE (2019), https://www.researchgate.net/publication/333780742_Geographical_indications_in_Nepal_in_search_of_identity (last visited Mar. 7, 2025).

Nepal. The paper tries to make the Government of Nepal aware that past practices of several countries and research have found that the cost of maintaining GIs can be burdensome. So, Nepal should assess the opportunities and risks represented by GIs. The paper proclaims that the government should produce a comprehensive white paper on the prospect of GIs and the economic viability of maintaining a GI system. The research paper is very helpful to further research on the benefits of keeping intellectual property, especially GI, as a fundamental right because the writer was skeptical about keeping the intellectual property as a fundamental right in Nepal; rather, he claimed it should be kept as the regulatory right rather than a property right, which has many facets to prove and disprove.

9. Geographical Indications: An Introduction¹³⁸

The handbook 'Geographical Indications: An Introduction', published by the WIPO's Design and Geographical Indication Law Section, introduces geographical indications. It has explained GI's essential features, use, and protection as an intellectual property right. The article has stated the potential obstacles to protecting a GI, which is very important to the researcher if there be a conflict with a prior mark, the generic character, or homonymous geographical indications; protection may be refused to a GI if it conflicts with the name of a plant variety or an animal breed. The book is very useful to the researcher regarding understanding the potential obstacles to protecting a GI. However, there are other significant challenges that the book has not included in my research; for example, if GI-capable goods are domestically consumed, protection doesn't change a lot, and maintaining and promoting GIs requires substantial costs at the macro level. There is no standard legal framework for the sui generis GIs that may lead to confusion in their application; it is sometimes very difficult to identify the origin of the product because of less quantity produced, ownership of GIs that is culturally sensitive by the state may lead to conflicts with Indigenous peoples, problems with undocumented and unrecorded traditional knowledge even sometimes the communal is resistant to register etc. are the further challenges of GIs.

¹³⁸ WORLD INTELLECTUAL PROPERTY ORGANIZATION, GEOGRAPHICAL INDICATIONS: AN INTRODUCTION, <https://www.wipo.int/en/web/geographical-indications> (last visited Mar. 7, 2025).

10. “A Review of the Socio-economic Impact of Geographical Indication: Considerations for the Developing World”¹³⁹

The research article, “A review of the socio-economic impact of geographical indication: considerations for the developing world” was written by Cerkia Bramley in 2011. This article reviews the potential socio-economic benefits of GIs in developing countries as discussed in the various international literature. The paper has stated the following impacts of GI in developing countries. The GI gives quality signalling in support of consumer and producer welfare. Furthermore, it improves market access through differentiation and value creation. Moreover, it causes rural development dynamics along with preserving traditional knowledge. Further, it also preserves biodiversity. The research article is not contemporary; it could be updated with the experiences of other developing nations. This paper could be referred to as the socio-economic impact of GI.

11. “Strengthening Sustainable Food Systems through Geographical Indications: Evidence from 9 Worldwide Case Studies”¹⁴⁰

The research article named, “Strengthening Sustainable Food Systems through Geographical Indications: Evidence from 9 Worldwide Case Studies” was written by Emilie Vandecandelaere, Vatherine Teyssier, Dominique Barjolle, Stephane Fournier, Livier Beuchair, Phillippe Jeanneaux. The paper presents the data collection and analysis results on the economic impact of GI processes worldwide. The nine case studies have been selected to make a range of diverse situations by country, agricultural sector, legal protection framework (sui generis or trademark), and size of the value chain. The paper shows that various mechanisms support the positive effects of the GI process on price. GI generates a higher value distribution to primary producers and positively influences production in the long term. Further, it enhances market access and can be a valuable tool for building resilient value chains, especially by improving market

¹³⁹ Cerkia Bramley, *A Review of the Socio-Economic Impact of Geographical Indication: Considerations for the Developing World*, WIPO World Symposium on Geographical Indications, June 22-24, 2011, Lima Peru, (2011) WIPO, https://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_lim_11/wipo_geo_lim_11_9.pdf (last visited Mar. 7, 2025).

¹⁴⁰ Emilie Vandecandelaere et al., *Strengthening Sustainable Food Systems through Geographical Indications: Evidence from 9 Worldwide Case Studies*, FAO (2018), <https://www.fao.org/3/I8737EN/i8737en.pdf> (last visited Mar. 7, 2025).

diversification. The paper has stated that GIs can also have a significant positive impact on other sectors of the economy through a domino effect.

The article concludes that the economic impacts are positive in all nine referred cases. This is a significant result that the researcher can refer to because it highlights that economic impacts always occur when a GI meets the legal definition and is in use. Now, Nepal also needs to focus on drafting the laws. Further research could be done, considering the country's specifics.

12. “The Economics of Geographical Indications Towards a Conceptual Framework for Geographical Indication Research in Developing Countries Economic Benefits of GI”¹⁴¹

Cerkia Bramley, Estelle Bienabe, and Johann Kirsten wrote the article “The Economics of Geographical Indications Towards a Conceptual Framework for Geographical Indication Research in Developing Countries.”

The financial arguments presented in this paper provide a strong justification for protecting geographical indications in the developing world. It has been stated that GIs have the most significant potential to support local products in regions where traditional small-scale thrives. Utilising GI's economic advantages can bolster community development in the developing work. However, there remains a considerable need for empirical research to comprehensively assess the direct and indirect effects on GI, especially in the context of developing countries with distinct origin-level supply chains. It's important to acknowledge that the motivation behind GI protection in developing countries differs from that of developed nations, often focusing on safeguarding resources and preventing misappropriation.

¹⁴¹ Cerkia Bramley et al., *The Economics of Geographical Indications Towards A Conceptual Framework For Geographical Indication Research in Developing Countries*, EOIP 109, 149 (2009), https://www.researchgate.net/publication/237377050_The_economics_of_geographical_indications_Towards_a_conceptual_framework_for_geographical_indication_research_in_developing_countries (last visited Mar.7, 2025).

The article is critical for learning about the economic benefits of GI. The researcher is trying to find material for Nepali society, and this article could help them see its importance.

13. Protection of Geographical Indications: National and International Perspective¹⁴²

The article entitled 'Protection of Geographical Indications: National and International Perspective,' written by Ahuja, V. in 2004 (2004) stated the national and international laws of GI. There are many international instruments relating to GI chronologically, where the Paris Convention used the word indication of source, and the Lisbon Agreement used the word Appellation of origin. In contrast, TRIPS and WIPO used the word Geographical Indication. India has laws for the protection of GI but not for higher protection of all products, which was realised in the Basmati rice case. India advocates extending higher protection to GIs for products other than wine and spirits. There is a need for higher protection for all different products. The researcher could take this paper as a reference to understand the need for GI laws in Nepal. The gap in the paper is that it has taken the reference of one case, which seems the paper is inadequate regarding the example of GI.

14. “Sui generis Geographical Indications for the Protection of Non-Agricultural Products in the EU: Can the Quality Schemes Fulfil the Task?”¹⁴³

Article jointly authored by Andrea Zappalaglio, Flavia Guerrieri and Suelen Carls published in the International Review of Intellectual Property and Competition Law, which explores the possibility of extending EU quality schemes (PDOs and PGIs) to protect non-agricultural products. Using a mixed comparative/empirical methodology and a unique dataset, the study concludes that the legislation of Franch on the sui generis protection of handcrafts could be a model. It suggests

¹⁴² V.K. Ahuja, *Protection of Geographical Indications: National and International Perspective*, 46 J. INDIAN L. INST. 269, 287 (2004), <https://www.jstor.org/stable/43951907> (last visited Mar. 2, 2025).

¹⁴³ Andrea Zappalaglio et al., *Sui generis Geographical Indications for the Protection of Non-Agricultural Products in the EU: Can the Quality Schemes Fulfil the Task?* 51 IIC 31, 69(2020), <https://doi.org/10.1007/s40319-019-00890-1> (last visited Mar. 8, 2025).

that PGIs are suitable for non-agricultural goods due to their loose link to a specific place. The analysis of non-terroir agricultural products on the EU GI register aligns with handcraft features, indicating that the PGI quality scheme might already be suitable for their protection. In contrast, PDOs may be helpful for a limited number of cases. The study gives insights for EU policymakers for considering extending the GI regime to non-agricultural products. Future research also gives the larger broader legal frameworks and empirical data to provide a more comprehensive and nuanced understanding of the problems and opportunities in extending geographical indication protection to non-agricultural products in Nepal.

15. Conservation and Utilisation of Agricultural Plant Genetic Proceedings¹⁴⁴

The article titled 'Conservation and Utilization of Agricultural Plant Genetic Proceedings' was edited by Bal Krishna Joshi, Hari Bahadur KC, and Anil Kumar Acharya in 2017. The researchers proposed that important indigenous crop landrace products identified in Nepal should be protected with GI by developing suitable legislation for their market promotion, farm conservation and livelihood, and enhancement of local communities. Further suggested that there can be potential protection through a sui- -generis system or using collective or certification in Nepal to protect IPR, the traditionally valued and popular crop landraces, and their products. This paper has reviewed and identified potential GI products of Nepal in agricultural plant genetic resources (APGRs) linked to specific geographical locations to promote them for conservation and improve the local economy. It also outlines geo-linked popular crop landraces and their traits for potential trade promotion and value addition. Some of the listed agricultural products that have already established their reputation and represent their GI are cultivated. Some are collected from wild sources and marketed as such, and some are processed for use or sold in the local markets or exported abroad. Most of the products possess greater cultural and age-old traditional values. This research helps get information about the list of probable GI products in Nepal. The researcher will further examine the GI's possible laws and other

¹⁴⁴ Bal Krishna Joshi et al., *Conservation and Utilization of Agricultural Plant Genetic Resources in Nepal* 60 (2017).

arrangements, referencing this article. Further, the list of the GI-capable goods stated is not the final; there are more GIs.

16. *Sui Generis* Geographical Indications Protection¹⁴⁵

The article by Bernard O'Conner on the topic entitled “*Sui Generis* Geographical Indication Protection,” published in the Drake Journal of Agricultural Law in volume 9, has given the overview of the issues taken for the protection of GI through the sui generis system. Further, it has also provided a range of possibilities to facilitate the protection found in different legislation. The article admits that sui generis is the best model of protection developed in the European Union and is protected by the WTO. The paper has made the comparison of the key elements of the sui generis protection of GI to name a few: the protection through registration or non-registration, the procedure of registration, possibilities to register foreign GI, effects of registration, control of registered GI, provisions about trademark and prior users and offences and penalties. The gap in the paper is that 43 countries have sui generis GI laws. The article cites many countries that have moved ahead by providing comprehensive protection of the GI. While describing the key elements, it justified the key comparison points with the country's reference, but the paper voraciously took the examples of the countries. It does not specify the number of countries taken for the references. For instance, it has given the example of India, where registration is not compulsory; however, there are other countries where registration is not mandatory, like Bangladesh and Pakistan.

17. “How the European Union Is Expanding the Protection Levels Afforded to Geographical Indications as Part of Its Global Trade Policy”¹⁴⁶

An article by Liam Sunner, published in the Journal of Intellectual Property Law & Practice, discusses the growing significance of GIs in the EUs trade relationships. It examines how the EU has enhanced protection for GIs in international trade agreements. However, it also acknowledges the need to

¹⁴⁵ Bernard O'Conner, *Sui Generis Geographical Indication Protection*, 9 Drake J. Agric. L. 359 (2009).

¹⁴⁶ Liam Sunner, *How the European Union Is Expanding the Protection Levels Afforded to Geographical Indications as Part of Its Global Trade Policy*, 16 J. INTEL. PROP. L. & PARC. 341 (2021).

balance this protection with potential human rights concerns. The article provides insights into the EU's efforts to strengthen IP provisions in its trade agreements, emphasising the shift from vague standards to more detailed and comprehensive agreements. The EU's growing competence in addressing GIs and IP is influenced by its engagement in global agreements, making it a dominant player. It also highlights the evolving GIs and IP protection landscape within the EU's trade agenda, emphasising the need for balanced, comprehensive agreements in an increasingly complex global environment.

18. "Protecting Ghana's Intellectual Property Rights in Kente Textiles: The Case for Geographical Indications"¹⁴⁷

The article was co-authored by Michelle Okyere and Janice Denoncourt and published in the *Journal of Intellectual Property Law & Practice*. The article highlights the commercial diversification of Ghana's traditional kente cloth, which has led to economic misappropriation. Lower quality kente textiles are being sold as originals, risking its identity as a Ghanaian cultural symbol. Ghana's Copyright Act doesn't fully protect against these issues, and the African Continental Free Trade Agreement (AfCFTA) could further harm kente trade without adequate IP protection. The article argues for Geographical Indication (GI) protection to safeguard Ghana's kente, supported by a continental strategy involving the African and European Union. This shows the need for pan-African, regional, and national GI policies to preserve Ghana's traditional kente from misappropriation.

19. "Geographical Indications of Origin, Economic Development, and Cultural Heritage: Good Match or Mismatched?"¹⁴⁸

The article titled "Geographical Indications of Origin, Economic Development, and Cultural Heritage: Good Match or Mismatched" by Irene Calboli claims that GI has an economic benefit. To justify her proposition, she states that GI is essential

¹⁴⁷ Michelle Okyere & Janice Denoncourt, *Protecting Ghana's Intellectual Property Rights in Kente Textiles: The Case for Geographical Indications*, 16 J. INTELL. PROP. L. & PARC. 415-425 (2021).

¹⁴⁸ Irene Calboli. *Geographical Indications of Origin, Economic Development, and Cultural Heritage: Good Match or Mismatched?* 11 J. INTELL. PROP. L. & PARC. (2020).

to facilitate investment in high-quality products and niche markets and promote local trade and development. GI gives information to the consumer about the product's origin and quality, which reduces the information asymmetries between producers and consumers. It also makes producers accountable for their products. Further, GI, along with the trade, protects culture-related interests. The researcher recommends that protecting GIs can promote local products and their associated knowledge as cultural expression. Similarly, GI preserves cultural heritage and existing traditions and promotes recognising the heritage and traditions nationally and internationally. The gap in the paper is that it has missed the very important issue that is Caveat Emptor (let the buyer be aware). The very principle in the sale of goods states that the buyer must voluntarily be mindful of the goods they choose. If the goods have the GI, then this principle could be applied to its extent.

20. “Law of Geographical Indications in South Asia: Need for Addressing Climate Change”¹⁴⁹

The article written by Ananthu S Hari and KD Raju is incorporated in the book entitled “Exploring Asia: Concepts and Context”. Climate change is a threat to indigenous agricultural products. Therefore, it is important to develop regional cooperation among South Asian Countries to address the threat to GI through climate change. The lack of an institutional, legal framework is deterring these countries from availing the benefits of having a GI system. The paper also states that all South Asian countries must develop a comprehensive domestic GI system, and only then can they have regional cooperation. The gap in the paper is that it has stated that only India and Bangladesh have made a comprehensive sui generis system for the protection of their GI. However, Pakistan also has sui generis GI laws, which my researcher has discussed.

21. “Comparative Study of *Sui Generis* Geographical Indications Laws in South Asian Countries: A Way Forward to Nepal”¹⁵⁰

¹⁴⁹ ANATHU S HARI ET AL., EXPLORING ASIA: CONCEPTS AND CONTEXT (Ravi Prakash Vyas et al., 2021).

¹⁵⁰ Laxmi Sapkota, *Comparative Study of Sui Generis Geographical Indication Laws in South Asian Countries: A Way Forward to Nepal*, 11 JGRA 31, 34 (2022).

The article entitled, “Comparative Study of Sui Generis Geographical Indications Laws in South Asian Countries: A Way Forward to Nepal” has been published in the Journal of Global Research and Analysis by Laxmi Sapkota. This paper has done a comparative study of the sui generis laws of SAARC countries. Among eight countries in SAARC, only four (Bangladesh, India, Pakistan and Sri Lanka) have sui generis GI laws. The paper has missed the major part in the comparative studies in the South Asian context. It has been seen about the three countries that are Bangladesh, India, Pakistan and Sri Lanka and concluded that Nepal also needs the sui generis GI laws; however, the paper has not seen the prospects of the collective marks. There is a conflict between the new and old worlds regarding how to protect GI; the writer could give future solutions for protecting geographical indications worldwide. Many countries that oppose the EU’s proposal offer protection using certification marks as an alternative to specific GI protection.¹⁵¹

22. “Protection of Intellectual Property Rights for Agricultural Innovations: Evaluating Bangladesh’s Progression Towards the International Plant Variety Protection Regime”¹⁵²

An article authored by Khorsed Zaman and published in the Journal of Intellectual Property Law & Practice highlighted Bangladesh's Plant Variety Protection Act (BPVPA) of 2019, analysing its legal implications on intellectual property rights for plant varieties. The study explores how the law aligns with international agreements like TRIPS, CBD, and ITPGRFA, aiming to balance farmers' and breeders' rights. The focus is on Article 27.3(b) of TRIPS, which mandates protection for plant varieties. The article emphasises the need for a balanced sui generis system to safeguard local resources, acknowledge farmers' contributions, and incentivise agribusinesses to invest in agriculture amid challenges like biopiracy and global agricultural trade dynamics. Researchers could contribute to

¹⁵¹ JOSEF DRXL ET AL., NEW FRONTIERS OF INTELLECTUAL PROPERTY LAW IP AND CULTURAL HERITAGE- GEOGRAPHICAL INDICATIONS- ENFORCEMENT- OVERPROTECTION (Hart Publishing 2005).

¹⁵² Khorsed Zaman, *Protection of Intellectual Property Rights for Agricultural Innovations: Evaluating Bangladesh’s Progression Towards the International Plant Variety Protection Regime*, 16 JWIP 677-691 (2021).

a more holistic understanding of Nepal's legal protection of geographical indications.

23. “The Role Played by the Regime of Collective and Certification Marks in the Protection of Geographical Indications—Comparative Study of Law and Practice in France, the EU and China”¹⁵³

The article, which was written by Xinzhe Song and published in the *Journal of World Intellectual Property*, provides a glimpse of the diversity of national approaches being developed to address GI protection within a trademark system. This article weighs up the trademark legislation in Europe and China to show a wide discrepancy in the design of specific trademark systems. These two approaches reflect two profoundly different understandings of the function of collective and certification marks that contain GIs. This research posits that while GIs, collective marks, and certification marks are undeniably unique in their capacity to set products apart, they do so with distinct intentions. GIs serve as beacons of a product's geographical heritage, while collective and certification marks signal a product's association with a particular entity or certifying authority. As highlighted by Xinzhe Song's article, the literature gap lies in the absence of a Nepal-specific analysis, a comparative examination of Nepal's approach to Europe and China, an exploration of the implications for Nepalese GI products, policy recommendations, and the incorporation of stakeholder perspectives.

24. “Reimagining the Relationship Between Food Sovereignty and Intellectual Property for Plants: Lessons from Ecuador and Nepal”¹⁵⁴

Article Jointly authored by David J. Jefferson and Kamalesh Adhikari and published in the *Journal of World Intellectual Property*, which delved into the intricate interplay between food sovereignty and intellectual property concerning

¹⁵³ Xinzhe Song, *The Role Played by the Regime of Collective and Certification Marks in the Protection of Geographical Indications—Comparative Study of Law and Practice in France, the EU and China*, 21 *J. World Intell. Prop.* 437-457 (2018).

¹⁵⁴ David J Jefferson & Kamalesh Adhikari, *Reimagining the Relationship Between Food Sovereignty and Intellectual Property for Plants: Lessons from Ecuador and Nepal*, 22 *J. World Intell. Prop.* 396-418 (2019).

plant varieties. Through a meticulous analysis of the Ecuadorian and Nepali contexts, embarked on a journey to discern how the essence of food sovereignty shaped the genesis of fresh national constitutions and novel frameworks to govern the realm of plant varieties as intellectual assets within these nations. In addition to the external influences discussed in Part 3 of the article, internal dynamics profoundly shaped the reimagining of intellectual property for plant varieties in Ecuador and Nepal. This study provides evidence that the relationship between food sovereignty and intellectual property can be reconfigured. While the article delves into the relationship between food sovereignty and intellectual property concerning plant varieties in Ecuador and Nepal, it highlights a need for further research to explore the legal protection of geographical indications in Nepal and its effects on local communities, addressing existing gaps in the literature for a more comprehensive view of the issues surrounding GIs in Nepal.

25. “Geographical Indications and Cultural Artworks in Nigeria: A Cue from Other Jurisdictions”¹⁵⁵

Article Authored by Ayoyemi Lawal-Arowolo and published in the Journal of World Intellectual Property provides a glimpse into the presence of a robust mechanism for safeguarding Geographical Indications (GIs), offers a distinctive avenue for the economic empowerment of Indigenous communities, which play a significant role in the landscapes of developing nations. GIs extend beyond the financial advantages of indigenous goods; they also encompass non-monetary benefits, including preserving knowledge and communal rights. The provisions for registering GIs in communities with limited technological resources create opportunities to promote and utilise indigenous products and expertise.

The article mentioned provides an overview of the advantages of GIs for Indigenous communities in developing nations. However, more research specific to Nepal is needed that delves into the challenges, opportunities, and real-world implications of GI protection in the country.

¹⁵⁵ Ayoyemi Lawal-Arowolo, *Geographical Indications and Cultural Artworks in Nigeria: A Cue from Other Jurisdictions*, 22 J. World Intell. Prop. 364-344 (2019).

26. “Geographical Indications in Development Contexts: Function, Supply Chain and Pursuit of Rural Industrial Development”¹⁵⁶

Article Jointly authored by Chan-Yuan Wong and Mergen Elbegsaikhan and published in the Journal of World Intellectual Property, which artfully delves into the intricate subnational dynamics that illuminate how rural communities harnessed GI systems to safeguard the reputation of their heritage-rich, location-based products. Carefully scrutinised two distinct GI systems, each drawn from a unique case study in different nations. These case studies complement the existing body of literature and broaden our understanding. This study places a spotlight on the vital functions and far-reaching impacts of the Sui generis-inspired protection accorded to Gobi Desert Camel Wool in the rural Mongolian community, as well as the Certification Mark attributed to Lugu Dong Ding Oolong Tea in the local Taiwanese community.

Future research should address these gaps by examining the legal protection of geographical indications in Nepal, considering the unique regulatory framework, socioeconomic factors, and specific products in the Nepalese context.

27. A CSR/fair Trade Inspired Policy for Fairer Geographical Indications¹⁵⁷

This article, co-authored by Althaf Marsoof and Li Ting Tan and published in the Journal of World Intellectual Property, highlights an inconsistency between the perception of GIs as effective tools for local development and the reality at the grassroots level, where some of our most cherished GI products originate. This paper does not intend to challenge the invaluable role of GIs in fostering local development. Rather, it presents the notion that issues lie in the equitable distribution of GI premiums among the various stakeholders within value and supply chains. The examples provided in this paper, including Ceylon Tea, Darjeeling Tea, and Hom Mali Rice, vividly illustrate this predicament.

¹⁵⁶ Chan-Yuan Wong & Mergen Elbegsaikhan, *Geographical Indications in Development Contexts: Function, Supply Chain and Pursuit of Rural Industrial Development*, 23 J. World Intell. Prop. 721-735 (2020).

¹⁵⁷ Althaf Marsoof & Li Ting Tan, *A CSR/fair Trade Inspired Policy for Fairer Geographical Indications*, 24 J. World Intell. Prop. 253-273 (2021).

The existing literature may need a comprehensive examination of how GIs can effectively contribute to local development while ensuring fair compensation for all involved parties. This can improve the GI protection system and its effectiveness in promoting regional development while ensuring equitable distribution of benefits.

28. “Geographical Indications in India: A Case of Handicraft Industry in Uttar Pradesh”¹⁵⁸

Article jointly authored by Meghna Chaudhary, Bhawna Agarwal and Meena Bhatia and published in the Journal of World Intellectual Property, the article highlights the potential of Geographical Indications (GI) to revitalise the handicraft sector. GI registration has shown positive impacts, including creating livelihoods in rural areas, improving living standards, and boosting earnings and income. However, the industry faces challenges, including the need for more awareness about GI among artisans and the role of intermediaries. The government needs to enforce legislation against fraudulent use of GIs and run awareness campaigns. Collaborations and partnerships between stakeholders, professional training for producers, and retail price regulation are suggested to strengthen the sector. Embracing technological advancements is also recommended to enhance efficiency and returns on investment. Literature would contribute to a more comprehensive understanding of the prospects and challenges of legal protection for geographical indications in Nepal. Researchers could undertake studies that delve deeper into these areas to enhance the knowledge and inform policy and practice in this domain.

29. The Legal Construction of Geographical Indications in Africa¹⁵⁹

The article by Ayoyemi Lawal-Arowolo, published in the Journal of World Intellectual Property, discusses the significance of GIs in Africa and their potential for fostering economic development. It highlights how GIs can safeguard the region's

¹⁵⁸ Meghna Chaudhary et al., *Geographical Indications in India: A Case of Handicraft Industry in Uttar Pradesh*, 25 J. World Intell. Prop. 617-634 (2022).

¹⁵⁹ *The Legal Construction of Geographical Indications in Africa*, 26 J. World Intell. Prop. 3-29 (2023).

distinct natural resources, biological diversity, culture, and traditional knowledge. Africa's large population and increasing demand for quality products offer trade opportunities for GIs. However, the paper also warns that Europe significantly influences African GIs through legal treaties, agreements, and capacity-building programs. It urges African policymakers to invest in the registration, marketing, monitoring, and enforcement of competitive African products and to prioritise the interests of local producers. The article underscores the necessity for policies adapted to the specific needs of African contexts.

30. Rethinking Nigerian Geographical Indications Law¹⁶⁰

The article was authored by Emmanuel Kolawole Oke and published in the *Journal of World Intellectual Property*. This argues that Nigeria should reevaluate its legal system regarding geographical indications. It is structured into three sections. The first part addresses international regulations on geographical indication protection. The second part assesses Nigeria's current legal framework for such protection, emphasising disparities with international standards. The third section offers solutions to bridge the gaps identified in the second part. Ultimately, the recommendation is for Nigeria to establish a sui generis law to safeguard geographical indications effectively, both domestically and internationally. More literature is needed to consider the prospects and problems surrounding the legal protection of geographical indications in Nepal.

31. “Social Learning in Food Quality Governance – Evidence from Geographical Indications Amendments”¹⁶¹

Article authored by Hanna Edelmann, Xiomara Fernanda Quiñones-Ruiz¹, Marianne Penker, Silvia Scaramuzzi, Kristina Broscha, Philippe Jeanneaux, Giovanni Belletti and Andrea Marescotti published in the *International Journal of the Commons*, explores how the learning processes play a crucial role in strengthening the connection between food and the region, which forms the

¹⁶⁰ Emmanuel Kolawole Oke, *Rethinking Nigerian Geographical Indications Law*, 25 J. World Intell. Prop. 746-752 (2022).

¹⁶¹ Hanna Edelmann et al., *Social Learning in Food Quality Governance – Evidence from Geographical Indications Amendments*, 14 Int'l. J. Commons 108-122 (2020), <https://doi.org/10.5334/ijc.968> (last visited Mar. 5, 2025).

foundation of GIs. The study underscores the significance of designing influential social learning arenas for GI adaptability. In the French national GI system, exchange between GI producer groups and other stakeholders like consumers and researchers is essential. In Italy, regional authorities facilitate and mediate discussions in the action arena, contributing to conflict resolution. The article also emphasises the importance of regulating the amendment process at the national level, such as the role of regional administrations in Italy and INAO committees in France. These processes can help identify concerns and promote awareness of local GI production systems within larger contexts. It concludes that food quality standards should be carefully changed to preserve product specificity, connection to the territory, and economic, environmental, and cultural sustainability. While this article does not focus on the legal protection of GIs in Nepal, it offers valuable insights into the broader issues surrounding them and their protection.

32. “Collective Action Milieus and Governance Structures of Protected Geographical Indications for Coffee in Colombia, Thailand and Indonesia, 14 International Journal of the Commons”¹⁶²

Article authored by Xiomara F. Quiñones-Ruiz, Thilo Nigmann, Christoph Schreiber and Jeffrey Neilson and published in the International Journal of the Commons. It talks about the complexities and challenges of geographical indications in the coffee industry, emphasising the importance of collective action, including that of various stakeholders, and capturing the value associated with tangible and intangible attributes. The article underlines the importance of understanding, recognising, and valuing the collective reputational resource for local producers and processors. In some cases, promoting material and symbolic attributes and in-person service qualities is essential for local producers to effectively capture added value and protect their intangible resources. Despite the challenges, GI processes can be a starting point for collective projects. However, the article stresses the need for producers to capture the value associated with symbolic and in-person service qualities, especially through local consumption.

¹⁶² Xiomara F. Quiñones Ruiz et al., *Collective Action Milieus and Governance Structures of Protected Geographical Indications for Coffee in Colombia, Thailand and Indonesia*, 14 Int’l. J. Commons 329–343 (2021), <https://doi.org/10.5334/ijc.1007> (last visited Mar. 5, 2025).

The article discusses four cases of GIs related to coffee production. It highlights that these cases reveal a somewhat paternalistic approach, with limited collaboration among various stakeholders in the coffee value chain before and after GI registration. Legal protection under EU law for these GIs does not automatically lead to collective solid action.

33. “Protection of Geographical Indication Products from Different States of India”¹⁶³

The article was authored by Anna Bashir and published in the Journal of IPR. This article delves into the vulnerabilities of the GI protection system in India, highlighting challenges in protecting and enforcing GI rights. The author's research involves data collection and interactions with stakeholders, revealing that the current legal framework for GI protection in India must be expanded in scope and effectiveness. It emphasises the need for these entities to register their products under the GI Act to protect against infringement. Despite national legislation in place, producers must understand their responsibilities. The article also mentions that geographical indication protection hasn't eliminated counterfeit products, and continuous awareness and promotion are necessary for consumers and producers to benefit from GI registration. Raising awareness about the significance of safeguarding geographical indication products throughout India is imperative to fortify the GI protection system. While this article primarily focuses on the situation in India, it reveals several gaps and issues that can be applied to the context of legal protection of GIs in Nepal.

34. “Socioeconomic Condition of Small-Scale Producers in Varanasi: A Case of Banaras Brocade and Saree”¹⁶⁴

Article Jointly authored by Meghna Chaudhary, Bhawna Agarwa and Meena Bhatia published in the Journal of Intellectual Property Rights from this study

¹⁶³ Anna Bashir, *Protection of Geographical Indication Products from Different States of India*, 26 J. IPR. 74-79 (2020), <http://op.niscpr.res.in/index.php/JIPR/article/download/17397/465481077> (last visited Jan. 5, 2025).

¹⁶⁴ Meghna Chaudhary et al., *Socioeconomic Condition of Small-Scale Producers in Varanasi: A Case of Banaras Brocade and Saree*, 26 J. IPR. 286- 294 (2021), <https://nopr.niscpr.res.in/bitstream/123456789/58959/1/JIPR%2026%285%29%20286-294.pdf> (last visited Mar. 5, 2025).

attempted to discover the condition of the Banarasi Brocade and Saree weavers. The article discusses the concept of geographical indication (GI), which protects products tied to specific geographic regions. It focuses on the "Banarasi Silk and Brocade" as a notable example of GI. Despite its popularity, this industry has faced a decline. The study examines the socioeconomic status of small-scale producers and their awareness of GI. It also highlights the challenges weavers face in Varanasi producing "Banaras Brocade and Saree" and suggests solutions for improving the industry's marketing and distribution. The study gathered empirical data from 100 weavers in Varanasi, revealing worsening conditions.

There is a significant literature gap in understanding Nepal's specific context. Researchers can contribute to the field by conducting studies that fill these gaps and provide a more comprehensive understanding of the legal protection of GIs in Nepal.

35. **Geographical Indications in Maharashtra**¹⁶⁵

Article co-authored by Mohammed Mudassir Ahmed and Veena M Kamble and published in the Journal of Intellectual Property Rights, which examines the status of registered commodities in the Maharashtra state, categorising them into Agriculture, Arts and Handicrafts, and Manufactured products. Most of these commodities fall under the agricultural category, with a particular emphasis on fruits. The study encompasses all registered commodities since implementing the Geographical Indications of Goods (Registration and Protection) Act of 1999. The authors analyse the data by product category, the districts of origin, and the chronological registration of these products. Furthermore, the paper delves into geographical indications' definition, purpose, history, and origin. Additionally, it identifies some commodities that have yet to be included in the GI register. A literature gap arises in understanding Nepal's legal framework and how it aligns with international standards and practices related to geographical indications.

¹⁶⁵ Mohammed Mudassir Ahmed & Veena M Kamble, *Geographical Indications in Maharashtra*, 27 J. IPR. 38-41(2022), <https://nopr.niscpr.res.in/bitstream/123456789/59279/1/JIPR%2027%281%29%2038-41.pdf> (last visited Mar.6, 2025).

36. Proprietorship of GI in India with Special Focus on the State of Assam¹⁶⁶

An article by Jupi Gogoi published in the Journal of Intellectual Property Rights suggests that the ideal scenario for registering Geographical Indications (GIs) in India is when the producers of a potential GI product collaborate to apply for registration. However, there are several obstacles to this process. In India, GIs can be registered by organisations or authorities established by law, even if they are not producers. This approach has advantages, especially when dealing with challenges like the need for more awareness about GI laws and registration procedures. The article proposes two future possibilities for improving the GI registration process. First, the GI Registry could require applicants to form producer associations before registration. Second, after registration, GI proprietors could assist in creating effective producer associations and eventually transfer their rights to these associations. It also analyses the true meaning of the clause 'representing the interest of the producers' and whether the GI Registry emphasises this clause while granting registration of GI. The literature revolves around the context of India, which can be taken as a reference, and the Nepali legal framework on GI can be defined

37. Geographical Indications - Challenges and Opportunities in Post-Covid India¹⁶⁷

An article by Abhishek Mishra published in the Journal of Intellectual Property discusses loopholes in Indian GI laws that need addressing. It advocates for government measures to promote geographical indications as a policy instrument to aid the rural economy during challenging times. Indian Geographical Indications laws can protect and promote traditional products. India should ratify the Geneva Act to the Lisbon Agreement, enabling single-window registration of Geographical Indications in multiple countries. GI intersects with intellectual property, trade, and socioeconomic policies, offering advantages such as quality and a means of

¹⁶⁶ Jupi Gogoi, *Proprietorship of GI in India with Special Focus on the State of Assam*, 25 J.IPR. 146-154 (2020), <https://nopr.niscpr.res.in/bitstream/123456789/55614/1/JIPR%2025%285%29%20146-154.pdf> (last visited Mar.6, 2025).

¹⁶⁷ Abhishek Mishra, *Geographical Indications - Challenges and Opportunities in Post-Covid India*, 26 J. IPR 57-68 (2022), <http://op.niscpr.res.in/index.php/JIPR/article/view/41515/465481025> (last visited Mar. 6, 2025).

supporting underprivileged producers and artisans. It can generate income for returning migrant labourers, provide local employment, safeguard local heritage and traditions, and contribute to rural self-sufficiency. Additionally, it focuses on how India should promptly ratify the Geneva Act, which enables a unified GI registration process in member countries, offering hope for underprivileged producers facing market erosion and potential extinction.

38. Basmati Rice – The Ongoing Domestic Challenge¹⁶⁸

An article co-authored by Abhishek Mishra and Harshita Fatesaria published in the Journal of Intellectual Property discusses the global significance of Basmati rice and the need to protect its origin and quality. It highlights a dispute between APEDA and stakeholders in Madhya Pradesh regarding the GI tag for Basmati. The article examines the arguments for excluding Madhya Pradesh districts from the GI application and criticises the misunderstanding behind the motive for obtaining the tag. The article emphasises the need to address issues of free-riding and misrepresentation in GI commercialisation. It also questions the arbitrary inclusion of seven states by the Agricultural and Processed Food Products Export Development Authority (APEDA). Furthermore, the article highlights the underdeveloped jurisprudence of Geographical Indication Law in India. This case allows the court to clarify critical GI Act of 1999 issues. Future research could focus on what lessons Nepal's legal system can draw from India's experience in protecting GIs, considering the specific prospects and problems of the Nepali context.

39. “Additional Protection for Geographical Indications in India: A Working of Section 22 (2) of the Indian GI Act”¹⁶⁹

The article, authored by Lisa P. Lukose and published in the Journal of Intellectual Property, critically examines the functioning of Section 22 (2) in the

¹⁶⁸ Abhishek Mishra & Harshita Fatesari, *Basmati Rice – The Ongoing Domestic Challenge*, 27 J. IPR 100-106 (2022), <https://nopr.niscpr.res.in/handle/123456789/59720> (last visited Mar. 7, 2025).

¹⁶⁹ Lisa P Lukose, *Additional Protection for Geographical Indications in India: A Working of Section 22 (2) of Indian GI Act*, 27 J. IPR. 325-332 (2022), <https://nopr.niscpr.res.in/bitstream/123456789/60565/1/JIPR%2027%285%29%20325-332.pdf> (last visited Mar. 6, 2025).

Indian laws on GI (“Geographical Indication of Goods (Registration and tactionion) Act 1999”). The article discusses the differences between global and the laws of India of the GI protection. While Article 22 of the TRIPS Agreement provides a basic level of GI protection for all goods, Article 23 gives "wines and spirits" extra protection. India has many GI registrations, especially in agriculture and handicrafts. Section 22 (2) and (3) of the laws of India on GI allows additional protection for "certain goods," but this term isn't defined. Unlike TRIPS, India doesn't limit this extra protection to specific goods. It underscores the need for further research and analysis to determine how Nepal's GI protection laws compare to those in India, the potential impact of differences, and the best path to safeguard Nepal's unique GI products and industries.

40. Blockchain and Geographical Indications: A Natural Fit¹⁷⁰

An article by Stephanie M. Aronzon, published in the Journal of Intellectual Property Law & Practice, discusses the growing excitement around blockchain technology, particularly in non-cryptocurrency areas like food supply chains. It highlights how blockchain can enhance confidence in the origin and quality of products. The article specifically explores the potential of using blockchain for GIs, which are closely aligned with values of authenticity and quality. While there are hurdles to overcome, blockchain could be a valuable tool for GIs in the long run. It also discusses the need for a permissioned, private blockchain with a trusted intermediary for GIs. Possible trusted intermediaries include producer groups and Monitoring Parties, with WIPO as a potential large-scale solution provider. The literature gap addresses the cultural and socioeconomic implications of implementing blockchain for GIs in Nepal.

41. Civil Enforcement of Geographical Indications in Europe¹⁷¹

An article by Ana Rački Marinković published in the Journal of Intellectual Property Law & Practice examines civil law remedies for addressing EU (

¹⁷⁰ Stephanie M Aronzon, *Blockchain and Geographical Indications: A Natural Fit?* 15 J. Intell. Prop. L & Prac. 913, 925 (2020).

¹⁷¹ Ana Rački Marinković, *Civil Enforcement of Geographical Indications in Europe*, 17 J. Intell. Prop. L & Prac. 65, 70 (2022).

infringements and their compliance with the Enforcement Directive. The responsibility for these remedies lies with national authorities, encompassing jurisdiction and establishing a legal framework for handling GI infringements. However, in some nations, civil remedies for GI infringements are only indirectly available under unfair competition regulations, and these may not fully align with the Directive. The paper argues the need to establish a legal framework for more efficient and effective civil enforcement of EU GIs. The study on GI protection in EU Member States highlights divergent approaches, with some countries using civil remedies under non-harmonised unfair competition rules.

This article provides valuable insights into the legal protection of geographical indications in the EU; it does not directly address the situation in Nepal.

42. Geographical Indications: New Perspectives and Recent Developments¹⁷²

A special edition by Irene Calboli celebrates the significance of GI research, featuring contributions from leading academics, emerging scholars, and practitioners from every continent. GIs promote economic and social development, highlighting real-life examples from different regions and local communities' challenges in managing GIs. It explores the positive impact of GIs on the environment and sustainable development and the growing trend of using GIs for country branding. GIs have evolved into a prominent field of IP Law, attracting global attention and contributing significantly to economic and social development worldwide. This special issue of JIPLP showcases the diversity of perspectives and developments in the GI landscape.

43. “A Helpful Companion to Navigate European Geographical Indications and Designations of Origin”¹⁷³

Marius Schneider reviewed Michael Blakeney's second edition of “The Protection of Geographical Indications: Law and Practice,” which offers a practical and comprehensive overview for IP practitioners in the EU. It covers

¹⁷² Irene Calboli, *Geographical Indications: New Perspectives and Recent Developments*, 16 J. Intell. Prop. L. & Prac. 289, 290 (2020).

¹⁷³ Marius Schneider, *A Helpful Companion to Navigate European Geographical Indications and Designations of Origin*, 16 J. Intell. Prop. L. & Prac. 450, 451 (2021).

international GI regimes, European legislation on GIs and designations of origin, protection of agricultural products, wines, and spirits, EU trademark legislation, enforcement of GIs, and protection of EU GIs outside Europe. This second edition is especially relevant considering the growing demand for European products in developing economies like Asia and Africa.

44. “Geographical Indications in the Era of the African Continental Free Trade Area (AfCFTA)”¹⁷⁴

This article suggests that Africa's GIs can prosper by implementing inclusive, sustainable, and effective systems. GIs, as a unique form of IP, have the potential to promote local products globally. The African Union has introduced the AfCFTA to enhance Pan-Africanism and the African Renaissance. The article emphasises the importance of establishing a unified African stance on GIs through the AfCFTA Protocol on IPRs and related African Union instruments. It argues that African GI ecosystems can succeed with ISE regimes by focusing on African needs, harmonising fragmented GI systems, and investing in creative capacity building. Despite the challenges, GIs offer opportunities to disseminate African products across the continent and globally, making their pursuit worthwhile. There is a significant literature gap concerning Nepal's legal protection of Geographical Indications. Researchers focus on Nepal's legal framework, challenges, opportunities, international agreements, case studies, and comparative analysis to better understand the prospects and problems in this context.

45. “A Pathway to International Registration for African Geographical Indications Under the Geneva Act: The Case for Oku White Honey”¹⁷⁵

The article was authored by Charlene Musiza and published in the Journal of Intellectual Property Law & Practice. This article discusses the Geneva Act and its appeal to African countries, highlighting the importance of GIs for rural development, as the African Union Continental Strategy for GIs emphasises. It

¹⁷⁴ Titilayo Adebola, *Geographical Indications in the Era of the African Continental Free Trade Area (AfCFTA)*, 17 J. Intell. Prop. L. & Prac. 748, 760 (2022).

¹⁷⁵ Charlene Musiza, *A Pathway to International Registration for African Geographical Indications Under the Geneva Act: The Case for Oku White Honey*, 16 J. Intell. Prop. L. & Prac. 394, 401 (2021).

suggests that the Organisation Africaine de la Propriete' Intellectuelle consider joining the Geneva Act and seek international registration for Oku White Honey from Cameroon as one of the first GIs in the region. While challenges may arise regarding the interaction between prior trademark rights and appellation of origin or GIs, coexistence is possible. Oku White Honey's case demonstrates how countries can utilise the Geneva Act to protect GIs in third countries and access export markets. This article has not addressed the legal protection of Geographical Indication in Nepal.

46. **“Current and Future Protection of Geographical Indications in Australia”¹⁷⁶**

An article by Paula Zito published in the *Journal of Intellectual Property Law & Practice* argues the need to establish a dedicated food GI framework in Australia, especially considering negotiations with the EU for the Australia–European Union Free Trade Agreement. Such a framework would align the food industry with wine-industry standards, benefiting the industry and intellectual property laws. Also, focus on Australia's stance on protecting GIs nationally and internationally. It highlights the disparity in protection between Australian regional names on wine labels, regulated by a dedicated GI framework, and those on food labels, relying on consumer protection, trademark, and passing off laws. Australia complies with international GI protection obligations by safeguarding wine GIs under its dedicated framework and other product GIs as certification trademarks. The literature gap revolves around the absence of a dedicated legal framework for GIs, potential disparities in protection, compliance with international obligations, trade implications, and the alignment of intellectual property laws.

47. **“The Ever-Growing Scope of Geographical Indications’ Evocation: From Gorgonzola to Morbier”¹⁷⁷**

Article co-authored by Vicente Zafrilla Di’az-Marta and Anastasiia Kyrylenko and published in the *Journal of Intellectual Property Law & Practice* deals with

¹⁷⁶ Paula Zito, *Current and Future Protection of Geographical Indications in Australia*, 17 J. Intell. Prop. L. & Prac. 348, 356 (2021).

¹⁷⁷ Vicente Zafrilla Di’az-Marta & Anastasiia Kyrylenko, *The Ever-Growing Scope of Geographical Indications’ Evocation: From Gorgonzola to Morbier*, 17 J. Intell. Prop. L. & Prac. 442, 44 (2021).

The European Union GI framework provides extensive protection to GI products, and this protection has been further expanded by the “Court of Justice of the European Union (CJEU),” especially in evocation cases. The article's authors propose a systematic test for evaluating GIs' evocation to enhance decisional consistency and legal clarity. They emphasise the need for a balanced approach between the GI system's goals and the scope of GI protection, focusing on recent cases like *Morbier*. The CJEU's evolving case-specific approach has led to a unique and expansive level of GI protection, distinct from other EU intellectual property rights and international standards. Despite common elements in CJEU decisions, there's no standardised 'evocation test' to ensure consistency and legal certainty in GI protection cases.

48. “Geographic Indications in Brazil and Their Socio-Environmental Dimensions: Gaps and Opportunities of the Brazilian GI Regulation for Agricultural Products”¹⁷⁸

Articles jointly authored by Alexandre San Martim Portes, Marina Demaria Venañcio and Lukas Ruthes Goncalves published in the *Journal of Intellectual Property Law & Practice*. GIs are recognised globally for protecting product quality and reputation. In Brazil, there's an ongoing debate on whether GIs can promote sustainable development by connecting a product's quality with traditional and sustainable production methods. This study examines 30 GIs of Brazil to understand how they address socio-environmental sustainability. While GIs can enhance the value of conventional products, their regulations don't directly address socio-environmental issues. This diversity in GIs presents a challenge and an opportunity: new GIs may or may not include socio-environmental provisions, but there's room for improvement in promoting sustainable production.

¹⁷⁸ Alexandre San Martim Portes et al., *Geographic Indications in Brazil and Their Socio-Environmental Dimensions: Gaps and Opportunities of the Brazilian GI Regulation for Agricultural Products*, 16 *J. Intell. Prop. L. & Prac.* 384, 393 (2021).

49. “Geographical Indication Protection for Non-Agricultural Products in Indonesia”¹⁷⁹

Article jointly authored by Miranda Risang Ayu Palar, Ahmad M Ramli, Dadang Epi Sukarsa, Ika Citra Dewi and Saky Septiono published in the *Journal of Intellectual Property Law & Practice* that examines the laws and regulations governing geographical indications registration in Indonesia, with a focus on the challenges of protecting non-agricultural products under the 2019 Minister of Justice and Human Rights Regulation (MJHR). Non-agricultural products often have strong ties to local culture but weaker connections to natural factors, making registering them as geographical indications complex under the current MJHR 2019 requirements. The article uses various sources and interviews to conclude that MJHR 2019 conflicts with the 2016 trademark and geographical indications law and the 2007 regulation. It recommends harmonising the current MJHR 2019 requirements with existing laws. A literature gap could involve a detailed analysis of the legal protection of non-agricultural products as GIs in Nepal.

50. “The GI Structure (The Model Behind the EU Rules) or the Complexity of This Subjective Right”¹⁸⁰

An article by Khorsed Zaman, published in the “*Journal of Intellectual Property Law & Practice*,” explores the intricate structure of GIs within the legal framework of the EU. Despite the complexity of this industrial property right, EU law provides options that align with the legal functions and nature of GIs. The structure, analysed through three pillars—producers' groups, product specifications, and control/certification bodies—demonstrates flexibility. GIs and DOs require a substantial structure and regulatory intervention, reflecting their collective nature and the need to safeguard producer community interests. In a risk society, where consumers seek assurance about the safety and origin of food, GIs play an essential role in addressing uncertainties and representing collective community interests.

¹⁷⁹ Miranda Risang Ayu Palar et al., *Geographical Indication Protection for Non-Agricultural Products in Indonesia*, 16 J. Intell. Prop. L & Prac. 405, 414 (2021).

¹⁸⁰ Alberto Ribeiro de Almeida, *The GI Structure (The Model Behind the EU Rules) or the Complexity of This Subjective Right*, 16 J. Intell. Prop. L & Prac. 301, 309 (2021).

A literature gap can be drawn as investigating the cultural and economic implications of GI in Nepal and how they contribute to addressing consumer concerns about food safety and origin could provide valuable insights.

51. “The New Russian Law of Geographical Indications: A Critical Assessment”¹⁸¹

The article, authored by Andrea Zappalaglio and Evgeniia Mikheeva and published in the *Journal of Intellectual Property Law & Practice*, examines the recent changes to Russia's GIs Law, implemented on July 27, 2020. The reform, inspired by the EU and the Geneva Act of the Lisbon Agreement, aims to enhance the GI system. Based on legal and economic sources, the analysis evaluates the new law's provisions and questions its ability to achieve ambitious goals. The conclusion suggests that while it's a noteworthy attempt to improve the GI system, it needs to catch up to international best practices. The article is the first scholarly analysis of Russia's sui generis GI regime, highlighting positive innovations and shortcomings. The assessment indicates that, in the short term, the reform may need help to meet legislative expectations due to factors like the lack of a supportive developmental policy, consumer indifference to GI labels, insufficient coordination among Russian producers, and limited impact on niche origin product exports.

52. “Geographical Indications Versus Trademarks and Generic Terms: The US-China Agreement”¹⁸²

Conflicts between trademarks and GIs cannot be resolved by applying trademark principles to GIs. To understand these disputes, we must delve into subjective industrial property rights' distinct legal functions and nature. The differences in structure, functions, and legal nature explain the varied regimes and levels of protection for these rights. While trademarks have been a model for distinctive

¹⁸¹ Andrea Zappalaglio & Evgeniia Mikheeva, *The New Russian Law of Geographical Indications: A Critical Assessment*, 16 J. Intell. Prop. L. & Prac. 368, 375 (2021).

¹⁸² Alberto Ribeiro de Almeida, *Geographical Indications Versus Trademarks and Generic Terms: The US-China Agreement*, 51 IIC 277, 281(2020), <https://doi.org/10.1007/s40319-020-00923-0> (last visited Mar. 8, 2025).

signs, GIs, as distinctive signs differ significantly. Privileges for GIs include protection against genericness, coexistence with previous trademarks, and more. However, challenges arise, especially in agreements where GIs are disregarded in the context of market access demands. This disregard protects GIs in China, impacting access to goods or services identified with prior trademarks in conflict with GIs protected in China. Territoriality principles, IPRs as legitimate trade barriers, and the evaluation of genericness in each territory play crucial roles. The agreement also raises issues regarding the criteria for a term to be considered generic, emphasising consumer understanding in China based on various objective criteria. However, this approach overlooks the owner's behaviour, contrasting with the EU regime for GIs and trademarks.

1.8.4 Literature Gaps

Even though the existing literature and its gist are explained above in detail, along with clearly identifying the research gaps, the researcher is summing up the literature gap in general in this section.

The five articles about GIs in Nepal were available. The writing figures reveal a significant gap in understanding from an academic researcher's perspective.¹⁸³ The four peer-reviewed journals in law are Nepal Law Review, Nepal Bar Council Law Journal, NJA Law Journal and Kathmandu School of Law Review. One article on GIs is in the NJA Law Journal, two articles on GIs have been found in the Nepal Bar Council Law Journal, and one is published in the Kathmandu School of Law Review. Bhaktapur Bar has published an article on GIs focusing on wine and spirits (Appendix 18: List of Peer-Reviewed Journals of Law in Nepal and Articles on GIs). All the articles were written similarly, focusing on the *sui generis* GIs, necessitating the lack of articles from the collective marks' perspectives. No article on GIs has been published in the Nepal Law Review on the area of GIs.

No thesis has been written in BA LLB and PhD in Nepal Law Campus and Faculty of Law of TU on the areas of GIs, as there is no subject on intellectual property in LLM

¹⁸³ NIDHI BUCH & HETVI TRIVEDI, GEOGRAPHICAL INDICATIONS OF INDIAN HANDLOOMS: BETWEEN LEGAL RIGHT AND REAL RIGHT 2 (Routledge 2022).

in TU, Nepal Law Campus. Still, two doctoral theses are written on intellectual property, and both have included some pages on geographical indications.¹⁸⁴ There are 23 theses on GIs in Kathmandu School of Law, including 22 on LLB and one in LLM. There is not a single book written by a Nepali writer on GIs.

Furthermore, no single book written on GIs was available in the Nepal Law Campus library (last visited on April 4, 2025). One book on GIs, written by a foreign writer, is available from the Central Law Library and Kathmandu School of Law Library.

There is also the significant lacking empirical research on GIs. There is a vicious circle of no laws, no writing. No writing leads to no pressure to make laws. Therefore, there is a major gap in academic writing in Nepal. This thesis adds on the part of understanding GI from the prospects and problems perspectives of GIs in Nepal.

This thesis fills the gap in the existing literature by analysing the legal provisions of Nepal connected to GI. It also attempts to compare the existing legal provisions with TRIPS legal frameworks to emphasise the fact that a new law is urgent. The study is also a pioneer in empirical research related to GIs in Nepal with key informants' interview with expertise of IPR. The researcher understands that it is very easy to suggest formulations of new laws. Therefore, the researcher has clearly identified the impediments to the implementation of GI laws in Nepal. The present study is beneficial not only to those who learn and practice IPR, but it is useful attempt of spotting an area of amendment in the Industrial Property Bill, 2025 BS for the parliamentarians to take note while amending bill.

1.9. Limitations of the Study

This thesis is limited to studying the “legal protection of geographical indications in Nepal with special reference to TRIPS Agreement: Prospects and problems.” Further it focuses on the mechanism required to protect the geographical indication goods of

¹⁸⁴ Sarita Khanal, TRIPS Agreement and Its Implication in Nepal (2022) (Ph.D. dissertation, Tribhuvan University) (on file with Faculty of Law Library) & Dinamani Pokharel, Legal Analysis of the Implications of Intellectual Property Rights Regime for the Protection of Biogenetic Resources: A Case Study of Nepal (2016) (Ph.D. dissertation, Tribhuvan University) (on file with Faculty of Law Library).

Nepal. It is confined to studying GIs of goods, not wine and spirit. The thesis is limited to the paper comparing trademark protection of goods and *sui generis* geographical indication of goods in Nepal. Other laws also focus on other business practices outside this thesis purview.

International instruments on GIs include the TRIPS agreement, the Paris Convention, the “Lisbon Agreement for the Protection of Appellations of Origin and their International Registration,” the “Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods,” and more. The thesis has studied international law for reference.

Alongside the European Union, the Andean Community, the “Association of Southeast Asian Nations,” and Mercosur, the “North American Free Trade Agreement,” the Bangui Agreement from West Africa, and the “South Asian Association for Regional Cooperation” are there which are not discussed in detail. Regarding SAARC countries laws on GIs, there is only the draft law on GIs in Afghanistan. Therefore, the draft laws are not taken for the comparative study. Whereas the provision of the bill is referred and done a comparative study of it with TRIPS. Bhutan has promulgated the Geographical Indication Rules and Regulations of Bhutan 2025 on June 6, 2025, AD which is not incorporated in this thesis.

The review of the cases is critical in the thesis. The concept and understanding of GI in Nepal are in the primary stage; therefore, no case has been found or decided by the Supreme Court of Nepal regarding GI. However, three cases are available on High Court Patan on GI. Therefore, the thesis has studied the cases of the high court. However, owing to the unavailability of cases the Supreme Court decides, it still needs to have Supreme Court cases to study. The cases decided by the 'Department of Industry', cases in the Supreme Court and cases decided the High Court Patan have been studied since 2067 BS, that is, 2081 BS. The reason behind the time limitation was that The Collective Mark Registration Directive 2067 BS (2010 AD) was promulgated on that date. There was a time limitation. The thesis has studied the legal provisions of GIs up to Baisakh, 2082 BS. However, after the pre submission presentation and before receiving the comment of format checking, the Industrial Property Bill, 2082 BS is registered in the Parliament. The key informant was done before submission of the pre submission. Therefore, the

views of the key informant are kept as it is. The thesis has examined the prospects and problems of implementing the GI laws in Nepal to protect geographical indication goods. Based on these the researcher has given the suggestion to the amendment in the bill.

1.10. Organisation of the Study

The thesis comprises altogether seven chapters. Chapter One introduces a detailed research framework concerning the 5W1H (What, Where, Why, When, Who and How) format. It incorporates the introduction of the study, statement of the problem, research questions, the objective of the study, limitation, significance of the study, the scope of the study, and methodology of the study, and it includes research design, research study area, data collection and procedure, data analysis method and citation style, review of the literature, limitations of study an organisation of the study. The literature, like reports, theses, books, and articles are reviewed for literature review.

Similarly, chapter two examines the conceptual framework of geographical indications. It encompasses the meaning and definition of geographical indications, their importance, historical development, philosophical aspects, related theories, characteristics, types of geographical indications, functions, and grounds for protection (including *sui generis* protection, trademark protection, collective marks, and certification marks). It also compares the *sui generis* protection of the EU with the collective mark protection in the US, concluding the chapter.

Similarly, chapter three comprises the legal framework on GI that incorporates the national legal framework on GI that incorporates the Constitution of Nepal, The Muluki Civil Code, 2074 BS, statutes, directives, bill, budget speech and policies and the international legal framework on GI, which includes The “Paris Convention for the Protection of Industrial Property, 1883 AD,” “Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods 1891 AD,” “Madrid Agreement Concerning the International Registration of Mark, 1891 AD” as amended on September 28, 1979, The Versailles Peace Treaty, 1919 AD, “International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa

Convention) 1951AD,” “The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD,” “Geneva Act of the Lisbon Agreement on Appellations of Origin (AO),” “Trade-Related Aspects of Intellectual Property, 1995 AD” (including relation between Paris Convention and TRIPS Agreement, comparative study between Paris Convention, Madrid Agreement, Lisbon Agreement and TRIPS Agreement) and judicial decisions on geographical indications (including cases decided by the Department of Industry, High Court, Patan and case that reached to the Supreme Court) analysis of the existing legal provision of GIs in Nepal also comparison of the compatibility of Nepal's provisions on GIs with that of the TRIPS Agreement further a comparison of the TRIPS provisions on GIs with the National Intellectual Property Policy, 2074 BS and the conclusion of this chapter.

Chapter four also explores the protection of GI laws across South Asian countries. This includes an introduction to the chapter, the status of SAARC countries regarding the ratification of international instruments on GIs, the constitutional protection of intellectual property within these countries, the methods adopted by the SAARC nations to protect GI-capable goods, the implementation aspects of GIs in SAARC nations, the registration of sui generis geographical indications, the Global Innovation Index for 2024 AD, the members of “WIPO's Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications,” and a conclusion for this chapter.

Chapter five discusses the legal measures necessary to protect Nepal's GI-capable goods, beginning with the chapter's introduction. It identifies Nepal's goods capable of geographical indications, including a description of the questions, a summary of the responses, tabular, bar chart, and pie chart representations acquired from the KII, alongside the chapter analysis. Additionally, the categories of goods capable of geographical indications are identified from the KII, which incorporates a question description, a summary of the responses, and representations in tabular form, bar charts, and pie charts, along with an analysis of these categories. The KII examines the situations of geographical indications capable of delivering goods in Nepal. It includes a description of the questions, a summary of the responses, tabular, bar chart, and pie chart representations, and an analysis of the situation of these goods. The KII also addresses the protection of geographical indications-capable goods in Nepal,

incorporating question descriptions, summaries of responses, tabular, bar chart, and pie chart representations and their analysis. The preferred methods of protecting geographical indications capable goods include question descriptions, summaries of responses, tabular representations, bar chart representations, pie chart representations, their analysis, and a conclusion.

Furthermore, chapter six examines the prospects and challenges of implementing geographical indication laws in Nepal. It introduces the chapter and then discusses the prospects, issues, and support for implementing geographical indications laws in Nepal derived from the KII. This includes questions, descriptions, summaries of responses, and various representations such as tables, bar graphs, and pie charts, followed by an analysis and conclusion. Finally, chapter seven includes the thesis's findings, conclusions, suggestions, and suggestions for further research, followed by the references and appendices.

CHAPTER II

2. CONCEPTUAL FRAMEWORK OF GEOGRAPHICAL INDICATIONS

2.1. Meaning and Definition of Geographical Indications

Various developments can be seen in the evolution of GIs in the international arena from the beginning to the journey of TRIPS. Further, there has been no use for a consistent name since its inception. WTO report of Article 24.2 of the TRIPS Agreement on GIs states that 26 names are used in different documents. (Appendix 19).¹⁸⁵ Also, the international instruments were not uniform in name, including “The Paris Convention for the Protection of Industrial Property, 1883, uses the words indication of source and appellations of origin.”

Similarly, the “Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891” uses the word indication of the source.”

Likewise, “The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958,” defines the word 'appellation of origin'.

Finally, the “Agreement on Trade-Related Aspects of Intellectual Property, 1994,” has used the world’s geographical indications¹⁸⁶ and globalised GIs and their protection, mandating the government to take action to protect it.¹⁸⁷

It is also found that another name is also used instead of GIs; to mention a few are ‘Geological Indications’, referring to terms like 'Geological Sign', 'Signs of Source', or 'Monikers of Birthplace,' Country of Origin, Food Sociology & Anthropology.’¹⁸⁸

¹⁸⁵ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 24.2, Apr. 15, 1994, *Compilation of Multilateral Treaties* 412 (Government of Nepal, 2024).

¹⁸⁶ Laxmi Sapkota, *Necessity of Sui generis Geographical Indication Laws in Nepal*, 16 N J A LAW J. 125 (2022).

¹⁸⁷ WILLIAM VAN CAENEGEM & JEN CLEARY, *THE IMPORTANCE OF PLACE: GEOGRAPHICAL INDICATIONS AS A TOOL FOR LOCAL AND REGIONAL DEVELOPMENT* 28 (Springer 2017).

¹⁸⁸ *Id.* at 182.

Additionally, "geographical signs" are defined in Article 22 (1) of the "TRIPS."¹⁸⁹ Different countries use other names, too. GI can be given to goods and services as an indication of provenance or as a denomination of origin.¹⁹⁰ "Collective trademarks, certification marks, indications of source, appellations of origin, and denominations of origin collectively refer to marks indicating conditions of origin."¹⁹¹ Geographical indications are marks indicating the origin of a product that shows a product identified with a locality, area, region, or country of origin with a distinctive characteristic feature, reputation, or other qualities.

"A GI is a sign of recognition of specific characteristics, reputation, or quality of a product attributable to its geographical origin, and recognition takes the form of a collective IPR, granting legal protection of the product name in markets."¹⁹²

GIs help prevent deception regarding specific qualities of products. These qualities are determined by a unique combination of geographic, climatic features and agronomic factors, known as *terroir* ("meaning territory or origin in the French language, the complete natural environment in which a particular wine is produced, including factors such as the soil, topography and climate.")¹⁹³ The *terroir* unites the "natural and human factors" allegedly contributing to the unique quality and authenticity of certified products produced in the GIs area.¹⁹⁴ According to the European Union (EU) narrative,

¹⁸⁹ Kritika Nagpal, *International Developments in Geographical Indications Issues and Challenges* (2020) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library).

¹⁹⁰ Alex Victor Do Rosário et al., *Brazilian Goods and Services Protected by Geographical Indication*, 12 INT'L JDR. (2022), https://www.journalijdr.com/sites/default/files/issue-pdf/25373_0.pdf (last visited Oct. 22, 2024).

¹⁹¹ Rosemary J. Coombe & Sali Malik, *Rethinking the Work of Geographical Indications in Asia: Addressing Hidden Geographies of Gendered Labor, in Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* 87, 120 (Irene Calboli & Wee Loon Ng-Loy eds., 2017).

¹⁹² Claire Bernard-Mongin et al., *Geographical Indication Building Process for Sharr Cheese (Kosovo): "Inside Insights" on Sustainability*, 13 SUSTAINABILITY 5696 (2021), <https://www.mdpi.com/2071-1050/13/10/5696> (last visited Oct. 22, 2024).

¹⁹³ OXFORD DICTIONARY OF ENGLISH 1822 (Catherine Soanes & Angus Stevenson eds.).

¹⁹⁴ Tim Josling, *The War on Terroir: Geographical Indications as a Transatlantic Trade Conflict*, 57 J. A.E. 337 (2006), <https://onlinelibrary.wiley.com/doi/10.1111/j.1477-9552.2006.00075.x> (last visited Oct. 22, 2024).

the specific terroir that shapes product quality is the primary motivation for a *sui generis* (terroir-based) GI scheme.¹⁹⁵

The French concept of "*terroir*" is that food and wines receive unique flavours and qualities from the soil, climate, culture, and tradition of the regions where the products are grown, produced, and created."¹⁹⁶ The notion of *terroir* is that geography produces product that other areas cannot imitate.¹⁹⁷

It identifies goods originating from a particular geographic where their quality, reputation or characteristic is closely linked to their place of origin. Further, it provides legal protection to the products to prevent unauthorised use of the GI on products that do not meet the specific criteria linked with that location. The legal protection of the products helps preserve the distinctiveness and reputation of products related to their places of origin. It is also protected in some countries (like Sri Lanka and Singapore) without registration. The registered GIs enjoy enhanced protection in that the GI mark cannot be used on goods which does not come from the place the GI has indicated. It happens even if the consumer is not misled and clearly understands the geographical origin of the goods in question. Further, producers and traders of registered GIs can also access the border enforcement measures as may be required.¹⁹⁸ They can request Singapore customs authorities to detain suspected infringing goods imported and exported from Singapore.¹⁹⁹

World Intellectual Property Organization has defined "GI as a sign that indicates a product possesses quality or reputation with a particular geographical origin, and the quality or reputation is because of that origin, the authenticity of the products originated from a specific region or manufactured by a certain community."²⁰⁰

¹⁹⁵ Gero Laurenz Höhn et al., *Does terroir size matter? Protected Geographical Areas and Prices of European Hams*, 1 REGIONAL STUDIES 1 (2023), <https://doi.org/10.1080/00343404.2023.2187365> (last visited Mar. 1, 2025).

¹⁹⁶ Jane Black & Arlin Wasserman, *The Geography of Flavor*, WWW.IATP.ORG (2007), https://www.iatp.org/sites/default/files/143_2_99797.htm (last visited Apr. 13, 2024).

¹⁹⁷ Justin Hughes, *Champagne, Feta, and Bourbon: The Spirited Debate about Geographical Indications*, 58 UC LAW JOURNAL 299 (2006), https://repository.uchastings.edu/hastings_law_journal/vol58/iss2/3 (last visited Oct. 23, 2024).

¹⁹⁸ Geographical Indications Act, Part 6 (2014) (Singapore).

¹⁹⁹ Geographical Indications (Border Enforcement Measures) Rules 2022 (Singapore).

²⁰⁰ World Intellectual Property Organization, About WIPO, <https://www.wipo.int/en/web/geographical-indications> (last visited Jan. 22, 2025).

The TRIPS agreement defines GI as “a sign which identifies a good as originating in the territory of a member or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.”²⁰¹

The TRIPS agreement offers two levels of protection for GIs: general²⁰² and higher²⁰³. Article 22 includes rules for protecting geographical indications (GIs). Members must create legal methods to protect GIs. Article 22.1 defines what qualifies as a GI; Article 22.2 deals with misleading GIs, and Article 22.4 addresses deceptive use of the term. These covers use indications in a manner that creates unfair competition and cancelling trademarks containing misleading indications. Article 23 of the TRIPS agreement outlines provisions for enhanced protection of GIs. Article 23.1 establishes legal measures to stop the use of GIs for wines and spirits that do not come from specified region. Article 23.2 allows for the cancellation/rejection of trademarks incorporating GI-tagged wine and spirits. Additionally, Article 24.1 calls for negotiations to further enhance protection for individual GIs, including homonymous indications and establishing a multilateral register. These provisions grant exclusive rights to the original producers and prevent other traders from misleading consumers.

A WIPO study 2002 stated that several countries now use the “TRIPS definition as the basis for their national legislation on GIs, thus establishing it as a common denominator in this field of law.”²⁰⁴

The TRIPS Agreement does not dictate how World Trade Organization members must incorporate their obligations into domestic law. Instead, it establishes minimum standards for intellectual property protection, allowing members to exceed them. This raises the question of how much a WTO member can exceed these minimum standards before their measures violate other WTO obligations.²⁰⁵

²⁰¹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 22, Apr. 15, 1994, *Compilation of Multilateral Treaties*, 411 (Government of Nepal, 2024).

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ World Intellectual Property Organization, Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, https://www.wipo.int/edocs/mdocs/sct/en/sct_9/sct_9_4.pdf (last visited Mar. 6, 2025).

²⁰⁵ Caroline Henckels, *The Compatibility of the European Union’s Geographical Indications Regulations for Wines with the World Trade Organization Agreement on Technical Barriers to*

2.2 Importance of Geographical Indications Protection

Different reasons for the protection of GIs show the importance of the GIs, which are discussed below:

- a. To Protect the Interests of the Local Market: GIs play a crucial role in safeguarding the interests of the local market and preserving a nation's uniqueness and cultural identity.²⁰⁶ Globalisation has diminished the distance between countries and enhanced trade relations among nations; consequently, local products face threats.²⁰⁷ Therefore, to protect local market interests, GIs are indispensable.
- b. Guaranteed Protection Against Illegal Usage of Product: Certain products possess manufacturing and production processes that are exclusively known to the community responsible for their²⁰⁸ creation. Additionally, that region's natural and geographical factors significantly influence product development. Geographical indications ensure protection against the unlawful use of these products.
- c. Prevent Unjust Enrichment: GI helps prevent the unjust enrichment of benefits in the hands of a few²⁰⁹ and promotes the community's rights. The free ride on rights is restricted.
- d. Registered GI Provides Collective Rights:²¹⁰ The registered GI grants rights to the community members, emphasising that these rights are communal rather than individual. Consequently, ownership belongs to the community.²¹¹
- e. Absolute Protection: The legal protection afforded to GIs has evolved to a level described as absolute protection, ensuring that the legal rights associated with a GI are not contingent upon whether consumers know the product's geographic

Trade, 23 THE J. WIT. 293 (2022), https://brill.com/view/journals/jwit/23/2/article-p293_6.xml (last visited May 13, 2024).

²⁰⁶ Janani Sridharan, *GI Protection: The Need for Amelioration*, 2 INT'L. JLSI 23 (2020), <https://ijlsi.com/wp-content/uploads/GI-Protection-The-Need-for-Amelioration.pdf> (last visited Oct. 23, 2024).

²⁰⁷ Sneha Sharma, *An Introduction to Geographical Indications: New Perspectives and Recent Developments*, 5 INT'L J. LEGAL SCIENCE AND INNOVATION 74 (2023).

²⁰⁸ *Id.*

²⁰⁹ Janani Sridharan, *GI Protection: The Need for Amelioration*, 2 INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION 23 (2020), <https://ijlsi.com/wp-content/uploads/GI-Protection-The-Need-for-Amelioration.pdf> (last visited Oct. 23, 2024).

²¹⁰ Almusawir et al., *Protection of the Economic Rights of Geographical Indication Holders in the Indonesian Trademark and Geographical Indication Law*, 5(3) Sch Int J Law Crime Justice, 128–141 (2022), <https://doi.org/10.36348/sijlcj.2022.v05i03.006> (last visited Mar. 5, 2025).

²¹¹ *Id.*

origin. Instead, associating a product with a specific geographical indication is sufficient to merit legal protection.²¹²

Therefore, GIs play a vital role in safeguarding the interests of the local market, providing protection against the illicit use of products, preventing unjust enrichment, and conferring collective rights and communal ownership providing absolute protections through registered GIs.

2.3. Historical Development of Geographical Indications

GI is governed by a multitude of contributory laws within the international domain.²¹³ Despite its significance, the term GI has been the subject of extensive debate and is commonly referred to as a terminological mess²¹⁴ or a multiple personality disorder²¹⁵ due to its various identities, including “indication of source, appellation of origin, the French Appellation d'Origine Contrôlée, and the *sui generis* system of Protected Designation of Origin and Protected Geographical Indication in the European Union.”²¹⁶ The WTO report stated “23 different names used in the review under article 24.2 of the application of the provision of the TRIPS Agreement” on GIs section.²¹⁷

“The Paris Convention for the Protection of Industrial Property 1883” is the international instrument that addresses GI, but it did not use the term explicitly. However, it uses the words 'indication of source' and 'appellations of origin' to describe major attributes of all goods.²¹⁸ Further, the “Madrid Agreement for the Repression of False or Deceptive

²¹² Léon Dijkman, *Pairing Sturgeon with Champagne: Towards a Due Cause Exception in the Law of Geographical Indications*, 54 DELETED JOURNAL 1226 (2023), <https://link.springer.com/article/10.1007/s40319-023-01367-y#citeas> (last visited Apr. 23, 2024).

²¹³ Sy Luong Nguyen & Van Anh Le, *Diffusion of Geographical Indication Law in Vietnam: “Journey To The West,”* 54 IIC – INT’L REVIEW OF INTELLECTUAL PROPERTY AND COMPETITION LAW 176 (2023), <https://doi.org/10.1007/s40319-023-01289-9> (last visited Mar. 5, 2025).

²¹⁴ DEV GANGJEE D., *RELOCATING THE LAW OF GEOGRAPHICAL INDICATIONS 2* (Cambridge Univ. Press 2012).

²¹⁵ Sy Luong Nguyen & Van Anh Le, *Diffusion of Geographical Indication Law in Vietnam: “Journey To The West,”* 54 IIC – INT’L REVIEW OF INTELLECTUAL PROPERTY AND COMPETITION LAW 176 (2023), <https://doi.org/10.1007/s40319-023-01289-9> (last visited Mar. 5, 2025).

²¹⁶ *Id.*

²¹⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.24, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

²¹⁸ Sy Luong Nguyen & Van Anh Le, *Diffusion of Geographical Indication Law in Vietnam: “Journey To The West,”* 54 IIC – INT’L REVIEW OF INTELLECTUAL PROPERTY AND COMPETITION LAW 176 (2023), <https://doi.org/10.1007/s40319-023-01289-9> (last visited Mar. 5, 2025).

Indications of Source on Goods 1891” expands the scope of the Paris Convention by including 'indication of the source.' Similarly, “The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958,” defined the word 'appellation of origin' for the first time. This term is more required than the "indication of the source" used in Paris Convention since the goods with the GI label should show a unique or necessary connection among the product's qualities and the geographical area.²¹⁹ At length, TRIPS Agreement is the first international instrument that used the GIs.²²⁰

There is the spectrum of names of GI. The GI domain offers greater flexibility and legislative freedom than other IP areas.²²¹ The various names used for the GI are as follows:

Indications of Source

“Indication of source” is used in the Paris Convention²²² and the Madrid Agreement.²²³ Based on both IS, it can be defined as “An indication referring to a country or a place situated therein as being the country or place of origin of a product.”²²⁴

The IS has the following components: a link between the geographical origin and indications also it does not require to differentiate qualities or attributes of the goods.

The protected indication could be phrase/ word right indicating geographical origin or symbols, phrases associated with the geographical origin, such as Made in Nepal.²²⁵

²¹⁹ *Id.*

²²⁰ Laxmi Sapkota, *Necessity of Sui generis Geographical Indication Laws in Nepal*, 16 NJA LAW J., NATIONAL JUDICIAL ACADEMY NEPAL 125 (2022).

²²¹ Sy Luong Nguyen & Van Anh Le, *Diffusion of Geographical Indication Law in Vietnam: “Journey To The West,”* 54 IIC - INTERNATIONAL REVIEW OF INTELLECTUAL PROPERTY AND COMPETITION LAW 176 (2023), <https://link.springer.com/article/10.1007/s40319-023-01289-9#citeas> (last visited Oct. 22, 2024).

²²² Paris Convention for the Protection of Industrial Property, art. 1.2 & 10, Mar. 20, 1883, *Compilation of Multilateral Treaties* 43-55 (Government of Nepal, 2024).

²²³ Madrid Agreement Concerning the International Registration of Mark, art. 1, Apr. 14, 1891, <https://www.wipo.int/wipolex/en/text/283529> (last visited Mar. 4, 2025).

²²⁴ C Bramley & J F Kirsten, *Exploring the Economic Rationale for Protecting Geographical Indicators in Agriculture*, 46 AGREKON 47 (2007), <https://doi.org/10.1080/03031853.2007.9523761> (last visited Mar. 6, 2025).

²²⁵ *Id.* at 47.

IS indicates the country of origin and ‘Made in’, only indicating geographical location: they do not denote that the products emanating from that location have unique characteristics due to geography (soil, climate, humidity).²²⁶ David M Higgins has used the words ‘indication of origin’ and ‘country of origin’ interchangeably.²²⁷

Appellations of Origin

In section 1.2 and 2.1 of Paris Convention, and Lisbon Agreement have used the term Appellation of origin (AO). The standard understanding definition from both is as follows:

"AO refers to the 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."

The key terms are appellations, direct geographical names, a designation of the product's geographical origin, and good's quality and characteristics attributable to the geographical origin of designated area. For instance, Roquefort Cheese produced in Roquefort, France.

IS the broadest word. It includes both GI and AO. However, GIs are broadly stated than AO. All AO are thus GIs, but some GIs are not AO.

Geographical Indications

A group of producers collectively owns AO, but each producer has the right to use the term independently.²²⁸ GIs play a vital role in safeguarding the investments made by producers and traders, and they also provide consumer protection by asserting the unique qualities that distinguish a product.²²⁹

²²⁶ DAVID M HIGGINS, BRANDS, GEOGRAPHICAL ORIGIN, AND THE GLOBAL ECONOMY: A HISTORY FROM THE NINETEENTH CENTURY TO THE PRESENT (2018).

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ Riccardo Crescenzi et al., *Geographical Indications and Local Development: The Strength of Territorial Embeddedness*, 56 REGIONAL STUDIES 381 (2022), 10.1080/00343404.2021.1946499 (last visited Mar. 6, 2025).

GIs is considered an offshoot of AO and IS; therefore, it is *sine qua non* (an essential condition) to explain the terms AO and IS for the complete understanding of GIs.²³⁰ The Paris Convention used IS and AO, and the Lisbon Agreement used AO. The differences between them are discussed below:

Table 2: Differences Between IS, AO and GIs.

Indication of Source (IS)	Appellation of Origin (AO)	Geographical Indications (GIs)
Paris Convention ²³¹ and the Madrid Agreement ²³² has used the word Indication of Source and has not defined it. IS states the clear link between indication and geographical origin but there is no requirement to distinguish the attributes or qualities of the goods. ²³³	The Paris Convention and Lisbon Agreement mention the word "Appellation of Origin." "The appellation must serve as a designation of the product's geographical origin, quality and characteristics shown by the product, and that must be essentially attributable to the designated area of geographical origin." ²³⁴	TRIPS agreement has used the word GIs.
'IS' is a broader concept that refers to country or place in that country from which the product in question originates. ²³⁵	AO is the geographical name of a place in a country or a country. ²³⁶	GI identifies the goods originating in the territory, region, or country.
'IS' can be a sign or symbol that indicates the country or place. For example, the Taj Mahal indicates goods	For the AO, the product must have its characteristics and quality linked with the geography of the place by way	GI includes geographical names and non-geographical names that have geographical significance.

²³⁰ NIDHI BUCH & HETVI TRIVEDI, *GEOGRAPHICAL INDICATIONS OF INDIAN HANDLOOMS: BETWEEN LEGAL RIGHT AND REAL RIGHT* 20 (Routledge 2022).

²³¹ Paris Convention for the Protection of Industrial Property, art.1.2 &10, Mar. 20, 1883, *Compilation of Multilateral Treaties* 43-55 (Government of Nepal, 2024).

²³² Madrid Agreement Concerning the International Registration of Mark, art. 1, Apr. 14, 1891, <https://www.wipo.int/wipolex/en/text/283529> (last visited Mar. 4, 2025).

²³³ C Bramley & J F Kirsten, *Exploring the Economic Rationale for Protecting Geographical Indicators in Agriculture*, 46 *AGREKON* 47 (2007), <https://doi.org/10.1080/03031853.2007.9523761> (last visited Jan. 10, 2025).

²³⁴ *Id.*

²³⁵ LATHA R. NAIR & RAJENDRA KUMAR, *GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY* (LexisNexis Butterworths 2005).

²³⁶ *Id.*

Indication of Source (IS)	Appellation of Origin (AO)	Geographical Indications (GIs)
originating from India, the Statue of Liberty indicates goods originating from America, and the expression "Made in Nepal" or "Made in India" indicates goods originating from Nepal and India. Similarly, the national flag is also used to indicate the origin of goods. ²³⁷	of the agro-climatic condition, soil, or human factor.” For example, Champagne and Scotch whiskey. The name of the country or place of a country and the name of a product are identical.	The geographical indication would include Darjeeling tea, Colombian coffee, Antigua coffee, and Cuban cigars. The non-geographical names include Basmati rice, aromatic rice from India, Pakistan, and Nepal, and Feta Cheese from Greece.
	Lisbon defined the term ‘AO’ as “the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors”. In comparing with the term “IS” used in Paris, “AO” in Lisbon “has a higher threshold because the product bearing the GI label must demonstrate an exclusive or essential link between the qualities of the product and the geographical area.” ²³⁸	TRIPS defines GIs as products originating in a territory, region, or area; the goods are quality because of that region or territory.
The nexus or a link between the product and the place is not required for quality IS. The product must originate in the place. ²³⁹	For the AO, there must be a link between the goods and the place name, and such link must be a tangible and objectively verifiable link such as climate or	GI should have a link between the product and the place, which can be either an objectively verifiable link,

²³⁷ *Id.*

²³⁸ Sy Luong Nguyen & Van Anh Le, *Diffusion of Geographical Indication Law in Vietnam: “Journey To The West,”* 54 IIC - INTERNATIONAL REVIEW OF INTELLECTUAL PROPERTY AND COMPETITION LAW 176 (2023), <https://doi.org/10.1007/s40319-023-01289-9> (last visited Mar. 6, 2025).

²³⁹ LATHA R. NAIR & RAJENDRA KUMAR, GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY (2005).

Indication of Source (IS)	Appellation of Origin (AO)	Geographical Indications (GIs)
	soil influences of the geography on the goods. ²⁴⁰	as in the case of an AO or a linked reputation. ²⁴¹
All IS are not GI and AO. ²⁴²	All AO and GI are IS. All AO are GI, but all GI are not AO. ²⁴³	All GI and AO are IS. All GI are not AO.

The differences between IS, GIs, and AO are shown in the Venn diagram below:

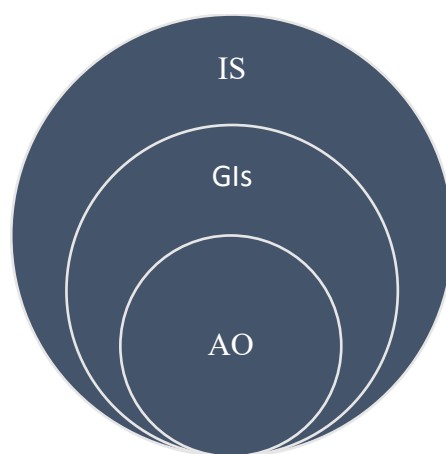


Figure 1: “Venn Diagram Showing the Differences Between IS, GIs, and AO”²⁴⁴

The differences between Appellation of Origin, Geographical Indications and Indication of Source as in the international instruments are shown in the picture below:

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ World Intellectual Property Organization, The Development of Geographical Indications Protection in China, Panel Presentation at the WIPO Geographical Indications Symposium, https://www.wipo.int/edocs/mdocs/sct/en/wipo_geo_ge_21/wipo_geo_ge_21_pan_el_1_2.pdf (last visited Mar. 5, 2025).

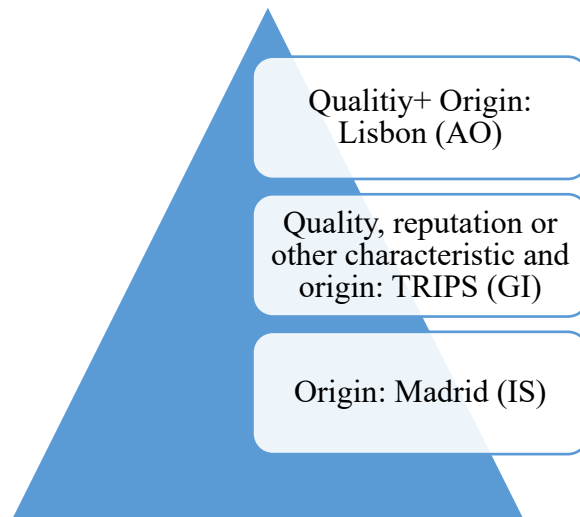


Figure 2: Difference between Appellation of Origin, Geographical Indications and Indication of Source in the International Instruments²⁴⁵

“All appellations of origin are thus geographical indications, but some geographical indications are not appellations of origin.”²⁴⁶

2.4 Philosophical Aspects of Geographical Indications

Knowledge was previously considered a powerful tool, not a property. Knowledge is power (coined by Francis Bacon in 1597),²⁴⁷ but in modern times, knowledge has been recognised as a power source and property. The concept of labour as property comes from John Locke's natural rights, which include life, liberty, and property. Locke states that 'labour should be rewarded'.²⁴⁸ The labour theories imply that the law should not incentivise creators whose intellectual works harm the life, health, liberty, or property of another.²⁴⁹ His philosophy portrays “IP as a natural right derived from the pre-

²⁴⁵ *Id.*

²⁴⁶ *Id.*

²⁴⁷ José María Rodríguez García, *Scientia Potestas Est- Knowledge is Power: Francis Bacon to Michel Foucault*, 28 NEOHELICON 109, 109 (2001), <https://link.springer.com/article/10.1023/A:1011901104984#:~:text=The%20now%2Dfamous%20equation%2C%20%E2%80%9Cby%20Francis%20Bacon%20in%201597> (last visited Mar. 5, 2025).

²⁴⁸ Ruolin Liao, *Applications and Responses to RCEP Rules on Geographical Indications Protection in China*, 178 SHS WEB OF CONFERENCES (2023), <https://doi.org/10.1051/shsconf/202317803008> (last visited June 28, 2024).

²⁴⁹ NED SHOW, *INTELLECTUAL PROPERTY AND IMMORALITY: AGAINST PROTECTING HARMFUL CREATIONS OF MIND* 7 (2022).

institutional, pre-contractual state of nature.”²⁵⁰ He gave natural rights justification for private property, which remains a central pillar of property theory to this day. He says that the individual mixes something of his own, that is, his labour, with those goods and converts them into enjoyable goods, thereby making it his property.²⁵¹ Regardless of the property's characteristics, labour is fundamental for acquiring property and establishing property rights. The value of GI as IP stems primarily from the trademark use of specific place names by relevant market actors on goods. This concept is associated with Locke's theory that labour should be rewarded, emphasising the importance of effort in creating and maintaining property rights.²⁵² Due to its focus on outcomes, the utilitarian theory is positioned as a 'consequentialist' approach and, therefore, an appropriate response to the shortcomings of proprietary systems discussed earlier.²⁵³ Locke's main argument is centered on the role of labour, while Hegel focuses on one's will, self-actualisation, and personal expression. Hence, neither theory could provide a comprehensive justification for IPRS.²⁵⁴

The EU and US debate on the ways of GIs protection; if observed from a philosophical basis, it is found that the *sui generis* approach we advocate emphasises private individual rights, whereas the philosophy behind the EU is based on communitarianism, meaning the benefits should be shared by the entire community.

There is the Nyaya philosophy, which discusses the mistimed philosophy (Kaltita), meaning it is irrelevant to discuss something when society has moved ahead. The same applies to GIs; it is too late to speak about the necessity or non-necessity of GI laws.

²⁵⁰ Wojciech Gamrot, *Inconsistencies in Himma's Intellectual Property Theory*, 63 ANALIZA I EGZYSTENCJA 109 (2023), <https://wnus.usz.edu.pl/aie/en/issue/1246/article/20011/> (last visited June 28, 2024).

²⁵¹ Harun Rashid Kadri, *Understanding the Theories of Intellectual Property in the Contemporary World: An Overview*, 6 COMMONWEALTH L. REV. J. 467, (2020), <https://thelawbrigade.com/wp-content/uploads/2020/11/Dr-Harunrashid-Kadri-CLRJ.pdf> (last visited Mar. 8, 2025).

²⁵² Ruolin Liao, *Applications and Responses to RCEP Rules on Geographical Indications Protection in China*, 178 SHS WEB OF CONFERENCES (2023), <https://doi.org/10.1051/shsconf/202317803008> (last visited Mar. 3, 2025).

²⁵³ Chelsea Bodimeade & Felicity Deane, *Evolving theory of IP rights: Promoting Human Rights in the Agreement on Trade-Related Aspects of Intellectual Property Rights*, 18 JIPLP. 603 (2023), <https://academic.oup.com/jiplp/article/18/8/603/7191028> (last visited Jun. 22, 2024).

²⁵⁴ Muhamad Helmi Muhamad Khair & Haswira Nor Mohamad Hashim, *Justifications of Intellectual Property Rights: A Discussion on Locke and Hegel's Theories*, 11 J. HUKUM NOVELTY 114 (2020), <http://journal.uad.ac.id/index.php/Novelty/article/view/16595> (last visited Oct. 30, 2020).

Nepal needs GI laws, but what kinds of GIs are the subject of discussion, enquiry, and research?

Epistemology, a branch of philosophy, discusses the sources of knowledge. This thesis, situated within an epistemological framework, employed both rationalism and empiricism to achieve its objectives by incorporating elements of both epistemologies and rationalism.

2.5. Theories Relating to Geographical Indications

There are various theories of geographical indication. Some are armchair theories, which are made at the convenience of a theorist and used as a relative theory. In contrast, in others, the premise is taken as given, and the conclusion is drawn, which is then used as a universal theory. In the book "Theories of Intellectual Property", William Fisher of Harvard University has mentioned four theories. They are: (i) utilitarian for maximising net social value; (ii) protection of personality in works; (iii) Lockean (right to the fruits of his intellectual labour); and (iv) fostering a just and attractive culture.²⁵⁵

He agreed that even if the theories cannot provide a one-stop shop for taking IP, they are still valuable.²⁵⁶ In Fisher's words, "they can catalyse useful conversations among the various people and institutions responsible for shaping the law", can "improve conversations between lawmakers and their constituents", and "through continued conversations, there may lie some hope of addressing the inadequacies of the existing theories." The reader can decide whether achieving such "conversation" merits seeking to develop "theories" of intellectual property.²⁵⁷ The few theories of GI are discussed below:

Communitarianism Theory: The individual's rights should not be prioritised over the community's rights. Drahos has labelled the property rights theory of IP as 'proprietaryism' and declared it not a theory of property but rather a creed and an

²⁵⁵ Neil Wilkof, *Theories of Intellectual Property: Is It Worth the Effort?*, 9 J IPL & P 257 (2014), <https://doi.org/10.1093/jiplp/jpu018> (last visited Mar. 5, 2025).

²⁵⁶ *Id.*

²⁵⁷ *Id.*

attitude that inclines its holders towards property fundamentalism.²⁵⁸ Safeguarding communal property rights is essential in protecting IP and ensuring that IPR serve individual interests and the community's welfare. The protection of GI arises from the community's needs; the community involved is the rightful owner.²⁵⁹ Geographical indications are communal within a region; thus, the local community plays a vital role in protecting them.²⁶⁰ GI marked in commerce carry social, political, and economic consequences, delineating the borders of community and identity.²⁶¹

Reward Theory: GIs provide legal protection and certainty regarding the quality of the goods produced by the community. Robert M. Sherwood Newman and Sherwood have discussed this theory, which posits that an author must offer a reward or appreciation in the form of legal protection for their creation, thereby forming a legal framework that governs commercial activities to ensure that the registration of GIs can foster economic development. Such an award is presented to the government as a certificate of GI, serving as both an expression of appreciation and a form of legal protection for those who have created or produced products that embody GIs.²⁶²

Theory of Restoration: The theory of restoration posits that an author deserves compensation for the effort, time, and expertise invested in creating their work. Communities and local governments that possess potential GIs are entitled to recover their investments of effort, time, and money if the GI products have been officially

²⁵⁸ Chelsea Bodimeade & Felicity Deane, *Evolving Theory of IP rights: Promoting Human Rights in the Agreement on Trade-Related Aspects of Intellectual Property Rights*, 18 J. Intell. Prop. L. & Prac. 603 (2023), <https://doi.org/10.1093/jiplp/jpad056> (last visited Mar. 5, 2025).

²⁵⁹ Yoan Nursari Simanjuntak, *The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection*, 51 ENVIRONMENTAL POLICY AND LAW 297 (2021), https://repository.ubaya.ac.id/40737/1/Yoan%20Nursari%20Simanjuntak_The%20Review%20of%20Communal%20Rights%20on%20Geographical%20Indications.pdf (last visited Mar. 5, 2025).

²⁶⁰ Triyono Adi Saputro et al., *The Role of the Local Community in Geographic Indications based on Tourism Intellectual Property*, ICLSSE (2023), <https://eudl.eu/pdf/10.4108/eai.28-10-2022.2326401#:~:text=Geographical%20indications%20are%20any%20indications,property%20rights%20in%20a%20region> (last visited June 28, 2024).

²⁶¹ Rosemary J Coombe & Nicole Aylwin, *Bordering Diversity and Desire: Using Intellectual Property to Mark Place-Based Products*, 43 EPES. 2027 (2011), <https://ideas.repec.org/a/sae/envira/v43y2011i9p2027-2042.html> (last visited Mar. 4, 2025).

²⁶² Fenny Wulandari et al., *Sui generis system: GI Protection for the Herbal Product in Indonesia as Communal Property Right*, 9 COGENT SOCIAL SCIENCES (2023), <https://doi.org/10.1080/23311886.2023.2176989> (last visited Mar. 7, 2025).

recorded and their indications have been marketed, thereby increasing the economic value of the products.²⁶³

Information Theory: Protecting GIs is crucial from the information theory perspective. GI signifies authenticity and truthfulness in production and consumption. They associate unique qualities with a product's origin and foster trust by ensuring accurate labelling and marketing. From an information theory standpoint, products consist of many informational cues.²⁶⁴ This theory serves as both a consumer protection mechanism (by addressing information asymmetries and quality) and a producer protection mechanism (due to its role in safeguarding reputation as an asset).²⁶⁵

Theory of Originality: The economic rationale for protecting GI derives mainly from the fact that the place of origin may be used as a quality signal or that the region's resources may be captured as quality attributes.²⁶⁶ This theory emphasises that when developed countries negotiate with underdeveloped ones, they often push their own intellectual property rules onto them. However, this can harm underdeveloped countries because it doesn't consider their unique needs, abilities, and health conditions. It may also hinder local progress, especially if the two regions are moving in different directions. Protecting GI comes from the European idea of safeguarding unique regional products, with "terroir" as a key concept. GI are the natural resources that nurture Earth, which cannot be cloned and are challenging to interpret scientifically.²⁶⁷ In other words, GI is the sum of people and nations' culture, geography, traditions,

²⁶³ *Id.*

²⁶⁴ Cerkia Bramley, *The Economics of Geographical Indications: Towards a Conceptual Framework for Geographical Indication Research in Developing Countries*, (2009) (unpublished manuscript) (on file with the University of Pretoria, Department of Agricultural Economics, Extension & Rural Development).

²⁶⁵ C Bramley & J F Kirsten, *Exploring the Economic Rationale for Protecting Geographical Indicators in Agriculture*, 46 *AGREKON* 47 (2007), <https://doi.org/10.1080/03031853.2007.9523761> (last visited Mar. 5, 2025).

²⁶⁶ *Id.*

²⁶⁷ Ruolin Liao, *Applications and Responses to RCEP Rules on Geographical Indications Protection in China*, 178 *SHS WEB OF CONFERENCES* (2023), <https://doi.org/10.1051/shsconf/202317803008> (last visited Mar.7, 2025).

heritage, and traditional practices.²⁶⁸ Prof. Yubaraj Sangroula says that there should be 'Utpati mool' (where the goods are found) to be the theory of GIs.²⁶⁹

Labour Rights Theory: 'Labour' is one way of obtaining property and one of the essential sources of property rights. The intellectual property value of geographical indications originates from the trademark use of relevant place names by market entities on specific goods. John Locke also states that labour should be rewarded.²⁷⁰

The Reputation Theory of Shapiro: According to Shapiro's reputation theory,²⁷¹ GI is subject to potential dilution due to membership crowding and oversupply. GI-related expenses, output, membership, and club finance are all determined simultaneously.²⁷² Under the partial rivalry in benefits, production and membership are reduced in an equilibrium that approaches the cartel equilibrium. State subsidisation leads to potential inefficiencies stemming from price and incentive distortions.

Club Goods Theory: GI can be modelled as a club asset for a club membership consisting of firms located in the territory to which the GI is attached and that share the reputation of the GI. A GI is a valuable but intangible asset associated with a specific product produced in a particular geographical area. IPR protects it, but this protection is limited to specific regions. GIs often receive support from the government and are tied to cultural heritage, especially in rural areas. Some argue that protecting GIs benefits society beyond the companies that make the products. GIs are seen as an exclusive club asset, with benefits like reputation that are only easily shared within the group. Protecting GIs is essential to prevent misleading consumers about the origin of products and to ensure fair competition among producers.²⁷³ It is then argued that a GI can be modelled as a “club asset” for a club membership consisting of the firms that

²⁶⁸ LATHA R. NAIR, *GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY* (LexisNexis Butterworths 2005).

²⁶⁹ YUBARAJ SANGROULA, *DECOLONIZING JURISPRUDENCE WITH AISAN CONTEXT* 137 (Lex and Juris Publication Pvt. Ltd. 2020).

²⁷⁰ Ruolin Liao, *Applications and Responses to RCEP Rules on Geographical Indications Protection in China*, 178 SHS WEB OF CONFERENCES (2023), <https://doi.org/10.1051/shsconf/202317803008> (last visited Mar. 7, 2025).

²⁷¹ Carl Shapiro, *Premium for High-Quality Products as Returns to Reputations*, 98 Q.J. Econ. 659 (1983), <https://doi.org/10.2307/1881782> (last visited Mar. 7, 2025).

²⁷² Id.

²⁷³ DANIELA BENAVENTE, *THE ECONOMICS OF GEOGRAPHICAL INDICATIONS* 20 (Graduate Institute Publications 2013).

were granted the legal right to use the GI, which have characteristics of excludability of benefits and non-rivalry in benefits.²⁷⁴

Unjust Enrichment Theory: The theory of unjust enrichment posits that the central issue in IP law is to compensate creators of works who confer benefits on those who follow up to a socially justifiable point. In this analysis, the basic structure of IP law is closely akin to the law of restitution, which seeks to determine when someone who has bargained for sun-benefits is entitled to compensation.²⁷⁵ This concept aligns with the principles of restitution law, which aim to determine when compensation is warranted for providing benefits without prior agreement.

Personhood Theory: The idea that property is justified based on personhood stems from Kant's Philosophy of Law and Hegel's Philosophy of Right. It highlights how property is more than just interchangeable goods; its justification is strongest when closely tied to one's identity and weakest when valued solely by its market worth.²⁷⁶ Autonomy personality theory implies that the law should not recognise rights in works that inhibit another's personality exercise.²⁷⁷

Distributive Justice Theory: Theories of distributive justice aim to distribute society's resources in a fair manner. Many philosophers support utilitarian theories in this regard. In intellectual property, recent international agreements address resource protection, ownership, and utilisation. Biotechnological advancements have led to the global exploration of biological resources, creating tension between traditional intellectual property principles and broader concerns regarding social justice, sovereignty, and access. The International Undertaking on Plant Genetic Resources of the United Nations Food and Agriculture Organisation provides explicitly for 'farmers' rights. It recognises farmers as innovators entitled to intellectual integrity and access to the

²⁷⁴ *Id.*

²⁷⁵ Peter S. Menell, *Intellectual Property: General Theories*, in 2 *ENCYCLOPEDIAS OF LAW AND ECONOMICS* 129 (Elgar Publication 1999).

²⁷⁶ *Id.*

²⁷⁷ Ned Snow, *Moral Limitations in IP Theory*, *INTELLECTUAL PROPERTY AND IMMORALITY, Intellectual Property and Immorality Against Protecting Harmful Creations of the Mind* 7 (Oxford Univ. Press 2022), <https://doi.org/10.1093/oso/9780197614402.003.0002> (last visited Mar. 6, 2025).

germplasm and technologies they have collectively developed over generations. The Convention on Biological Diversity stipulates that parties cooperate to ensure the protection of intellectual property rights. The Convention also requires signatory nations to 'respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities.'²⁷⁸

Ecological Theory: As the understanding of the interplay between technology, industrial progress, and the environment has evolved, environmentalists have begun to consider intellectual property within broader philosophical frameworks concerning human-environment relationships. Traditional reformist theories, rooted in anthropocentric perspectives and drawing from utilitarian and liberal philosophies, view technology as a cause of environmental issues and a potential solution for mitigating them. These theories advocate for measures such as internalising the negative impacts of technology and using incentives like subsidies and intellectual property rights to encourage the development of eco-friendly technologies.

Spiritual Theory: Hegel aims to "reveal the role that community plays in the evolution of individual freedom." Private property can be justified as a form of sovereignty, meaning that to achieve individual autonomy, a person must have dominion over objects.²⁷⁹

Economic Theory: IPRs are crucial in shaping information markets. Economic theory underpins the justification for these rights, which aim to address market failures stemming from the high costs of creating and distributing intellectual products. These rights incentivise creators to overcome such market failures and foster innovation. This is why limited durations are imposed on intellectual property monopolies.²⁸⁰ Economic theories of information and reputation in the context of GIs. GIs are collective monopoly rights; attention is also devoted to the differences between GIs and trademarks. The rationale for protecting GIs extends to public policy areas concerning rural development

²⁷⁸ Peter S. Menell, *Intellectual Property: General Theories*, in 2 *ENCYCLOPEDIAS OF LAW AND ECONOMICS* 129 (Elgar Publishing 1999).

²⁷⁹ Mikhalien Du Bois, *Justificatory Theories for Intellectual Property Viewed Through the Constitutional Prism*, 21 *POTCHEFSTROOM ELECTRONIC LAW J.* 1 (2018), <https://doi.org/10.17159/1727-3781/2018/v21i0a2004> (last visited June 28, 2024).

²⁸⁰ *Id.*

and indigenous knowledge.²⁸¹ Economic theory emphasises the role of reputation in mitigating problems associated with information asymmetry between producers and consumers.²⁸² The economics underlying the protection of these distinctive signs is founded on the economic theories of information and reputation. The economic theory implies that the law should not incentivise creations that result in net harm to society.²⁸³

Theory of Natural Monopoly: IPR create monopolies. The cost structure governing IP (justifications for the exclusive rights granted by reference to the high fixed costs of production and the small marginal distribution costs of the subject matter) also applies to monopolies and their regulation. Ghosh developed a theory of natural monopoly as an alternative metaphor for intellectual property.²⁸⁴ Ostrom's classification, the specific IP regimes that support GIs as 'knowledge commons'. Geographical names are usually considered part of the public domain. However, geographical names have also been appropriated under certain circumstances through trademark registration. Our analysis suggests that IP laws supporting GIs first emerged in Europe and spread worldwide as a response to the threat of undue usurpation or private appropriation through trademark registration. We thus emphasise the nature of the tradeoffs when shifting GIs from the public domain to shared common property regime, as defined by the EU legislation about GIs. In the context of trade globalisation, the pros and cons of regulating GIs *ex-ante* rather than engaging in *ex-post* trademark litigation in the courts can be compared.²⁸⁵

²⁸¹ DWIJEN RANGNEKAR, THE SOCIO-ECONOMICS OF GEOGRAPHICAL INDICATIONS A REVIEW OF EMPIRICAL EVIDENCE FROM EUROPE 16 (Int'l C. Trade & Sustainable Dev. 2004)

²⁸² Cerkia Bramley, *The Economics of Geographical Indications: Towards a Conceptual Framework for Geographical Indication Research in Developing Countries* (2009), <https://tind.wipo.int/record/28242?ln=en&v=pdf> (last visited Mar. 4, 2025).

²⁸³ Ned Snow, *Moral Limitations in IP Theory*, INTELLECTUAL PROPERTY AND IMMORALITY, *Intellectual Property and Immorality Against Protecting Harmful Creations of the Mind* 7 (New York, Oxford Univ. Press 2022), <https://doi.org/10.1093/oso/9780197614402.003.0002> (last visited Mar. 6, 2025).

²⁸⁴ Mikhailien Du Bois, *Justificatory Theories for Intellectual Property Viewed Through the Constitutional Prism*, 21 PEL J. 1 (2018), <https://doi.org/10.17159/1727-3781/2018/v21i0a2004> (last visited Feb. 2, 2025).

²⁸⁵ Armelle Mazé, *Geographical Indications as Global Knowledge commons: Ostrom's Law on Common Intellectual Property and Collective Action*, 19 JIE 1 (2023), <https://www.cambridge.org/core/journals/journal-of-institutional-economics/article/geographical-indications-as-global-knowledge-commons-ostroms-law-on-common-intellectual-property-and-collective-action/1CA00851B2DF144BE4CE4790E2F9F5BC> (last visited Mar. 3, 2025).

Utilitarian Theory: Utilitarianism aims to achieve outcomes by maximising utility.²⁸⁶ However, it is criticised for its connection to wealth maximisation; IP scholar and economist Machlup states that for IP regimes to achieve a predetermined value of utility, immense background research is required to understand the markets in which IP rights operate.²⁸⁷ However, this information is difficult to quantify because IP markets are inherently uncertain and constantly evolving. These epistemological dependencies preclude IP from firm, utilitarian justification. Thus, although not without its merits, the utilitarian theory is also insufficient to justify IP rights ultimately because it cannot achieve overall beneficial outcomes in a meaningful and practical manner.²⁸⁸

Qualitative Theory of Geographical Indications: According to Loureiro and McCluskey, the presence of the label generates a high premium for high-quality products.²⁸⁹ From this perspective, the GI label is a powerful tool for promoting quality and securing a price premium. The GI certification aims to inform consumers of this quality level, which they can only assess with this label.²⁹⁰ In models on GIs, the quality level is typically one-dimensional, and the high-quality good is a credence good.²⁹¹

Terroir Theory of Geographical Indications: Protecting GIs comes from the European idea of safeguarding unique regional products, with "terroir" as a critical concept and geographical indication.²⁹² As Latha R. Nair GI mentioned, it is the sum of people and nations' culture, geography, traditions, heritage, and traditional

²⁸⁶ Tomas Zübek, *Compendium of Basic Theories of Intellectual Property Protection*, MUNI.CZ (2018), https://is.muni.cz/th/pjlfq/DP_finit_Archive.pdf (last visited Mar. 1, 2025).

²⁸⁷ Chelsea Bodimeade & Felicity Deane, *Evolving Theory of IP Rights: Promoting Human Rights in the Agreement on Trade-Related Aspects of Intellectual Property Rights*, 18 JIPL & P 603 (2023), <https://doi.org/10.1093/jiplp/jpad056> (last visited Mar. 5, 2025).

²⁸⁸ *Id.*

²⁸⁹ Mc Cluskey et al., *Consumer Preferences and Willingness to Pay for Food Labeling: A Discussion of Empirical Studies*, 34 J. F.D R. (2003), <https://ageconsearch.umn.edu/record/27051/> (last visited Mar. 1, 2025).

²⁹⁰ Stéphan Marette & John M. Crespi, *Can Quality Certification Lead to Stable Cartels?*, 23 R.I.O 43 (2003), <https://ideas.repec.org/a/kap/revind/v23y2003i1p43-64.html> (last visited Mar. 3, 2024).

²⁹¹ Luisa Menapace & Gian Carlo Moschini, *Quality Certification by Geographical Indications, Trademarks and Firm Reputation*, 39 E.R.A.E 539 (2011), <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=1e223c350f0365311a3be39447281c4cda0b8c8c> (last visited May 22, 2024).

²⁹² Ruolin Liao, *Applications and Responses to RCEP Rules on Geographical Indications Protection in China*, 178 SHS WEB OF CONFERENCES (2023), <https://doi.org/10.1051/shsconf/202317803008> (last visited Mar. 1, 2025).

practices.²⁹³ The justification to protect a GI based on its geographical origin is its terroir.²⁹⁴ According to Josling, the concept of terroir unites the natural and human factors that allegedly contribute to the unique quality and authenticity of certified products produced in the GI area.²⁹⁵ According to the EU narrative, the specific terroir that shapes product quality is the primary motivation for a sui generis (terroir-based) GI scheme.²⁹⁶

When it comes to GIs, consumers believe that certain quality traits are associated with the exact place where the product originates, or the unique methods used in that location (known as "terroir"). However, consumers can only assess these traits after buying the product.²⁹⁷ GI is a marketing tool that indirectly impacts consumer preferences as a quality cue before product attributes. The Hedonic pricing model determines the price factors based on the internal characteristics of the goods and external factors that affect them. Regarding GI, external factors refer to the reputation of goods derived from the country of origin.²⁹⁸

The French concept of "terroir" asserts that food and wine acquire unique flavours and qualities from the "soil, climate, culture, and tradition" of the regions where they are grown, produced, and crafted.²⁹⁹ Geographic indications, which identify the towns, cities, regions, or countries where products are made, can significantly impact their

²⁹³ LATHA R. NAIR, *GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY* (LexisNexis Butterworths 2005).

²⁹⁴ Gero Laurenz Höhn et al., *Does terroir size matter? Protected geographical areas and prices of European hams*, 1 REGIONAL STUDIES 1, <https://doi.org/10.1080/00343404.2023.2187365> (last visited Mar. 1, 2025).

²⁹⁵ Tim Josling, *The War on Terroir: Geographical Indications as a Transatlantic Trade Conflict*, 57 J.A.E. 337 (2006), <https://onlinelibrary.wiley.com/doi/10.1111/j.1477-9552.2006.00075.x> (last visited Dec. 22, 2024).

²⁹⁶ Gero Laurenz Höhn et. al., *Does Terroir Size Matter? Protected Geographical Areas and Prices of European Hams*, 1 REGIONAL STUDIES 1 (2023), <https://doi.org/10.1080/00343404.2023.2187365> (last visited Mar.1, 2025).

²⁹⁷ Giancarlo Moschini et al., *Geographical Indications and the Competitive Provision of Quality in Agricultural Markets*, 90 AMERICAN J. OF AGRICULTURAL ECONOMICS 794 (2008), <https://www.card.iastate.edu/products/publications/pdf/08wp458.pdf> (last visited Dec. 1, 2024).

²⁹⁸ Surendra Acharya, *Geographic Indication: How Can GI Application Prosper Nepal*, LBEF RESEARCH J. OF SCIENCE (2019), <https://www.lbef.org/journal/1-1/download/1-1-38-42.pdf> (last visited Dec. 2, 2024).

²⁹⁹ Jane Black & About Arlin Wasserman, *The Geography of Flavor*, WWW.IATP.ORG (2007), https://www.iatp.org/sites/default/files/143_2_99797.htm (last visited Apr. 13, 2024).

marketability and become valuable commercial assets.³⁰⁰ Justin Hughes viewed the terroir theory as necessary to justify the product-specific usurpation standard of protection presently in TRIPS for wine and spirits that many countries would like to extend to all GIs.³⁰¹ The concept of terroir suggests that a particular geography produces product characteristics that other regions cannot replicate.³⁰²

Hence, the researcher would suggest the following theory to protect the GIs.

- a. **Theory of Originality:** Originality is essential to identify the GIs of the goods. This theory states that the GI's capable goods should have the origin of a specific place, referred to as the "Utpati" of the goods.
- b. **Theory of Quality:** The quality of the goods is essential to identifying the GIs of the goods. GIs never compromise on the quality of the goods.
- c. **Theory of Community:** The GIs should benefit the community, not a collective person or a group of persons, because the community represent the entire community. The community carries tradition and culture along with the people.

Hence, the provisions stated in the directive policy of states in the Constitution of Nepal demonstrate the value of the state. If the states recognise those values, there will be justice. If there is a shared interest in protecting everyone's rights to a geographical indication, everyone finds ownership, and when ownership exists, protection follows. Thus, the legal philosophy should deal with social justice. The theory of originality, theory of quality and theory of community deal with social justice.

2.6. Features of Geographical Indications

The GIs have various features, as also stated in the TRIPS agreement discussed below:

³⁰⁰ Emily Creditt, *Terroir vs. Trademarks: The Debate over Geographical Indications and Expansions to the TRIPS Agreement*, 11 VANDERBILT J.E & T. L. 425 (2009), <https://scholarship.law.vanderbilt.edu/jetlaw/vol11/iss2/4> (last visited Dec. 22, 2024).

³⁰¹ Hazel V. J. Moir, *Geographic Indications: Heritage or Terroir?* A. N. U (2015), <https://dx.doi.org/10.2139/ssrn.2656136> (last visited Oct. 28, 2022).

³⁰² Justin Hughes, *Champagne, Feta, and Bourbon: The Spirited Debate about Geographical Indications*, 58 UC LAW JOURNAL 299 (2006), https://repository.uchastings.edu/hastings_law_journal/vol58/iss2/3 (last visited Oct. 23, 2024).

2.6.1 GI is a Sign

GI is a sign. However, Article 22.1 does not specify which kind of sign should qualify as a GI. Should it be a word or combination of words, or could it be an image or a map? In general, geographical names are words or combinations of words. For example, 'Roquefort' for ewe's milk cheese is the name of a place in France. In certain countries, graphical representations of places, symbols and emblems are accepted as GIs. Like, the image of a famous mountain in Switzerland, the Matterhorn, is, under Swiss law, an 'indirect geographical indication', which identifies that a product comes from Switzerland.

A country might have a national GI sign or a product-specific GI sign. GI signs may not be the same for all products, and each product receives a GI tag unique and specific to its geographical origin, qualities, reputation, and characteristics. The GI logo is used to market GI-capable goods worldwide. The following are examples of different types of national GI tags of other countries:



Figure 3: National Geographical Indication Tag of Bangladesh³⁰³

³⁰³ Department of Patent, Industrial Design and Trademarks, *DPDT*, <http://dpdt.teletalk.com.bd/> (last visited Dec. 6, 2024).

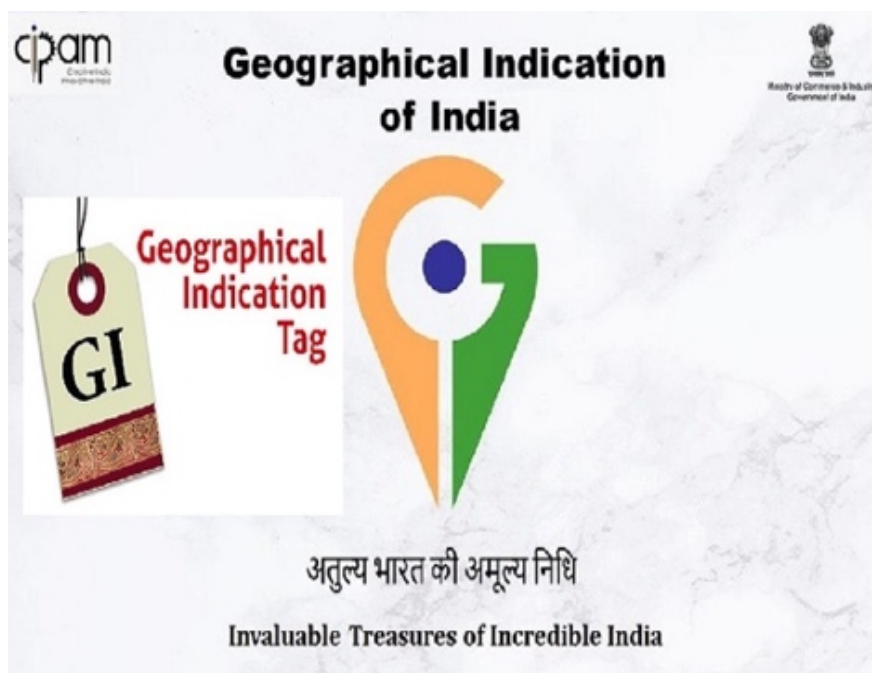


Figure 4: National Geographical Indication Tag of India³⁰⁴



Figure 5: National Geographical Indication Tag of China³⁰⁵

³⁰⁴ Adda247, GI Tags: Complete State-wise List of India 2023, adda247 (Apr. 10, 2023), <https://currentaffairs.adda247.com/gi-tags-complete-state-wise-list-of-gi-tags-in-india/> (last visited Dec. 5, 2024).

³⁰⁵ 25/11/2019 - China: New Official National GI Logo, oriGIn (Nov. 25, 2019), https://www.origin-gi.com/web_articles/25-11-2019-china-new-official-national-gi-logo/ (last visited Dec. 7, 2024).



Figure 6: National Geographical Indication Tag of Vietnam³⁰⁶

Examples of Product GIs

A GI tag is given to identify the goods and differentiate goods from other identical goods. Some of the examples of the product-specific GI tag are given below:



Figure 7: Geographical Indication Tag of Darjeeling Tea of India.³⁰⁷

³⁰⁶ *Announcement of the Logo of Vietnam Geographical Indication*, INVESTIP (Mar. 21, 2024), <https://investip.vn/announcement-of-the-logo-of-vietnam-geographical-indication/> (last visited Dec. 5, 2024).

³⁰⁷ *Tea Epicure, Tea Authenticity and Geographical Indications*, Tea Epicure (Feb. 21, 2019), [https://teaepicure.com/tea-appellations/#iLightbox\[gallery_image_1\]/5](https://teaepicure.com/tea-appellations/#iLightbox[gallery_image_1]/5) (last visited Dec. 5, 2024).



Figure 8: Geographical Indication Tag of Assam Orthodox Tea of India³⁰⁸

2.6.2 GI Identifies Goods

The goods get GI protection. They may be agricultural products, manufactured goods, or natural products. These products or goods include handicrafts and handlooms, foodstuffs, etc. The GI exhibit “club goods” features, which are exclusivity enjoyed by a collective entity.³⁰⁹

The TRIPS has not defined goods, but the member states have interpreted them as per their national policy considerations. India, Bangladesh, Indonesia, and Japan include foodstuffs in the definition of ‘goods. Malaysia and Thailand do not expressly include the term ‘foodstuffs’ under the ambit of ‘goods’, but in practice, protect processed foodstuffs. Singapore falls into the third and final category, where neither the term ‘goods’ definition mentions foodstuffs nor foodstuffs are protected.³¹⁰ There are some countries that protects service as a GIs, Azerbaijan, Bahrain, Croatia, Jamaica, Saint Lucia, and Singapore.³¹¹

³⁰⁸ Tea Epicure, *Tea Authenticity and Geographical Indications*, Tea Epicure (Feb. 21, 2019), <https://teaepicure.com/tea-appellations/> (last visited Dec. 5, 2024).

³⁰⁹ Dev Gangjee, Geographical Indications and Human Rights, in *Intellectual Property and Human Rights: Enhance Edition of Copyright and Human Rights* 385 (Paul L.C.Torremans ed., Wolters Kluwer Law & Business, ed. 2008).

³¹⁰ Sayantani Datta et al., *Comparative Perspectives on the Protection of Food Geographical Indications in Asian Countries*, 19 *ASIAN JOURNAL OF COMPARATIVE LAW* 1 (2024), <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/comparative-perspectives-on-the-protection-of-food-geographical-indications-in-asian-countries/E57887033A4E1CE52BB40030571DA6B6> (last visited Dec. 7, 2024).

³¹¹ O’Connor & Co., *Geographical Indications and TRIPS: 10 Years Later... A Roadmap for EU GI Holders to Get Protection in Other WTO Members* (2006), https://www.oacps.org/wp-content/uploads/2012/09/tradoc_135088.pdf (last visited Jun. 4, 2025).

2.6.3 GI Should come from a Specific Location.

The geography of the goods is critical, as it gives them a name and frame. The goods could be from the territory of that member, a region in that territory, or a locality in that territory. GI may be applied to a specific area within a state or, in some cases, the entire state. For example, "Swiss Made" watches originating from Switzerland or Greek "Feta" make the product distinguishable from other regions.³¹² Geographical indications refer to the name of a place to identify a product and its qualities. These indications are also defined in section 2(1) of the Lisbon Agreement and Article 22 of the TRIPs agreement as topographical signs.³¹³ GIs are closely linked to environmental and ecological aspects. Therefore, the region of origin is crucial in establishing the reputation, quality, and attributes of a product registered under GI.³¹⁴ Geographical names of GI-capable goods act as common signs that help us locate places and comprehend where things are situated. However, they are not freely utilisable, as ownership rules can affect their usage.³¹⁵

2.6.4 GI Should have Certain Qualities, Reputation or Other Characteristics

"GI are indications which identify a good as originating in the territory ..., *where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.*" The GI protection is given if it has one among the three things: (a) quality, (b) reputation, and (c) other characteristics to represent goods.

As with the reputation factor, the producer concerned can subjectively determine the quality factor by providing data and information about the materials used and their

³¹² Philip Matthews, *Increasing Revenue in Developing Nations through Intellectual Property Rights: Why a Diversified Approach to Intellectual Property Protection with a Focus on Geographical Indications Is the Best Method*, 7 BUFFALO INTELLECTUAL PROPERTY LAW JOURNAL 201 (2010), <https://digitalcommons.law.buffalo.edu/buffaloipjournal/vol7/iss2/3> (last visited Nov. 12, 2024).

³¹³ Kritika Nagpal, *International Developments in Geographical Indications Issues and Challenges* (2020) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library).

³¹⁴ Fenny Wulandari et al., *Sui generis System: GI Protection for the Herbal Product in Indonesia as Communal Property Right*, 9 COGENT SOCIAL SCIENCES (2023), <https://www.tandfonline.com/doi/pdf/10.1080/23311886.2023.2176989> (last visited Mar. 7, 2025).

³¹⁵ Armelle Mazé, *Geographical Indications as Global Knowledge Commons: Ostrom's law on Common Intellectual Property and Collective Action*, 19 JOURNAL OF INSTITUTIONAL ECONOMICS 1 (2023), <https://www.cambridge.org/core/journals/journal-of-institutional-economics/article/geographical-indications-as-global-knowledge-commons-ostroms-law-on-common-intellectual-property-and-collective-action/1CA00851B2DF144BE4CE4790E2F9F5BC> (last visited Oct. 24, 2024).

processing.³¹⁶ In one of the research studies, consumers define quality food as a natural, additive-free, and healthy product.³¹⁷ The link between a product and a place is called the "*terroir*",³¹⁸ (which also refers to the environmental, cultural and historical properties associated with the geography),³¹⁹ especially since the influence was derived from the French *Appellation d'Origine Contrôlée* and Italian *Denominazione di Origine Controllata*. Then, the EU introduced a system to protect and promote traditional and regional food products inspired by existing national legal systems from the French *Appellation d'Origine Contrôlée* and Italian *Denominazione di Origine Controllata*.³²⁰ Hence, GIs have different features. A GI is a sign that identifies goods and services that should come from a specific location and have quality (specific or otherwise), reputation, or other features.

2.7. Types of Geographical Indications

As per the TRIPS Agreement, two are types of GIs. They are, GIs of goods and GIs of wine and spirit based on their minimum protection and special protection. It is also found GIs classified as the direct and indirect GIs.

2.7.1 Direct GIs

GIs that have the tag name directly from the geography or territory are called direct GIs.³²¹ For example, Darjeeling tea is from Darjeeling, India, and Champagne is from Champagne, France.

³¹⁶ Fenny Wulandari et al., *Sui generis System: GI Protection for the Herbal Product in Indonesia as Communal Property Right*, 9 COGENT SOCIAL SCIENCES (2023), <https://www.tandfonline.com/doi/pdf/10.1080/23311886.2023.2176989> (last visited Mar. 7, 2025).

³¹⁷ Mustafa Kan & Aynur Belveren, *Geographical Indication and Quality Perception: the Case of Mersin Province, Türkiye*, 10 TURKISH J. OF AGRICULTURE - FOOD S.T 1756 (2022), <https://doaj.org/article/51b92052130945f984dd359a98d123cb> (last visited Oct. 28, 2024).

³¹⁸ ANDREA ZAPPALAGLIO, *THE TRANSFORMATION OF EU GEOGRAPHICAL INDICATIONS LAW: THE PRESENT, PAST, AND FUTURE OF THE ORIGIN LINK* 8 (Routledge 2021).

³¹⁹ Alessandro Bonanno, *Geographical Indications in Agri-Food and its Role in the Global Neoliberal Era: A Theoretical Analysis*, in *Geographical Indications and Global Agri-Food: Development and Democratization* 23 (Alessandro Bonanno et al., eds., Routledge 2020).

³²⁰ *Id.*

³²¹ Carlos M. Correa, *Protection of Geographical Indications in CARICOM Countries* (Sept. 2002), <http://ipsard.gov.vn/images/2007/07/Protection%20of%20GI%20in%20Caricom%20countries.pdf> (last visited Jun.1, 2025).

2.7.2 Indirect GIs

Indirect GIs do not precisely cover the area. However, people believe certain products are linked to specific geographical areas because they have non-geographical names or symbols related to a particular region.³²² For example, Juju Dhau is not a geographical name but would be considered an indirect GI if registered under GIs. Further, for the indirect GI, the symbol Mount Everest could be considered as indirect GI.

2.7.3 Quality-Neutral GIs

A quality-neutral GI does not need an evident connection between the products' unique characteristics and their place of origin. Instead, a single name is used for the qualified geographical indication to designate or identify the products, and this is often known as an appellation of origin.

Hence, GIs might be given different types as they result from the countries' *sui generis* (own kinds of laws) to protect their own GIs.

2.8. Functions of Geographical Indications

GI is different to its different from of IP, it performs five functions, which are discussed below:

2.8.1 Function of Identifying the Origin of Goods

GIs identify goods as originating in a particular territory, region or locality in that territory.³²³ Finding the originality of the goods is essential. The link between the product and place is vital in GIs, and it is called terroir or origin link in the IP language.³²⁴

³²² *Id.*

³²³ V.K. Ahuja, *Protection of Geographical Indications: National and International Perspective*, 46 JOURNAL OF THE INDIAN LAW INSTITUTE 269 (2004), <http://www.jstor.org/stable/43951907> (last visited Mar. 6, 2025).

³²⁴ ANDREA ZAPPALAGLIO, *THE TRANSFORMATION OF EU GEOGRAPHICAL INDICATIONS LAW: THE PRESENT, PAST AND FUTURE OF ORIGIN LINK* 34 (Routledge 2021).

2.8.2 Functions of Suggesting Quality, Reputation and Other Characteristics of Goods

GIs suggest to the consumer that the goods come from an area where a given quality, reputation, or other factors are attributable to their geographical origin.³²⁵

2.8.3 Function of Promoting Goods

GIs promote producers' goods from specific areas.³²⁶ Promoting the goods of regions is also one of their functions.

2.8.4 Advertising Functions

GIs also perform the advertising functions of the goods. If there are GIs, they automatically receive advertising. Promoting, identifying, and recognising their traditional knowledge is essential to GIs.³²⁷

2.8.5 Community Representation Functions

GIs are not freely transferable from one owner to another, as a user must have the appropriate association with the geographical region and comply with that region's production practice.³²⁸ GIs do not recognise individual or private property rights. Therefore, GIs only give usufructuary rights to producers or groups of people who produce these goods. In this case, GIs are the rights of the community.³²⁹

³²⁵ V.K. Ahuja, *Protection of Geographical Indications: National and International Perspective*, 46 JOURNAL OF THE INDIAN LAW INSTITUTE 269 (2004), <http://www.jstor.org/stable/43951907> (last visited Mar. 6, 2025).

³²⁶ *Id.*

³²⁷ NIDHI BUCH & HETVI TRIVEDI, *GEOGRAPHICAL INDICATIONS OF INDIAN HANDLOOMS: BETWEEN LEGAL RIGHT AND REAL RIGHT* 16 (Routledge 2022).

³²⁸ MICHAEL BLAKENEY ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATIONS: CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* 9 (Routledge 2012).

³²⁹ Fenny Wulandari et al., *Sui generis system: GI Protection for the Herbal Product in Indonesia as Communal Property Right*, 9 COGENT SOCIAL SCIENCES (2023), <https://www.tandfonline.com/doi/pdf/10.1080/23311886.2023.2176989> (last visited Mar. 7, 2025).

2.9. Grounds of Protection of Geographical Indications

The GI protection system is country-specific and varies from country to country.³³⁰ There are four ways of protecting GI: obtaining protection directly in the jurisdiction concerned or through statutory measures; taking advantage of a bilateral agreement concluded between countries; international registration of an appellation of origin through WIPO's Lisbon System; and international registration of marks by Madrid System.

GIs may also be protected by registering in the target market country, by bilateral agreement (a project of mutual recognition and protection of GI between two countries as of China and EU, Bilateral agreement on free trade area and bilateral agreement under belt and road initiatives as brought by China) by regional agreement and by international registration of Madrid agreement.³³¹

The TRIPS agreement does not prescribe how countries must protect GIs. Countries' choice of GI protection regime may depend partly on their legal tradition and partly on the legal regime in target markets.³³²

The protection through statutory measures could be protected through the following three ways:

- i. *Sui generis* legislation
- ii. Trademark
 - a. Certification mark and (also somewhere as guarantee marks)³³³
 - b. Collective mark
- iii. Laws focusing on business practices

³³⁰ Ru Xie & Lu Jila, *The Global Dispute on Geographical Indication Protection System Among EU and USA and Its Implication for China*, <http://nationsworld.kr/cncho/paper/73-Ruxie.pdf> (last visited Mar. 8, 2025).

³³¹ Yuanhua Zhu, *Solutions to Overseas Protection of China's Geographical Indications*, 06 OPEN JOURNAL OF SOCIAL SCIENCES 146 (2018), <https://doi.org/10.4236/jss.2018.610012> (last visited Nov. 24, 2024).

³³² MICHAEL BLAKENEY, ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* 51 (Routledge 2017).

³³³ DWIJEN RANGNEKAR, *GEOGRAPHICAL INDICATIONS AND LOCALIZATION A CASE STUDY OF FENI* 52 (The University of Warwick 2009).

In countries where GIs are not registered, consumers are protected against misleading or deceptive uses of a GI under consumer protection principles, unfair competition, certification marks, and collective marks under trademark law.³³⁴

2.9.1 *Sui Generis* Geographical Indications Protection

In a different system, all fields or branches of science can also claim to have *sui generis* properties, namely in terms of the distinctive way of working and the scientific system, which is also the object of attention. So, it is not the only law that is *sui generis*³³⁵ (Latin phrase of its kind).³³⁶ *Sui generis* is divided into sum (itself) and genus (kind),³³⁷ which means that *sui generis* only exists in one type³³⁸ or literally as *of its kind* and is used in English to mean *unique*.³³⁹

India and France have also adopted this method of legislation. Protecting the GI by developing its legislation in the country is essential. The holding country can understand and sense its importance. *Sui generis* has the following significance:

- a) It gives protection to the GI for an indefinite period.
- b) It recognises the property rights of the whole community.
- c) Any person who is licensed should pay royalties and share benefits to the community for an indefinite period.
- d) The *sui generis* system better protects the rights and interests of GI holders.

³³⁴ Ayoyemi Lawal-Arowolo, *Geographical Indications and Cultural Artworks in Nigeria: A Cue from Other Jurisdictions*, 22 The Journal of World Intellectual Property 364-344 (2019). (Jan. 16, 2024), <https://doi.org/10.1111/jwip.12128> (last visited Dec. 10, 2024).

³³⁵ Fenny Wulandari et al., *Sui generis system: GI Protection for the Herbal Product in Indonesia as Communal Property Right*, 9 COGENT SOCIAL SCIENCES (2023), <https://www.tandfonline.com/doi/pdf/10.1080/23311886.2023.2176989> (last visited Mar. 7, 2025).

³³⁶ World Intellectual Property Organization, *Geographical Indications: An Introduction* (2021), https://www.wipo.int/geo_indications/en/ (last visited Mar. 7, 2025).

³³⁷ Dhifa Nadhira Syadzwina et al., *Characteristics of Legal Science as Sui generis*, 23 NURANI J. KAJIAN SYARI AH DAN MASYARAKAT 261 (2023), <https://jurnal.radenfatah.ac.id/index.php/Nurani/article/view/20165/6483> (last visited July 13, 2024).

³³⁸ Lisa Lukose, *Rationale and Prospects of the Protection of Geographical Indication: An Inquiry*, 12 J. OF INT'L P.R. 212 (2007), <https://docs.manupatra.in/newslines/articles/Upload/CB4FFCFA-3EED-4232-9174-CEED00B5B56F.pdf> (last visited Oct. 22, 2024).

³³⁹ Grammarist, *Sui generis*, <https://grammarist.com/usage/sui-generis/#:text=%7C%20Grammarist-> (last visited Mar. 7, 2025).

2.9.2 Trademark Protection of Geographical Indications

The protection of GIs under the trademark treats GIs as a subset of the trademark. There are basically two kinds of protection under trademark. They are protected through collective marks and protection of GI through certification marks, which are discussed below:

a. Protection of Geographical Indications through Collective Marks

Although the Patent, Design, and Trademark Act, 2022 (PDTA) does not explicitly mention the registration of collective marks. However, trademarks include collective marks as per the Paris Convention on the Protection of Industrial Property provisions. Nepal is also a party that has provided information about registering a collective mark. There is an obligation to make and implement the above-mentioned laws and conventions, and there is also a need to provide immediate service by fulfilling the demands and desires of the entrepreneurs regarding the arrangement of registration of Collective Mark by such laws and conventions. Due to the lack of procedural arrangements to register marks, it has become challenging to register such marks. There is a problem in promoting Nepali products in the national and international markets with their original qualities, characteristics, and identity. To solve the problem by making immediate procedural arrangements for the registration of collective mark through the Collective Marks Registration Related Directive 2067 has been prepared and implemented.

Any association, organisation, or cooperative association established, formed, or registered according to the prevailing law that wants to register a mark to be used only by the members affiliated to such association, organisation, or cooperative association can register as a collective mark.³⁴⁰ Also, any governmental or quasi-governmental body established in accordance with the prevailing law represents a group of producers producing a particular kind of product or service. In that case, it can register the mark as a collective mark so that a member of such body or other users can use it. An application should be submitted to the Department of Industry to register the collective marks.³⁴¹ Nevertheless, the department

³⁴⁰ Collective Mark Registration- Related Directive, § 2 (2067).

³⁴¹ *Id.* at § 3.

cancels the registration of such mark if one or more members of the concerned body, association, organisation, or cooperative have used such mark alone to alienate other members or used it contrary to the documents relating to rules and procedures regarding the use of a mark or it is proved that the collective mark has been used in a way that creates confusion among the general public about the origin or collective quality of product or services or it is conflicting to the public interest.³⁴² Collective Marks cannot be used without registration in the department or without the written consent of the owner registered in the name of any person or by using the Collective Mark in such a manner as to deceive the general public.

Further, a person not a member of anybody, association, organisation, or cooperative association should not use the collective mark registered in the name of that body, association, organisation, or cooperative association. Additionally, when a member of any body, association, organisation or cooperative association uses the collective mark registered in the name of that body, association, organisation, or cooperative association, the use of that mark shall not be contrary to the provisions of the agreement with such body, association, organisation or cooperative association.³⁴³ The period of use, duration of, the penalty for illegal use of, a procedure for renewal of Collective Mark, customs, and other matters shall be as mentioned in PDTA.³⁴⁴

GIs, certification marks and collective marks serve to distinguish products. However, they do not have the same distinguishing function. The GI distinguishes goods by their geographical origin. Still, collective marks and certification marks distinguish products according to which the association or certification body is the proprietor of the marks.³⁴⁵

³⁴² *Id.* at § 4.

³⁴³ *Id.* at § 5.

³⁴⁴ *Id.* at § 6.

³⁴⁵ Xinzhe Song, *The Role Played by the Regime of Collective and Certification Marks in the Protection of Geographical Indications-Comparative Study of Law and Practice in France, the EU and China*, 21 THE JOURNAL OF WORLD IP. 437 (2018), <https://onlinelibrary.wiley.com/doi/10.1111/jwip.12111> (last visited Oct. 25, 2024).

A collective mark distinguishes the goods or services of association members from non-members. A certification mark distinguishes certified goods or services from non-certified ones and can only be used by authorised parties other than the owner.³⁴⁶

b. Protection of Geographical Indications through Certification Marks

The certification mark means the certification mark of Nepal Standard,³⁴⁷ prescribed or recognised by the Government of Nepal.³⁴⁸ The Government of Nepal formed the Standards Council.³⁴⁹ Nepal gives certification marks for the product. Nepal Standard (Certification Mark) Act, 2037³⁵⁰ is promulgated to determine the standards of any goods for the public's welfare and the use of the mark certifying the standard on such goods.³⁵¹ It also determines standards concerning goods, processes, or services and confirms made thereon.³⁵² Also, there are Nepal Standards (Certification Mark) Rules, 2040 BS.

The council establishes standards concerning goods, processes, or services and revises or rescinds standards that have been previously set. Further, it recognises standards prescribed by any local or foreign institution. Likewise, it grants recognition to any governmental or non-governmental laboratory to determine standards or tests or suspends or cancels recognition that has once been given. Similarly, the council prescribes the design and form of a certificate of standard and the certification mark, and the council prescribes fees for the certificate of standard and certification mark and services.³⁵³

³⁴⁶ Intellectual Property Office of Singapore, *Geographical Indications Info Pack*, <https://www.ipos.gov.sg/docs/default-source/resources-library/geographical-indications/resources/gi-infopack-1-nov-21.pdf> (last visited Dec. 1, 2024).

³⁴⁷ Nepal Standard (Certification Mark) Act, § 2 (f) (2037).

³⁴⁸ *Id.* at § 2(g).

³⁴⁹ *Id.* at § 2 (a).

³⁵⁰ *Id.* at § 4.

³⁵¹ *Id.* at § 3.

³⁵² *Id.* at § 3.

³⁵³ *Id.* at § 4.

Any producer, manufacturer, distributor, or individual who provides services must obtain a license to use a certification mark on goods or processes.³⁵⁴ The improper use of certification marks is prohibited; if a person does, they may be punished with a fine of up to 3,000 or imprisonment of up to six months or both.³⁵⁵ Likewise, it is prohibited to use names similar to those of the council or the office; if anyone does so, they are punished with a fine of up to 1500 or imprisonment of up to 3 months or both.³⁵⁶ The offence against the Nepal Standard (Certification Mark) Act, 2037, is the government party case, so the government of Nepal is the plaintiff in the case filed under the Nepal Standard (Certification Mark) Act, 2037.

c. Comparing Collective Mark and Certification Mark

Collective marks and certification marks are the two types of marks. However, there are differences between these two types of trademarks, which are discussed below:

Table 3: Differences Between Collective Mark and Certification Mark.

S. N	Collective Mark	Certification Mark
1.	A collective mark is perceived as attesting to something concerning the source of the goods or service on or with which the mark is used.	A certification mark indicates certain characteristics of goods or services for which the mark is used as certified. ³⁵⁷
2.	The owner of the mark is a third party that does not produce or own the goods or services. ³⁵⁸	Certification mark is often granted by a body operating with a government authority or by a government body.
2.	Only members that comply can receive the collective marks for their product.	Anyone who complies can get the certification marks for their products.
3.	Collective marks are controlled by an association registered as per the laws.	An independent entity controls certification marks, so more substantial authorisation is achieved through a license agreement.

³⁵⁴ *Id.* at § 7.

³⁵⁵ *Id.* at § 13.

³⁵⁶ *Id.* at § 14.

³⁵⁷ JEFFREY BELSON, CERTIFICATION AND COLLECTIVE MARKS: LAW & PRACTICE (3d ed. Elgar Intl. Prop. L. Publishing 2017).

³⁵⁸ Roya Ghafele, *How developing Countries Can Benefit from Intellectual Property: The Role of Collective Marks in t+Tourism*, MPRA PAPER (2011), <https://ideas.repec.org/p/pra/mprapa/32762.html> (last visited Oct. 29, 2024).

S. N	Collective Mark	Certification Mark
4.	The member has the unrestricted use of the collective marks, fulfilling all the procedures.	Fee is required to get the certification marks to the producer of the goods
5.	The collective marks belong to the body incorporated to get that certificate, which may be established under the cooperation of the producer.	A certificate mark does not belong to anyone; it is registered so that anyone who meets the specific conditions is allowed to use it.
6.	Collective marks are given to the product which has been identified as the product eligible to get the collective marks	Certification marks identify products that meet specific pre-set standards, including product quality and safety, labour and environmental practices, and geographical origin. ³⁵⁹

Hence, collective marks and certification marks are the types of IP. However, there are differences between these marks based on the ownership of the goods.

2.9.3 Laws Focusing on Business Practices

GI can also be protected through specific laws that focus on business practices. They are the laws relating to unfair competition, consumer protection, or the labelling of products. Although these laws do not create the right of the individual industrial property over the GI, they indirectly protect the GI by prohibiting certain acts that may involve their unauthorised use. In Nepal, The Competition Promotion and Market Protection Act of 2063 (2007) regulate unfair competition and enhances the capacity of producers and distributors. Consumer Protection Act, 2075 BS (2018) aims to protect and promote the constitutional right of the consumers to obtain quality goods and services and judicial remedy for enforcing the right obtained by the consumer. This act also defines 'Label' as a tag, sign, picture, or descriptive thing written, printed, lithographed, signed, embossed, included, or displayed in another manner in or on the goods or the container containing such goods.³⁶⁰ The labelling is used for customs purposes, and the packaging and labelling for shipment must include the country of

³⁵⁹ NEIL WILKOF ET AL., EDS., *OVERLAPPING INTELLECTUAL PROPERTY RIGHTS* (2d ed. Oxford Univ. Press 2023).

³⁶⁰ The Consumer Protection Act, §2(m) (2018).

origin. Laws focusing on business practices, like the law against unfair competition,³⁶¹ the law on consumer protection, by the consumer practices consolidate,³⁶² The law protects specific products, as protected by the Penal Code.³⁶³

However, in the latest phase, the three ways of protection of GI based on the TRIPS Agreement include Appellation of origin, current EU legal scheme (Protected Designation of Origin and Protected Geographical Indication), and private protection in the absence of specific GI legislation (trademark protection, certification mark, and collective mark)³⁶⁴ has been brought. TRIPS is not prescriptive but wants a legal means to protect GI.³⁶⁵

2.10. Comparing Geographical Indications and Trademark

The TRIPS agreement, in Article 15.1, defines a trademark as *any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of another undertaking shall be capable of constituting a trademark.*

Whereas Article 22.1 of the TRIPS agreement has defined GI as: *GI are indications that identify a good as originating in the territory of a member or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.*

Melissa A. Loucks's thesis, "Trademarks and Geographical Indications: Conflict or Coexistence," states that trademarks and GIs are neither "equal" nor "identical" or

³⁶¹ Law Against Unfair Competition, 1984 (Australia).

³⁶² Marketing Practices Consolidation Act, 2009 (Denmark).

³⁶³ Penal Code of the Republic of Bulgaria, Ch. 2, §7 (promulgate SG No. 26/1968, in force June 1, 1968, last amended SG No. 27/2012, in force Mar.9, 2012), <https://rm.coe.int/penal-code-bulgaria-appendix-1-to-eu-survey/1680ad2b38> (last visited May 26, 2025).

³⁶⁴ UNCTAD, WHY GEOGRAPHICAL INDICATIONS FOR LEAST DEVELOPED COUNTRIES? (United Nation 2015).

³⁶⁵ CERKI BRAMLEY ET AL., THE ECONOMICS OF INTELLECTUAL PROPERTY. SUGGESTIONS FOR FURTHER RESEARCH IN DEVELOPING COUNTRIES AND COUNTRIES WITH ECONOMIES IN TRANSITION (WIPO 2009).

interchangeable. However, coexistence is possible through legislation adopting a harmonious approach to protecting both.³⁶⁶

Suppose conflicts arise because GI users and trademarks make competing claims to the same sign within the same jurisdiction. The question here arises regarding how to mitigate such conflicts. First in time, first in the right (FITFIR) as a primary role to resolve such trademark GI conflict. It is a short-hand way to refer to the combined principles of priority and exclusivity. This means that the sign that is protected first, whether it is a trademark or a GI, shall take precedence over (principle of priority) (and prevent the use of (principle of exclusivity) any conflicting subsequent sign.³⁶⁷ Recognising GI in the trademark is liberal individualism bias as it has proven group or collective marks as challenging.³⁶⁸

There are differences and similarities between *sui generis* GIs and Collective Marks. GI and TM refer to unique symbols and serve as source indicators. They protect intangible assets such as quality, reputation, and market differentiation, prevent unauthorised use, and convey a nation's cultural identity.³⁶⁹ The differences between *sui generis* GIs and collective marks are given below.

Table 4: Differences Between *Sui generis* GIs and Collective Mark.

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
1.	Categories of intellectual property	Under the <i>sui generis</i> system, the GIs are treated as an independent category of intellectual property. ³⁷⁰	GIs protection through the collective mark is treated as part of a trademark, which is a type of IP.

³⁶⁶ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

³⁶⁷ Dev S. Gangee, *Sui generis or Independent GI Protection*, in the Cambridge Handbook of International and Comparative Trademark Law 256 (Irene Calboli eds. Cambridge Univ. Press 2020).

³⁶⁸ *Id.* at 75.

³⁶⁹ Sanjib Roy, A Jural Analysis of Geographical Indication with Special Reference to State of Odisha (2017) (Ph.D. dissertation, Sambalpur University) (on file with Sodhganga library), <http://hdl.handle.net/10603/284236> (last visited Jan. 3, 2025).

³⁷⁰ MONIQUE BAGAL ET AL., MANUAL FOR GEOGRAPHICAL INDICATIONS IN AFRICA 9 (2d ed. European Union Intellectual Property Office 2023).

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
2.	Concept	GI has the geographical name of a country, region, or locality to designate a product originating therein.	The organisational origin of a product from certain entrepreneurs or groups, the mark may or may not guarantee that the product will have consistent quality, and geographical origin may be indicated.
3.	Information conveyed	GIs conveyed the information that it is not only geographical origin but, in many regimes, quality and objectively verified production methods are also communicated about specific products. ³⁷¹	CM or Trademarks merely signal consistent quality. For example, this drink will taste like the last one. ³⁷²
4.	Origin	GI indicates the natural origin or geographical origin of the goods or services.	CM indicates a commercial origin of goods or services.
5.	Ownership	GIs never belongs to a particular enterprise and can be used by several enterprises simultaneously. ³⁷³ If a nation-state's legislation permits, GIs are owned by governing bodies of groups of producers within a region. Some European countries view the collective ownership of GIs as a right "which cannot be licensed or transferred out of the region." ³⁷⁴	The ownership of CM belongs to a person, either an individual or a corporation.

³⁷¹ Dev Saif Gangjee, Overlaps Between Trademarks and Geographical Indications 389, 402 (Neil Wilkof et al., eds., 2d ed. 2023), <https://doi.org/10.1093/oso/9780192844477.003.0014> (last visited Mar. 5, 2025).

³⁷² *Id.*

³⁷³ V.K. Ahuja, *Protection of Geographical Indications: National and International Perspective*, 46 J. OF THE INDIAN LAW INST. 269 (2004), <http://www.jstor.org/stable/43951907> (last visited Jun. 16, 2024).

³⁷⁴ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
		GI is a community right. ³⁷⁵ An individual or single company does not own GI; instead, a consortium or similar organisation comprised of producers and processors typically sets standards to control product quality and integrity, ensure the appropriate use of GI identifiers and sub-brands, and promote the GI product. ³⁷⁶	
6.	Use of the geographical name	Geographical names, or 'toponyms,' can be used in the GI. They are usually considered part of the public domain as they identify specific places, aid in locating areas, define territories, and facilitate travel. However, being part of the 'public domain' does not necessarily mean they are freely accessible. Access to geographical names depends on the nature of property rights regimes and the enforcement policies, whether de facto or de jure ³⁷⁷ discussed in the	There is a restriction in the geographical name. ³⁷⁸ For example, in the case of the Mount Everest Mineral Water Ltd. V. Bisleri International Pvt. Ltd. & Ors. It is stated that The word "Himalayas" cannot be used by an individual corporation; it is a term that belongs to the community. ³⁷⁹

³⁷⁵ Sayantani Datta et al., *Comparative Perspectives on the Protection of Food Geographical Indications in Asian Countries*, 19 ASIAN JOURNAL OF COMPARATIVE LAW 1 (2024), <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/comparative-perspectives-on-the-protection-of-food-geographical-indications-in-asian-countries/E57887033A4E1CE52BB40030571DA6B6> (last visited Oct. 24, 2024).

³⁷⁶ Bruce A. Babcock & Roxanne Clemens, *Geographical Indications and Property Rights: Protecting Value- Added Agricultural Products*, MIDWEST AGRIBUSINESS TRADE RESEARCH AND INFORMATION CENTER, (2004).

³⁷⁷ Armelle Mazé, *Geographical Indications as Global Knowledge Commons: Ostrom's law on Common Intellectual Property and Collective Action*, 19 JOURNAL OF INSTITUTIONAL ECONOMICS 1 (2023), <https://www.cambridge.org/core/journals/journal-of-institutional-economics/article/geographical-indications-as-global-knowledge-commons-ostroms-law-on-common-intellectual-property-and-collective-action/1CA00851B2DF144BE4CE4790E2F9F5BC> (last visited Oct. 24, 2024).

³⁷⁸ Jyoti Rani, *Law of Trademarks and Geographical Indications in India Issues and Challenges* (2020) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library), <http://hdl.handle.net/10603/298567> (last visited May. 12, 2024).

³⁷⁹ Mount Everest Mineral Water Ltd. V. Bisleri International Pvt. Ltd. & Ors., W.P. © 8875/ 2009& CM 6241/ 2009 (Delhi High Ct. Feb. 22, 2010) (India)

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
		case of Mount Everest Mineral Water Ltd. V. Bisleri International Pvt. Ltd. & Ors.	
7.	Place identification	GI protects where goods are made. For example, Roquefort cheese is protected by GI laws, which means it can only be called "Roquefort" if produced in specific regions of France using certain methods that ensure its unique character and quality. ³⁸⁰	Trademarks boost the reputation of the brand associated with those goods. For example, the brand name "Société Roquefort" is a trademark that guarantees the quality and taste of Roquefort cheese. ³⁸¹
8.	Term of protection	The duration of the terms of protection, such as TRIPS, is unlimited, and the European Union also states this.	The terms of protection differ from country to country, and it may be seven years or renewed one or two times. However, the <i>TRIPS Agreement</i> limits trademark protection to "no less than seven years," although indefinite renewal is possible if one meets a condition. ³⁸²
9.	Nature of protection	The exclusive right to those who inherit the GIs is given.	The exclusive rights to the trademark holder are given. ³⁸³
10.	Nature of object	GIs generally protect goods.	Trademarks may protect multiple goods at a time. ³⁸⁴ However, in Nepal, collective mark registration protects a reasonable amount of time.

³⁸⁰ Rashmi Aggarwal et al., *Branding of Geographical Indications in India*, 56 INT'L J. OF LAW AND MANAGEMENT 431 (2014), <https://www.emerald.com/insight/content/doi/10.1108/IJLMA-08-2012-0029/full/html> (last visited Feb. 28, 2024).

³⁸¹ *Id.*

³⁸² Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

³⁸³ Chan-Yuan Wong & Mergen Elbegsaikhan, *Geographical Indications in Development Contexts: Function, Supply Chain and Pursuit of Rural Industrial Development*, 23 THE J. OF WORLD IP. 721-735 (2020).

³⁸⁴ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
11.	Right	GI is a collective right. ³⁸⁵ It has a public nature, ³⁸⁶ and is communal property. ³⁸⁷	A trademark is the personal property of a group of people. It is the exclusive private property right. ³⁸⁸
12.	Creativity	It is also above human creativity, including topography, environment, and human beings.	Trademark is the product of human creation.
13.	Applicable	A GI is a generic description that applies to all traders in a particular geographic location to goods that emanate from that location. ³⁸⁹	CM is a sign that distinguishes a specific trader's products from those of its competitors. ³⁹⁰
14.	Generic	After the registration, GIs are protected against future generic use. ³⁹¹	There is the risk of becoming the marks as generic terms.
15.	Protection	All traders from the GIs enjoy the right to protect a GIs from a wrongful appropriation. ³⁹²	Trademark is protected from a wrongful appropriation at the suit of the registered proprietor of that mark. ³⁹³
16.	Transfer of ownership	GI is not freely transferable from one owner to another, as a user must have the appropriate association with the geographical region and comply with its production practices. ³⁹⁴ GI cannot be	It can be transferred.

³⁸⁵ Dev S. Gangee, *Sui generis or Independent GI Protection*, in the Cambridge Handbook of International and Comparative Trademark Law 256, 436 (Irene Calboli eds. Cambridge Univ. Press 2020), <https://doi.org/10.1017/9781316711002> (last visited Dec. 1, 2025).

³⁸⁶ CERKIA BRAMLEY, ET AL., DEVELOPING GEOGRAPHICAL INDICATIONS IN THE SOUTH THE SOUTHERN AFRICAN EXPERIENCE 6-9 (Springer 2013).

³⁸⁷ MANISH NEPAL, A TEXTBOOK OF INTELLECTUAL PROPERTY 265 (Lumbini Prakashan 2021).

³⁸⁸ CERKIA BRAMLEY, ET AL., DEVELOPING GEOGRAPHICAL INDICATIONS IN THE SOUTH THE SOUTHERN AFRICAN EXPERIENCE 6-9 (Springer 2013).

³⁸⁹ MICHAEL BLAKENEY, THE PROTECTION OF GEOGRAPHICAL INDICATIONS: LAW AND PRACTICE (Elgar Intellectual Property Law and Practice 2014).

³⁹⁰ *Id.*

³⁹¹ NEIL WILKOF ET AL., EDS., OVERLAPPING INTELLECTUAL PROPERTY RIGHTS (2d ed. Oxford Univ. Press 2023).

³⁹² *Id.* at 9.

³⁹³ *Id.* at 12.

³⁹⁴ *Id.*

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
		delocalised or sold. ³⁹⁵ It cannot be licensed/mortgaged/ assigned/ otherwise transferred. ³⁹⁶ A GI under the sui generis system is not a transferable right as it is associated with the terroir, and it effectively excludes emigrants from using the same name when they are located outside the original place. ³⁹⁷	
17.	Availability	GIs rights are generally available only in jurisdictions that have legislated.	Trademarks are generally available in every jurisdiction.
18.	Choice of trademark or GI	Countries protecting geographical indications under <i>sui generis</i> legislation, such as the EC <i>Regulation</i> , create the possibility "for subsequent GIs to prevail over prior trademarks, and in certain circumstances, the Regulation envisages coexistence between trademarks and GI."	Countries protecting GI within their trademark regimes tend to favour the First in Time, First in Right principle, which protects the first sign registered, whether trademark or geographical indication. Registered signs enjoy exclusive rights preventing use by third parties. ³⁹⁸
19.	Creation of a goods capable of GIs or CM	GI links the country's traditions, culture, and history. ³⁹⁹ Many years may be required to produce the link between a product and its geographical origin.	CM can be created overnight.

³⁹⁵ Bruce A. Babcock & Roxanne Clemens, *Geographical Indications and Property Rights: Protecting Value- Added Agricultural Products*, MIDWEST AGRIBUSINESS TRADE RESEARCH AND INFO. C., (2004).

³⁹⁶ NIDHI BUCH & HETVI TRIVEDI, *GEOGRAPHICAL INDICATIONS OF INDIAN HANDLOOMS: BETWEEN LEGAL RIGHT AND REAL RIGHT* 17 (Routledge 2022).

³⁹⁷ Wenting Cheng, *Chinese GI Schizophrenia: Impacts of EU-US GI Contestations*, 18 ASIAN J. C. L. 210 (2023), <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/chinese-gi-schizophrenia-impacts-of-eu-us-gi-contestations/6DC62E6938BBC9CCC0A222D4825AD322> (last visited Aug. 20, 2024).

³⁹⁸ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, University of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

³⁹⁹ *Id.*

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
20.	Use of traditional formulas and process	GI is often based on traditional formulas and processes. ⁴⁰⁰	There might not be those kinds of traditional formulas and processes.
21.	Linked of value	The value of GIs is linked with the origin. ⁴⁰¹	The value of a trademark is linked with the novelty.
22.	Time Frame	Many years are required to produce the link between a product and its geographical origin. ⁴⁰²	There is no requirement for years to get the link.
23.	Leased or licensed ⁴⁰³	GIs cannot be leased or licensed to third party.	TM can be leased or licensed to a third party.
24.	Rules Governing the Relationship	The registration of a name under the GIs will prevent the registration of a similar trademark submitted after the date of submission of the registration application to the authority, which results in a trademark registered in breach being invalidated. ⁴⁰⁴	Registering a name under a trademark will prevent the registration of similar GIs. But after the expiry of the time, the GIs can be registered.
25.	Specification	<i>Sui generis</i> laws are generally product-specific, which means product/spirit/wine/food-specific legislation. Therefore, they are much more specific, requiring more research and coordination with locals in the place where products have their origins. There is also the practice of introducing general GI laws	CM is not product specific.

⁴⁰⁰ Daphne Zografos, *Geographical Indications & Socio-Economic Development*, SSRN Electronic Journal (2008), <http://dx.doi.org/10.2139/ssrn.1628534> (last visited Nov. 2, 2024).

⁴⁰¹ *Id.*

⁴⁰² *Id.*

⁴⁰³ Jyoti Rani, *Law of Trademarks and Geographical Indications in India Issues and Challenges* (2020) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library), <http://hdl.handle.net/10603/298567> (last visited May 12, 2024).

⁴⁰⁴ Szu-Yuan Wang, *Geographical Indications as Intellectual Property: In Search of Explanations of Taiwan's GI Conundrum* (2013) (Ph.D. dissertation, New Castle University) (on file with New Castle University), <https://theses.ncl.ac.uk/jspui/bitstream/10443/1869/1/Wang%20S.Y.%2013.pdf> (last visited Mar. 7, 2025).

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
		incorporating the statutory requirements to register as GIs and grant blanket protection based on the product's geographical source and human/traditional knowledge and output. However, this also requires broader efforts in determining protection standards and identifying GIs. ⁴⁰⁵	
26.	Relation to market competition	GIs might be deviating from market competition. Because it's only one of that origin with that place name.	CM might facilitate market competition with similar products.
27.	Government intervention	Successful GIs require decisive state intervention. ⁴⁰⁶ Further, the public authorities also give some level of administration protections to the GIs. ⁴⁰⁷	CM can be governed with minimal state intervention.
28.	Distinctiveness	An indication that may be protected as a GI might not be distinctive, unlike signs that will be protected as trademarks. ⁴⁰⁸	The indication that is protected as a GI must be distinctive. ⁴⁰⁹
29.	Identifications	GI identifies a product with a particular territory. ⁴¹⁰	A trademark identifies a product with a trade origin, which may be a place but is likely to be a company. ⁴¹¹

⁴⁰⁵ *Id.*

⁴⁰⁶ Chan-Yuan Wong & Mergen Elbegsaikhan, *Geographical Indications in Development Contexts: Function, Supply Chain and Pursuit of Rural Industrial Development*, 23 THE JOURNAL OF WORLD INTELLECTUAL PROPERTY 721-735 (2020).

⁴⁰⁷ MONIQUE BAGAL ET AL., MANUAL FOR GEOGRAPHICAL INDICATIONS IN AFRICA 11 (2d ed. European Union Intellectual Property Office 2023).

⁴⁰⁸ G.M Alemu, *Strategic Use of Branding for Competitiveness: The Rationale for Branding and Marketing Agricultural Products of African Countries*, 1 JOURNAL OF FAIR TRADE 6 (2019), <https://doi.org/10.13169/jfairtrade.1.2.0006> (last visited Dec. 11, 2024).

⁴⁰⁹ *Id.*

⁴¹⁰ Graham Dutfield, *Three Collective and Certification Trademarks and Their Feasibility from Intellectual Property Tools for Products Based on Biocultural Heritage: A Legal Review of Geographical Indications, Trademarks and Protection from Unfair Competition*, at 22-25 (2011), <http://www.jstor.org/stable/resrep01380.8> (last visited Oct. 29, 2024).

⁴¹¹ *Id.*

S. N	Points of Differences	<i>Sui Generis</i> Geographical Indications	Collective Mark
30.	Production and Processing Practices	GIs production, processing, and preparation occur in a defined geographical origin.	The production, processing, and preparation of TMs do not necessitate the geographical origin.
31.	Inspection	An independent agency or the government undertakes inspection of compliance with standards stipulated in the indication. ⁴¹²	The owner of the certification mark oversees the inspection of compliance with the standards stipulated in the mark.
32.	Recognition	GIs cannot be created, but they can be developed, and their recognition is shaped by public perception. ⁴¹³	CMs are created and developed by the forming of a specific association.
33.	Registration	Registration of GI is based on a declaratory nature, and the entity represented by a collective association is recognised by the government agency responsible for granting such right. Such conditions are usually associated with a specific locality; certain peculiar features linked to the products, or human or environmental aspects determine services. ⁴¹⁴	CM need not necessarily be related to a specific location but resulting products have fixed characteristics identified by their trademark registration.
34.	Social Recognition before Protection	Social recognition before protection is a must in the GIs.	Social recognition before protection may or may not be required in CM or TM.
35.	Right	GI cannot be delocalised. ⁴¹⁵	First in time, first in right. ⁴¹⁶ TM can be sold.

⁴¹² DWIJEN RANGNEKAR, THE SOCIO-ECONOMICS OF GEOGRAPHICAL INDICATIONS A REVIEW OF EMPIRICAL EVIDENCE FROM EUROPE (2004), https://unctad.org/system/files/official-document/ictsd2004ipd8_en.pdf (last visited Apr. 6, 2024).

⁴¹³ Carlos M Correa, *Protection of Geographical Indications in Caricom Countries*, RESEARCH GATE (2002), https://www.researchgate.net/publication/265104739_Protection_of_Geographical_Indications_in_Caricom_Countries/citation/download (last visited Apr. 11, 2024).

⁴¹⁴ Elizabeth Ferreira & Patrícia Pereira Peralta, *Collective Marks and Geographical Indications - Competitive Strategy of Differentiation and Appropriation of Intangible Heritage*, 16 JOURNAL OF IPR. (2011), <http://docs.manupatra.in/newslines/articles/Upload/84E2D1A7-0BC0-41B7-8B12-E6CF3E7C7618.pdf> (last visited Apr. 11, 2024).

⁴¹⁵ UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, *Why Geographical Indications for Least Developed Countries?* 9 (2016).

⁴¹⁶ *Id.*

2.11. Importance of the *Sui Generis* Geographical Indications Law over Collective Marks

Laxmi Sapkota, the present author of her research, stated that Juju Dhau, the GI product of Nepal, can be better protected if safeguarded through the *sui generis* GI laws.⁴¹⁷ Some scholars argue that TMs and GIs are neither equal, identical, or interchangeable. However, coexistence is possible through legislation that adopts a harmonious approach to protecting both.⁴¹⁸

Sui generis GI laws take precedence over protecting collective marks or trademarks. GI signifies the natural origin or the geographic value of associated goods or services.⁴¹⁹ In contrast, CM denotes a commercial origin of goods or services. Moreover, GI is not exclusive to a particular enterprise and may be utilised by multiple enterprises simultaneously,⁴²⁰ governing bodies represent groups of producers within a region, and they own GIs. Some European countries perceive the collective ownership of GIs as a right "which cannot be licensed or transferred outside the region."⁴²¹ Conversely, a CM is owned by a person, whether an individual or a corporation. The terms of protection have an unlimited duration, as stipulated by TRIPS and the European Union. However, the terms of protection vary from country to country; some may be renewed once or twice. The *TRIPS Agreement*, however, restricts trademark protection to a minimum of "no less than seven years," although indefinite renewal is possible if certain conditions are met.⁴²²

⁴¹⁷ Laxmi Sapkota, *Significance of Geographical Indications Law in Nepal: A Comparative Study of Bhaktapur "Juju Dhau" with Greece "Greek Yogurt"* 11 KSLR 60, 65 (2021).

⁴¹⁸ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

⁴¹⁹ Daphne Zografos, *Geographical Indications & Socio-Economic Development*, SSRN Electronic Journal (2008), <http://dx.doi.org/10.2139/ssrn.1628534> (last visited Nov. 2, 2024).

⁴²⁰ V.K. Ahuja, *Protection of Geographical Indications: National and International Perspective*, 46 JOURNAL OF THE INDIAN LAW INSTITUTE 269 (2004), <http://www.jstor.org/stable/43951907> (last visited Mar. 6, 2025).

⁴²¹ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

⁴²² V.K. Ahuja, *Protection of Geographical Indications: National and International Perspective*, 46 JOURNAL OF THE INDIAN LAW INSTITUTE 269 (2004), <http://www.jstor.org/stable/43951907> (last visited Mar. 6, 2025).

Furthermore, GI encompasses topography and environment, while TM pertains to human creation. Similarly, the right to protect a GI from wrongful appropriation is afforded to all traders associated with that GI.⁴²³ In contrast, a trademark is safeguarded from wrongful appropriation at the behest of the registered proprietor.⁴²⁴ Unlike trademarks, GI cannot be freely transferred between owners, as a user must maintain the appropriate connection with the geographical region and adhere to its production practices.⁴²⁵ Conversely, CM can be transferred.⁴²⁶ Additionally, GI frequently relies on traditional formulas and processes, which do not apply to CM.

2.12. Conflict Between Geographical Indications and Trademarks

The conflict between GIs and trademarks often arises. Some are settled with the principles; some even reached the court. There are two principles of GI and trademark when conflict arises between GIs and TMs for legal certainty. The following doctrine gives legal certainty.⁴²⁷

First in Time, First in Right’ (FITFIR): The principle of FITFIR refers to “the combined principles of exclusivity and priority. This means that “the sign protected first, whether a trademark or a GI, and it takes precedence over (principle of priority) and prevent the use of (principle of exclusivity) any conflicting subsequent sign.”⁴²⁸

Coexistence: The legal regime of coexistence permits a GI and a trademark to be used concurrently, although using one or both would otherwise infringe the rights conferred

⁴²³ Daphne Zografos, *Geographical Indications & Socio-Economic Development*, SSRN Electronic Journal (2008), <http://dx.doi.org/10.2139/ssrn.1628534> (last visited Nov. 2, 2024).

⁴²⁴ Szu-Yuan Wang, *Geographical Indications as Intellectual Property: In Search of Explanations of Taiwan’s GI Conundrum* (2013) (Ph.D. dissertation, New Castle University (on file with New Castle University), <https://theses.ncl.ac.uk/jspui/bitstream/10443/1869/1/Wang%20S.Y.%2013.pdf> (last visited Mar. 7, 2025).

⁴²⁵ MICHAEL BLAKENEY, *THE PROTECTION OF GEOGRAPHICAL INDICATIONS: LAW AND PRACTICE* 25 (Elgar Intellectual Property Law and Practice 2014).

⁴²⁶ Laxmi Sapkota, *Necessity of Sui generis Geographical Indication Laws in Nepal*, 16 NJA L. J. 125 (2022).

⁴²⁷ Almusawir et al., *Protection of the Economic Rights of Geographical Indication Holders in the Indonesian Trademark and Geographical Indication Law*, 5(3) Sch Int J Law Crime Justice, 128 (2022), <https://doi.org/10.36348/sijlcj.2022.v05i03.006> (last visited Mar. 5, 2025).

⁴²⁸ NEIL WILKOF ET AL., EDS., *OVERLAPPING INTELLECTUAL PROPERTY RIGHTS* (2d ed. Oxford Univ. Press 2023).

by the other. The *sui generis* methods of registration-based protection for foodstuffs and agricultural products in the EU is the best example of coexistence.⁴²⁹

Reasons for Conflict between GI and TM

In the thesis "Law of Trademark and Geographical Indications in India: Issues and Challenges" (2017), the researcher stated that three points are involved in the conflict between TM and GI.

The first one is the language in the TRIPS Agreement. The TRIPS Agreement entails those trademarks and GIs that are interchangeable. The purpose of Article 24.5 is to allow the registration of trademarks that are identical or like GIs.⁴³⁰ It also allows for registering similar marks, which does not necessarily mean that trademarks and GIs are interchangeable devices. The second source of confusion is their functions. Initially, the function of trademarks was to identify the origin of the product. Its function expanded in terms of protectable subject matter. Further, "the concept of source has changed into a broader concept than simply identification of product origin."⁴³¹

In contrast, the function of GI residues to identifying a product's geographic origin. The important geographic element of the definition of GIs prevents it from transforming into a more abstract notion, like the recent trademark transformation. The third source of confusion is the reputation concept. The TRIPS Agreement's definition of GI includes 'reputation.' Reputation in the TRIPS Agreement's definition of 'geographical indication' refers to a characteristic of the good "essentially attributable to its geographical origin." Reputation is also related to the distinctiveness of a trademark.⁴³²

⁴²⁹ *Id.*

⁴³⁰ Mas Rahman, *Protection of Geographical Indication Under Trademark System: To Fit the Square into the Triangle?* 27 MIMBAR HUKUM - FAKULTAS HUKUM UNIVERSITAS GADJAH MADA H.536 (2016).

⁴³¹ Jyoti Rani, *Law of Trademarks and Geographical Indications in India Issues and Challenges* (2020) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library), <http://hdl.handle.net/10603/298567> (last visited May 12, 2024).

⁴³² Jyoti Rani, *Law of Trademarks and Geographical Indications in India Issues and Challenges* (2020) (Ph.D. dissertation, Maharshi Dayanand University) (on file with Sodhganga Library), <http://hdl.handle.net/10603/298567> (last visited May 12, 2024).

The article, “Protection of GI under Trademark Systems: To Fit the Square into the Triangle,” authored by Mas Rahmah, states that GI protection under trademark law regimes is inadequate and inherently unsuitable because of their different natures. *Sui generis might provide the best solution for the problem of GI under a trademark regime. Sui generis will make it easier to protect GI perpetually and to prevent GI from becoming generic. In addition, the sui generis system allows for costless registration, and the market surveillance cost of GI in the sui generis system is optional. Moreover, under sui generis law, state or local governments can push for the enforcement of GI legislation more intensively. Therefore, GI protection under sui generis would be more appropriate than trademark protection.*⁴³³

The research article “A review of the socio-economic impact of geographical indication: considerations for the developing world” by Cerkia Bramley states that GI supports consumer and producer welfare through quality signalling. Furthermore, it improves market access through differentiation and value creation. Moreover, it causes rural development dynamics while preserving biodiversity and traditional knowledge.⁴³⁴

Dev S. Gangee has written the article “*Sui Generis or Independent GI Protection*” published by “Cambridge University Press” in 2020, which states that “a *sui generis or independent GI protection system is one of the prominent means adopted internationally to achieve the end of GI protection. An additional set of rationales is associated with independent GI systems, which have greater public or state involvement, certain mandatory registration requirements and enhanced protection, such as prohibiting misrepresentation, misappropriation, or pure “free riding.” The legal protection of GIs is said to generate a range of desirable public goods, including (i) Enabling endogenous or embedded territorial development by equitably distributing benefits in the form of price premier across the supply chain, biodiversity preservation*

⁴³³ Mas Rahman, *Protection of Geographical Indication Under Trademark System: To Fit the Square into the Triangle?* 27 MIMBAR HUKUM - FAKULTAS HUKUM UNIVERSITAS GADJAH MADA H.536 (2016).

⁴³⁴ Cerkia Bramley, *A Review of the Socio-Economic Impact of Geographical Indication: Considerations for the Developing World*, WIPO World Symposium on Geographical Indications, June 22-24, 2011, Lima, Peru, (2011) WIPO, https://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_lim_11/wipo_geo_lim_11_9.pdf (last visited Mar. 7, 2025).

by favoring locally cultivated flora or fauna; (iii) Sustaining local or national cultural heritage, where GIs have symbolic cultural value or cultural practices are involved in their production; and (iv) Providing market-based mechanisms to reward the traditional knowledge, which is reflected in production methods.”⁴³⁵

The Lisbon Agreement permits its members to adopt or maintain one of three approaches for managing conflicts between GIs and trademarks. Firstly, there is a 'coexistence approach' (GI and trademark with similar legal effect), a “first in time, first in the right” approach, or a “GIs superiority approach”, except where the prior trademark is considered well-known.⁴³⁶

In the past, there have been three types of rules that resolve conflicts between an earlier trademark and a subsequent GI in a specific jurisdiction:⁴³⁷

- a. The trumping rule prioritises the sign that was legally recognised first.
- b. A more nuanced rule allows coexistence in certain circumstances.
- c. A rule that unconditionally favours one type of sign over the other, such as favouring GIs to take precedence over an earlier trademark.

Also, there are differences in the countries with the following kinds of systems.

- a. Countries that have *sui generis* GIs laws
- b. Countries that focus on trademark protection
- c. Countries that treat both equally as prior rights triumph simply as a matter of fairness.⁴³⁸

⁴³⁵ Dev S. Gangjee, *Sui generis or Independent GI Protection*, in the Cambridge Handbook of International and Comparative Trademark Law 256 (Irene Calboli, ed. Cambridge University Press, 2020), <https://doi.org/10.1017/9781316711002> (last visited Dec. 1, 2025).

⁴³⁶ WILLIAM VAN CAENEGEN & JEN CLEARY, THE IMPORTANCE OF PLACE: GEOGRAPHICAL INDICATIONS AS A TOOL FOR LOCAL AND REGIONAL DEVELOPMENT 50 (Springer 2017).

⁴³⁷ NEIL WILKOF ET AL., EDS., OVERLAPPING INTELLECTUAL PROPERTY RIGHTS (2d ed. Oxford Univ. Press 2023).

⁴³⁸ DEV GANGJEE, RELOCATING THE LAW OF GEOGRAPHICAL INDICATIONS 255 (Cambridge Univ. Press 2012).

It might be possible to have a conflict between GIs and TM, which might occur in the following:

- a. The conflict between registered TM and GIs⁴³⁹
- b. The conflict between unregistered TM and GIs⁴⁴⁰
- c. The conflict with the well-known TM and GIs⁴⁴¹

Enforcement of rights by following principles:

- a. **The First to File principle or doctrine (Constitutive System):** This principle states that the first registrant has superior and more important rights than other trademark and geographical indication owners.⁴⁴²
- b. **They enforced prior user doctrines (first to use the system) (Declarative System):** Declarative system or first to use the system states that someone has the most superior rights if he can prove that he is the first user. The first user has more rights than the first registered user.⁴⁴³

The following principle should be used to identify goods that are GI-capable. They are the principle of speciality⁴⁴⁴ (the goods should be specific), the principle of territoriality⁴⁴⁵ (should be available in the territory), and the confusion about whether the GI tag should be given. In that case, the principle of priority⁴⁴⁶ should be used.

In the US and Canada, there were disputes involving the Italian Consorzio, which sought to register PARMA as collective or certification marks for air-dried ham.

⁴³⁹ Zhang Keyi, *An Analysis on Right Boundary of Geographical Indications*, PROCEEDINGS OF THE 2020 5TH INTERNATIONAL CONFERENCE ON HUMANITIES SCIENCE AND SOCIETY DEVELOPMENT (ICHSSD 2020) (2020), <https://doi.org/10.2991/assehr.k.200727.058> (last visited Apr. 23, 2024).

⁴⁴⁰ *Id.*

⁴⁴¹ *Id.*

⁴⁴² Almusawir et al., *Protection of the Economic Rights of Geographical Indication Holders in the Indonesian Trademark and Geographical Indication Law*, 5(3) Sch Int'l J. Law Crime Justice, 128 (2022), <https://doi.org/10.36348/sijlcj.2022.v05i03.006> (last visited Mar. 5, 2025).

⁴⁴³ *Id.*

⁴⁴⁴ VADIM MANTROV, *EU LAW ON INDICATIONS OF GEOGRAPHICAL ORIGIN* 58 (Springer 2014).

⁴⁴⁵ *Id.*

⁴⁴⁶ *Id.*

*However, prior trademarks containing PARMA for pork products took precedence. A similar dispute in Australia involved the 'Great Western' name used for a small wine region and a well-known wine mark. The brand owner's failure to source 85% of its grapes from the Great Western region potentially violated Australian wine designation rules. Coexistence is an alternative in such cases.*⁴⁴⁷

Melissa A. Loucks, in her paper, asserts that trademarks and GIs are neither "equal" nor "identical" nor interchangeable. However, coexistence is achievable through legislation that adopts a harmonious approach to protect both.

2.13. Comparing *Sui Generis* Geographical Protection of the EU and Collective Mark Protection of the US Debate

Protecting GIs through *sui generis* and trademark laws is considered a North-South debate.⁴⁴⁸ The North is understood as the Old World (Europe), whereas the South is the New World (Australia, Argentina, Chile, Canada, the United States and New Zealand). The North protects its GIs through *sui generis* laws, whereas the South protects through trademark laws, especially collective or certification mark protection.⁴⁴⁹ Countries from the Old and New Worlds are divided on this issue. One side claims for absolute protection, which is a higher level of protection for all GIs around. In contrast, the other side supports GIs protection to the extent of consumer confusion by analogy to trademark protection.⁴⁵⁰

There are fundamental differences in the protection of GIs through collective marks and *sui generis* GIs, particularly in terms of the level of protection, origin, and ownership of rights. The US regards GIs as a subset of trademarks and protects them

⁴⁴⁷ NEIL WILKOF ET AL., EDS., *OVERLAPPING INTELLECTUAL PROPERTY RIGHTS* (2d ed. Oxford Univ. Press 2023).

⁴⁴⁸ Sabine Duvaléix et al., *Geographical Indications and Trade: Firm-Level Evidence from the French Cheese Industry* 102 *Food Policy* 102118 (2021), www.sciencedirect.com/science/article/abs/pii/S030691922100097X?via%3Dihub (last visited Dec. 11, 2024).

⁴⁴⁹ LEON E DIJKMAN, *DEVELOPMENTS AND DIRECTIONS IN INTELLECTUAL PROPERTY LAW: 20 YEARS OF THE IPKAT* 464-480 (Hayleigh Bosher & Eleonora Rosati eds., 2023).

⁴⁵⁰ Xiaoyan Wang, *Absolute Protection for Geographical Indications: Protectionism or Justified Rights?* 8(2) *Q. M. J. of IP* 73, 75 (2018), <http://dx.doi.org/10.4337/qmjip.2018.02.01> (last visited Dec. 5, 2024).

through trademarks (certification or collective mark). In contrast, the EU considers GIs independent IPR and has a separate legal protection mechanism.⁴⁵¹ It is argued that the US had a pro-protectionist approach to TRIPS and consistently opposed the inclusion of GIs protection in TRIPS. On the other hand, the EU vigorously advocated for the protection of GIs under TRIPS, particularly for wine, and protected agricultural foodstuffs under *sui generis* GIs protection.⁴⁵²

Among the eight South Asian Association for Regional Cooperation Countries, Bangladesh,⁴⁵³ India,⁴⁵⁴ Pakistan⁴⁵⁵ and Afghanistan have the *sui generis* GIs laws. In contrast, other countries (Bhutan, Maldives, and Nepal) protect their GIs through trademark laws that are collective marks or certification marks.⁴⁵⁶ Sri Lanka amended its Intellectual Property Act 2022 to introduce a separate registration system for GIs in the Intellectual Property (Amendment) Act 2022, No. 8.⁴⁵⁷

There are two types of debates on applying GIs laws in the EU and the US: applying *sui generis* and trademark laws to protect GIs. The EU does not consider Article 22 of TRIPS sufficient to safeguard GIs against imitation, evocation, or misuse of agricultural products and foodstuffs. Therefore, the EU has introduced a TRIPS-plus provision to protect GIs.

The Civil Law and Common Law systems treat GIs differently. Protection in civil law jurisprudence invariably depends on registration rather than use; it offers a plaintiff a remedy of an injunction. Most EU countries, including France and Russia, follow civil

⁴⁵¹ Xinzhe Song, *The Role Played by the Regime of Collective and Certification Marks in the Protection of Geographical Indications-Comparative Study of Law and Practice in France, the EU and China* 21 J. W. IP. 437 (2018), <https://onlinelibrary.wiley.com/doi/10.1111/jwip.12111> (last visited Nov. 3, 2024).

⁴⁵² Philip Matthews, *Increasing Revenue in Developing Nations through Intellectual Property Rights: Why a Diversified Approach to Intellectual Property Protection with a Focus on Geographical Indications Is the Best Method*, 7 BUFFALO INTELLECTUAL PROPERTY LAW JOURNAL 201 (2010), <https://digitalcommons.law.buffalo.edu/buffaloipjournal/vol7/iss2/3> (last visited Nov. 12, 2024).

⁴⁵³ Geographical Indication (Registration and Protection) Act, (2013) (Bangladesh).

⁴⁵⁴ Geographical Indications Goods (Registration and Protection) Act, (1999) (India).

⁴⁵⁵ The Geographical Indication (Registration and Protection) Act, 2020 (Pakistan).

⁴⁵⁶ Laxmi Sapkota, ‘Comparative Study of Sui generis Geographical Indication Laws in South Asian Countries: A Way Forward to Nepal’ 11 JGRA (2022).

⁴⁵⁷ The Intellectual Property (Amendment) Act, No. 8, (2022) (Sri Lanka).

law, whereas the USA, India, Canada, Australia, and New Zealand follow common law.⁴⁵⁸

The EU and US debate is not limited to their respective territories. There is also a downside to having a multifaceted system for protecting GIs. A third country must make its laws compatible with those of these two groups for the free trade agreements (FTA) between of these countries and others. For example, there is an FTA between the Republic of Korea and US (KORUS) and an FTA between the Republic of Korea and EU (KOREU). Also, the US FTA with South Korea protects GIs through trademark law. The EU FTA with South Korea provides for specific GI protections, establishes a GI register for agricultural products, foodstuffs, and wines, specifically designates specific EU and South Korean products to be given GI protection, and provides additional enforcement measures related to GI.⁴⁵⁹

The hypothetical case is given by a writer on the conflict of a product 'A' and what would be the difference between EU laws and US laws.⁴⁶⁰ The protection differences between the EU and the US can be better understood through the following differences in the case of Glugwiser:

Table 5: Differences between EU and US in the Protection of Glugwiser.

Points of difference	As per US Laws	As per EU laws
Registration	It can be registered as a collective mark or certification mark with the United States Patent and Trademark Office.	It can be registered as a Protected Designation of Origin or Protected Geographical Indication.
Conflict with prior trademarks	It follows first in time, first in right of way, where a prior trademark like Glorious A may block registration	Allow coexistence of prior trademark with subsequent GI under Article 14(2) of Regulation 1151/2012

⁴⁵⁸ LATHA R. NAIR, GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY (LexisNexis Butterworths 2005).

⁴⁵⁹ Congressional Research Service, *Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*, <<https://crsreports.congress.gov/product/pdf/R/R43387>> (last visited Dec. 15, 2025).

⁴⁶⁰ NEIL WILKOF ET AL., EDS., OVERLAPPING INTELLECTUAL PROPERTY RIGHTS (2d ed. Oxford Univ. Press 2023).

Points of difference	As per US Laws	As per EU laws
Generic Status	If A is claimed to be generic, the primary significance test is used	In the EU, once a name is registered as a GI, it cannot become generic, making generic claims difficult to prove.
Renewal requirement	After registration, one must be registered for 10 or 7 years, per the respective country's legal provision.	Protected indefinitely after registration
Labelling	No separate labelling except for wine and spirit, so they must be registered under trademark law or protected at the state level.	Specific labelling under EU regulation for PDO/ PGI standard
Flexibility in link to region	PDO is not flexible in linking product to place, although both PDO and PGI offer protection.	A could be registered as a PDO or PGI under Regulation 1151/2012, with both offering strong protection, but PGI allows more flexibility in linking product to place.
Reliability for the enforcement	Unregistered or state-protected marks also rely on principles of trademark law for enforcement in the US.	In the EU, Glugwiser could also be registered simultaneously as a GI and as an EU collective trademark or certification trademark in multiple countries.

When there is a difference between 'what it is?' and 'what ought to be?', an ideology-driven movement is required. However, rather than the ideology of North-South, Nepal is a sovereign country that needs its unique law or Maulik laws, to protect its GIs.

The USA protects its GIs through trademark laws, and the EU protects its GIs through *sui generis* GIs laws. The EU protects agricultural goods and foodstuffs under the *sui generis* system, whereas wine and spirits are protected under the advance protection per Article 23 of the TRIPS Agreement. Therefore, the debate on protecting GIs by trademarks or a *sui generis* system corresponds to the United States and European Union debate. In the context of decolonising the prevailing notion of associating with either the US or the EU, Nepal necessitates the drafting of its kind of *Utpati Mool* (*sui generis*) laws to safeguard its GIs.

2.14. Conclusion

The TRIPS Agreement uses the term geographical indications for the very first time. It focuses on the origination of goods, quality, reputation, or other characteristics of goods from the exact geographical origin. GI is any noun or adjective that defines the geographical location and tends to be considered by the buyers as a description of the geographical location of the origin of goods.⁴⁶¹ It is an identity of goods regarding their origin in the territory of a member or a region or locality in that territory; correspondingly, the given quality, reputation, or other characteristics of the goods must be attributable to their geographical origin.⁴⁶² The GI has roots in the French word '*terroir*,' which is related to the territory. Furthermore, they are generally used for agricultural products, foodstuffs, wine and spirit drinks, handicrafts, and industrial products.⁴⁶³

The role of GIs in protecting the interests of the local market involves safeguarding against the illicit use of products, preventing unjust enrichment, and conferring collective rights. Additionally, communal ownership and absolute protections through registered GIs underline their significance GIs.

The history of GIs begins with the Paris Convention for the Protection of Industrial Property in 1883, which utilised the terms 'indication of source' and 'appellations of origin'. Furthermore, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods in 1891 included 'indication of the source'. The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration in 1958 defined the term 'appellation of origin', while the Agreement on Trade-Related Aspects of Intellectual Property used the term 'geographical indication' for the first time. All IS are not GIs and AO, but all AO and GIs are IS.

⁴⁶¹ LATHA R. NAIR, GEOGRAPHICAL INDICATIONS: A SEARCH FOR IDENTITY 32 (LexisNexis Butterworths 2005).

⁴⁶² Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 22, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁴⁶³ World Intellectual Property Organisation, Geographical Indications (2021), https://www.wipo.int/geo_indications/en (last visited May 9, 2024).

There are numerous theories concerning GIs, including communitarianism, reward, restoration, information, originality, labour rights, Shapiro's reputation, club goods, unjust enrichment, personhood, distributive justice, ecological, spiritual, economic, natural monopoly, utilitarian, qualitative, and terroir theories. Consequently, the theories of Utpati Mool or originality, quality, community, and territoriality or geological sign are of great significance.

Among the features of GIs, there are several, including that it signifies, it is used to identify goods, a GI identifies goods and services, it should originate from a specific location, and it should possess quality (specific or otherwise) or reputation, among other attributes.

As per the TRIPS Agreement, two types of GIs are GIs of goods and GIs of wine and spirits, which offer minimum protection to goods and specific protection to wine and spirits. There are also other types, like Direct GIs, in which goods directly come from the geography; indirect GIs, in which goods have non-geographical names or symbols related to a particular region but people believe that goods from that region; and quality-neutral GIs, which do not need an evident connection between the products' unique characteristics and their place of origin.

GIs perform functions, specifically identifying the origin of goods, suggesting quality, reputation, and other characteristics of products, promoting goods from various areas, performing advertising functions, and determining the community.

There are four ways to protect GIs: taking advantage of a bilateral agreement concluded between countries; obtaining protection directly in the relevant jurisdiction or through statutory measures; utilising the Madrid System for the international registration of marks; and employing WIPO's Lisbon system for the international registration of an appellation of origin. The TRIPS agreement does not mandate specific protection methods but requires countries to protect their GIs. Under statutory measures, GIs may be protected through sui generis legislation, trademarks (certification marks, collective marks), and laws focusing on business practices.

Sui generis is a Latin phrase that means "*of its kind*." A country can protect its GIs through its laws. This approach treats GIs as a type of IP, whereas the protection of GIs under

trademarks views them as a subset of trademarks. GIs and trademarks denote distinct symbols that function as indicators of origin. GIs, certification marks, and collective marks distinguish products with various functionalities. The GI identifies goods by geographical origin, while collective and certification marks differentiate products based on the association or certification body that owns the marks. Collective marks distinguish the goods or services of association members from those of non-members.

In contrast, a certification mark differentiates certified goods or services from non-certified ones and may only be used by authorised parties other than the owner. GIs can also be protected through specific laws focusing on business practices related to unfair competition, consumer protection, or product labelling. Although these laws do not confer individual industrial property rights over the GI, they provide indirect protection by prohibiting specific actions that may involve the unauthorised use of GIs.

Some say GIs triumph over CM, others say vice versa, and some scholars claim that trademarks and GIs are neither "equal" nor "identical" or interchangeable. Coexistence is possible through legislation that adopts a harmonious approach to protect both. In the case of a conflict between GIs and TMs, which might occur when there is a dispute between registered TMs and GIs, between unregistered TMs and GIs, or conflicts with well-known TMs and GIs, two principles govern the relationship when such conflicts arise. The principle of 'First in Time, First in Right' refers to the combined principles of priority and exclusivity. This means that the sign protected first, whether a trademark or a GI, shall take precedence (principle of priority) and prevent the use of any conflicting subsequent sign (principle of exclusivity).

Additionally, a coexistence principle permits GIs and trademarks to be used concurrently to some extent, even though using one or both might otherwise infringe the rights conferred by the other. First in time, first in the right (FITFIR) as a primary role to resolve such trademark GI conflict. It is a shorthand way to refer to the combined principles of priority and exclusivity. This means that the first protected sign, whether a trademark or a GI, shall take precedence (principle of priority) and prevent the use of any conflicting subsequent sign (principle of exclusivity). This means that the first protected sign, whether a trademark or a GI, takes precedence and prohibits any conflicting subsequent sign. Recognising GIs in trademarks reflects a bias towards liberal individualism, as proven by the fact that group or collective marks pose

significant challenges. Melissa A. Loucks, in her paper, asserts that trademarks and GIs are neither "equal" nor "identical" nor interchangeable. However, coexistence is achievable through legislation that adopts a harmonious approach to protect both.

Protecting GIS through sui generis and trademark laws is regarded as a Global North-South debate involving the North, including the Old World (Europe) and the South, including the New World (Australia, Argentina, Chile, Canada, the United States, and New Zealand). The North safeguards its GIs through sui generis laws, while the South relies on trademark laws, especially collective or certification mark protection. Countries from both the Old and New Worlds are divided on this matter. One faction advocate for absolute protection, representing a higher level of safeguarding for all GIs. Conversely, the other faction favours GI protection limited to consumer confusion, drawing an analogy to trademark protection. There are fundamental differences in how GIs are protected through collective marks and sui generis GIs, particularly concerning the level of security, origin, and ownership of rights. This disparity has led to the TRIPS agreement not detailing the protection methods. The debate has transcended their respective territories, requiring a third country to align its laws with those of these two groups for FTA, such as the one between the US and the Republic of Korea (KORUS) and the agreement between the EU and the Republic of Korea (KUREU), which exemplifies this. In this context, it is crucial to examine Nepal's laws regarding the protection of GIs.

CHAPTER III

3. LEGAL FRAMEWORKS ON GEOGRAPHICAL INDICATIONS

In this chapter, the researcher analyses the existing legal provisions of Nepal on GI and it compares the compatibility of Nepal's provisions on GIs of goods with those of the TRIPS Agreement. The national and international legal frameworks on the GIs, along with judicial decisions on GIs in Nepal and the comparative study of the TRIPS with that of existing legal provisions on the National Intellectual Property Policy and Industrial Property Bill 2082 BS are discussed below:

3.1 Legal Framework on Geographical Indications in Nepal

The journey in IP law is very short in Nepal. Before the development of the specific copyright law, the provision of the copyright was arranged in the Muluki Ain, 1910 BS (1854 AD). Any publication must acquire prior permission from "Gorkha Bhasa Prakashan Samitee"⁴⁶⁴ Similarly, history relating to industrial property begins with the "Patent, Design and Trademark Act 1993 BS (1937 AD)." The act protected IP only for Nepali nationals. Later, the act was replaced by the "Patent, Design and Trademark Act, 1965 AD (2022 BS)," which extended IP, industrial protection, to foreign nationals only after registering industrial property in Nepal.⁴⁶⁵ Nepal has two separate IP laws. Firstly, the Copyright and Related Rights are protected by the Copyright Act, 2059 BS, and regulated by the Copyright Registrar's Office. It is under the Ministry of Culture, Tourism and Civil Aviation of Nepal. Secondly, industrial property rights (Patent, Design, and Trademark) are protected by the Patent, Design, and Trademark Act, 2022 BS, and collective marks are registered under the Collective Mark Registration-Related Directive 2067 BS. The Department of Industries regulates both under the Ministry of Industry of the Government of Nepal. There is a need for legislation on GIs in Nepal; however, the provisions on the protection of GIs in other ways are also discussed below:

⁴⁶⁴ Muluki Ain, § 31 (a) of the Chapter on Miscellaneous of the Code (1910).

⁴⁶⁵ BAL BHADUR MUKHIA, INTELLECTUAL PROPERTY LAW 22 (Mission Legal Service Pvt Ltd. 2015).

3.1.1 Constitution of Nepal

The concept of intellectual property was not in the domain of property in the previous constitutions, including the “Government of Nepal Act 2004,” “The Interim Government of Nepal Act 2007,” “The Constitution of the Kingdom of Nepal 2015,” “The Constitution of Nepal 2019,” “The Constitution of the Kingdom of Nepal 2047” and “The Interim Constitution of Nepal 2063” (See Appendix 20: Recognition of Property in the Constitutions of Nepal). For the first time, the Constitution of Nepal, in its explanation clause of Article 25, has stated that 'property' means any form of property, including movable and immovable property, and property includes intellectual property.⁴⁶⁶ Likewise, Schedule 5 of the Constitution of Nepal has given a list of federal powers, of which number 24 states that the Federal government has the power over intellectual property (including patents, designs, trademarks, and copyrights).⁴⁶⁷ Schedule 5 has given the intellectual property right to the Central Level, as it should only be made a concurrent power to the local level.

The Constitution of Nepal acknowledges the rights of Dalits as fundamental rights,⁴⁶⁸ which ensures their ability to utilise, safeguard, and enhance their traditional occupations, knowledge, skills, and technologies. The state must prioritise the Dalit community in contemporary business ventures linked to their traditional occupations, offering necessary resources and training.⁴⁶⁹ These occupations are often rooted in specific geographic areas.

The Constitution of Nepal acknowledges social justice⁴⁷⁰ as a fundamental right. It ensures that every farmer can access land for agricultural activities and preserve traditional local seeds and farming species, as regulated by law.

The Constitution promises to establish legal provisions for implementing the rights conferred by it within three years of its commencement.⁴⁷¹ The Legislation Management Committee has presented a report titled A Study Report on Pending Laws

⁴⁶⁶ CONST. OF NEPAL. art. 25.

⁴⁶⁷ *Id.* at sched. 5.

⁴⁶⁸ *Id.* at art. 40 & cl.4.

⁴⁶⁹ *Id.*

⁴⁷⁰ *Id.* at art. 42, cl.4.

⁴⁷¹ *Id.* at art. 4.7.

to be Drafted According to the Constitution of Nepal, stating that 111 out of 151 laws have been passed.⁴⁷² However, laws related to fundamental rights, essential for implementing federalism, are yet to be drafted, including those concerning intellectual property and incorporating geographical indications. The study reports demonstrate that Nepal should draft laws to enforce the fundamental rights outlined in Article 25.⁴⁷³

3.1.2 The Muluki Civil Code, 2074 BS (2017 AD)

The Muluki Civil Code, 2074, listed intellectual property as movable.⁴⁷⁴ Further, it states that the property gained or increased from IP or royalty is a person's private property;⁴⁷⁵ the person can do whatever they like with their private property.⁴⁷⁶ The code does not include GIs as a type of IP. The *sui generis* GIs is the community property; it is also a challenge for a country that considers its IP as private property as the scope of the IP widens to community property from private property once the government introduces the *sui generis* GIs laws.⁴⁷⁷

3.1.3 Statutes

a. Export and Import (Control) Act, 2013 BS (1957 AD)

The act states that if the Government of Nepal considers that it is necessary to prohibit or control the exportation or importation of any goods for the protection of IPR such as patents, trademarks, copyrights, industrial designs, geographical indications and protection of undisclosed information; it can do so by notified order, prohibit, or apply full or quantitative restriction on, the exportation or importation of such goods, with or without specifying any specific condition or period.⁴⁷⁸ The act has included geographical indications as intellectual property.

⁴⁷² LEGISLATION MANAGEMENT COMMITTEE, STUDY REPORT ON THE LAWS YET TO BE MADE IN ACCORDING WITH THE CONSTITUTION OF NEPAL 12 (Committee Legislation Management 2023).

⁴⁷³ *Id.*

⁴⁷⁴ The Muluki Civil Code, §254 (2074).

⁴⁷⁵ *Id.* at § 256 (1) (e).

⁴⁷⁶ *Id.* at § 256(2).

⁴⁷⁷ Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1) JGRA 28, (2023).

⁴⁷⁸ Export and Import (Control) Act, § 3 (O) (1957).

b. Patent, Design and Trademark Act, 2022 BS (1965 AD)

The PDTA is Nepal's industrial property law. The act has not included GI and has not recognised collective marks. However, as stated in the Collective Marks Registration Related Directive, 2010, some of the provisions of the trademarks, including the registration provision, use the collective trademarks.

c. Nepal Standard (Certification Mark) Act, 2037 BS (1980 AD)

This act is promulgated to determine the standards of any goods for the public's welfare and for the use of the mark certifying the standard on such goods. NG forms Nepal Standard Council to determine standards for goods, processes, or services and confirm the same made thereon. *Nepal Standard (Certification Mark) Act, 1980 (2037)*⁴⁷⁹ in Nepal gives the certification marks to the product. The act is promulgated to determine the standards of any goods for the public's welfare and the use of the mark certifying the standard on such goods. The Nepal Government forms the Nepal Standard Council to determine standards for goods, processes, or services.⁴⁸⁰ The Council determines standards for any goods, processes, or services and amends or cancels standards that have been prescribed. Further, it recognises standards prescribed by any local or foreign institution. Likewise, it grants recognition to any governmental or non-governmental laboratory for the determination of standards or tests or suspends or cancels recognition that was once granted. Similarly, the Council prescribes the design and form of a certificate of standard and the certification mark. The Council prescribes fees for the certificate of standard and certification mark, as well as for services.⁴⁸¹ Anyone who provides services must obtain a license to use a certification mark for any goods or process.⁴⁸² There is a prohibition against improper use of certification marks; the one who makes it shall be punished with a fine of up to 3,000 or imprisonment of up to six months or both.⁴⁸³ The one who

⁴⁷⁹ Nepal Standard (Certification Mark) Act, § 2 (1980).

⁴⁸⁰ *Id.* at § 3.

⁴⁸¹ *Id.*

⁴⁸² *Id.*

⁴⁸³ *Id.* at § 3.

uses names is punished with a fine of up to 1500 or imprisonment of up to 3 months or both.⁴⁸⁴ The offence against the act is the government party's case.

d. Competition Promotion and Market Protection Act, 2063 BS (2007 AD)

The act provides protection and enforcement of IP against any abuse.⁴⁸⁵ The section grants the Government of Nepal the authority to enact measures to prevent abuse of intellectual property rights if it negatively affects fair competition or violates consumer rights.

e. Customs Act, 2064 BS (2006 AD)

The act has laid down the conditions for importing and exporting IP goods and services. Also, individuals can request the withholding of goods intended for export or import if they infringe on IPR like patents, designs, trademarks, or copyrights. Applicants must provide evidence to the Customs Officer along with their request.⁴⁸⁶ But this section doesn't mention geographical indication. Section 134 of the Customs Bill has been registered in Parliament and provides the same provision but doesn't include a GI.⁴⁸⁷

f. Local Governance Operation Act, 2074 BS (2017 AD)

The right and the responsibility for the administration of IPR and the implementation of the law fall under the jurisdiction of the federal government, as stated in the schedule of the Constitution. However, protection, promotion and documentation of the IP is the responsibility of all three layers of the government. Chapter 3, section 11(2)(j) of the Local Governance Operation Act, 2018 (2074) states that “the protection, promotion and recording of the local intellectual property falls under the works, duties, and rights of municipalities.”⁴⁸⁸

⁴⁸⁴ *Id.* at § 13.

⁴⁸⁵ Competition Promotion and Market Protection Act, § 32 (2007).

⁴⁸⁶ Customs Act, § 68 (2007).

⁴⁸⁷ Customs Bill, 2080, Reg. No. 12, Session 2, <https://hr.parliament.gov.np/en/billfeedback/qa8CSwHg> (last visited Mar.1, 2025).

⁴⁸⁸ Local Governance Operation Act, §11 (2)(j) (2018).

g. The Consumer Protection Act, 2075 BS (2018 AD)

The Consumer Protection Act has been brought to protect and promote the constitutional rights of the consumer to obtain quality goods and services.⁴⁸⁹

Geographical marks of Goods are related to their quality. Under this act, section 2(g) defines substandard goods.⁴⁹⁰ Further, it defines defective products as goods or services lacking the minimum safety measures people expect when using any product.⁴⁹¹ This includes products that are counterfeit, pirated, or imitated from the original product made by the company holding IPR.

The Consumer Protection Act of 2075 forbids anyone from conducting unfair trade and business activities, including selling goods by misleading the actual quality of goods, conducting false or misleading advertisements or selling goods that are shown as possessing any speciality or quality.⁴⁹² While these laws have provisions against unfair competition, they are not specific to goods of origin. These laws have not forbidden anyone from using terms in their products that indicate that the goods possess characteristics that are borne by-products originating from a specific location, that is. the laws are not GI specific.

h. The Right to Food and Food Sovereignty Act, 2075 BS (2018 AD)

The act guarantees farmers' rights, which include protecting their intellectual property rights, as farmers have the right to make choices of local seeds, tools, technology, agro-species and obtain the protection of IP.⁴⁹³

I. The Industrial Enterprises Act, 2076 BS (2020 AD)

The main objective of the Industrial Enterprise Act is to ensure the probable and effective management of the industrial sector. This involves focusing on import

⁴⁸⁹ Consumer Protection Act, pmble. (2018).

⁴⁹⁰ *Id.* at § 2(g).

⁴⁹¹ *Id.* at § 2(r)(5).

⁴⁹² *Id.* at § 16.

⁴⁹³ Right to Food and Food Sovereignty Act, § 12(2)(d) (2018).

substitution and export promotion strategies, utilising the resources available within the country to achieve these goals.

The act includes geographical indication while defining Industrial property,⁴⁹⁴ states that “IP includes design, patents, trademarks, trade secrets, service marks, and geographical indications, and this term contains matters defined as copyrights by the prevailing law.” The act has given various kinds of incentives and exemptions in tax-related matters for industries owning intellectual property defined under this act, which are as follows:

- a. 25% exemption: It is provided on the rate of income tax leviable on royalty income earned by any person from exporting an IPR.⁴⁹⁵
- b. 50% exemption: It is provided on the rate of income tax leviable on the income earned by any person from selling by way of transfer of an IPR.⁴⁹⁶
- c. Deduction for protection expenses in Nepal, where industries can deduct expenses incurred in protecting industrial properties under registered intellectual property rights in Nepal for income tax purposes.⁴⁹⁷
- d. Deduction for foreign registration fees where industries can deduct expenses paid for registering intellectual property rights in foreign countries for income tax purposes.⁴⁹⁸ Hence, the act has recognised GIs as IP.

J. The Nepal Treaty Act, 2047 BS (1990 AD)

The Nepal Treaty Act 2047 BS has been enacted to provide legal provisions regarding the procedures for signing, ratifying, acceding, accepting, or approving treaties or agreements to which Nepal is a party and for implementing such treaties or agreements.⁴⁹⁹ Section 9 of the act has given equal importance to the

⁴⁹⁴ Industrial Enterprise Act, § 2(k) (2020).

⁴⁹⁵ *Id.* at § 24(2)(f).

⁴⁹⁶ *Id.* at § 24(2)(g).

⁴⁹⁷ *Id.* at § 24(2)(u).

⁴⁹⁸ *Id.* at § 24(2)(v).

⁴⁹⁹ Nepal Treaty Act, Pmbl. (1990).

provision of applicable treaties, such as Nepali laws.⁵⁰⁰ If a treaty to which Nepal is a signatory is ratified, accepted, or approved by the Parliament, and its provisions conflict with prevailing laws, the contradictory provisions of the treaty shall be enforceable as the laws of Nepal.⁵⁰¹ Section 2 includes any treaty not ratified, acceded to, accepted, or approved by the Parliament. Suppose a treaty to which Nepal is a party imposes additional obligations or burdens on Nepal and requires legal arrangements for enforcement. In that case, the Government of Nepal should take prompt action to enact laws for their enforcement. The Nepal Treaty Act needs to be more transparent regarding the application of international laws. Section 9(1) suggests Nepal follows a monist approach where national and international laws are equally important.⁵⁰² In contrast, Section 9(2) follows a dualist approach where municipal law is superior to international law.⁵⁰³

3.1.4 Directive

a. Collective Mark Registration-Related Directive 2067 BS (2010 AD)

The Collective Mark Registration-Related Directive is only a directive that states about registering collective marks. It has incorporated the provision for collection trademark registration in Nepal. In the absence of GI laws, the directive is working.

The collective mark can be registered by any association, organisation, or cooperative association established, formed, or registered according to the prevailing law if it wants to register a mark only by the members affiliated with such association, organisation, or cooperative association.⁵⁰⁴

Also, any governmental or quasi-governmental body established by the prevailing law represents a group of producers producing a particular product or

⁵⁰⁰ Nabin Kumar Subba, *Domestication of International Laws in Nepalese Context*, NBCLJ. 246 (2020).

⁵⁰¹ Nepal Treaty Act, § 9 (1) (1990).

⁵⁰² *Id.*

⁵⁰³ Nabin Kumar Subba, *Domestication of International Laws in Nepalese Context*, N.B.C.L.J. 246 (2020).

⁵⁰⁴ Collective Mark Registration Related Directive, § 2 (2010).

service. In that case, they can register it as a collective mark so that a member of such a body or other users can use it. An application should be submitted to the Department of Industry to register the collective marks.⁵⁰⁵ Nevertheless, the Department cancels the registration of such mark if one or more members of the concerned body, association, organisation, or cooperative have used such mark alone to alienate other members or used it contrary to the documents relating to rules and procedures regarding the use of a mark or it is proved that the collective mark has been used in a way that creates confusion among the general public about the origin or collective quality of product or services or it is conflicting to the public interest.⁵⁰⁶

Collective Mark cannot be used without registering in the Department or without the written consent of the owner of the CM registered in the name of any person or by using the CM in such a manner as to deceive the public.

A person not a member of any association, organisation, or cooperative association should not use the collective mark registered in the name of that body, association, organisation, or cooperative association. Additionally, when a member of anybody, association, organisation, or cooperative association uses the collective mark registered in the name of that body, association, organisation, or cooperative association, the use of that mark shall not be contrary to the provisions of the agreement with such body, association, organisation or cooperative association.⁵⁰⁷

The period of use, duration of, the penalty for illegal use of, a procedure for renewal of collective mark, customs, and other matters shall be as mentioned in the PDTA, 2022.⁵⁰⁸

⁵⁰⁵ *Id.* at § 3.

⁵⁰⁶ *Id.* at § 4.

⁵⁰⁷ *Id.* at § 5.

⁵⁰⁸ *Id.* at § 6.

Table 6: List of Collective Marks of Nepal

S. No.	Name of Collective Trademark	Class	Goods	Address	Owner
1.	Changrya Pashmina	24	Nepalese Pashmina	Kathmandu	Nepal Pashmina Udhog Sangh
2.	Changrya Pashmina	25	Nepalese Pashmina	Kathmandu	Nepal Pashmina Udhog Sangh
3.	Sindhuka	29	Dairy Product and other	Kavrepalanchowk	Phoolbari Krishi Sahakari Sanstha Limited
4.	Sindhuka	35	Advertising	Kavrepalanchowk	Phoolbari Krishi Sahakari Sanstha Limited
5.	Sindhuka	30	Grain & foodstuff	Kavrepalanchowk	Phoolbari Krishi Sahakari Sanstha Limited
6.	Everest Big Cardamom	30	Spice	Birtamod, Jhapa	Nepal Alaichai Byayasi Mahasangh
7.	Himalayan Nepalese Carpet	27	Carpet	Baudha, Kathmandu	Nepal Galaicha Utpadana Tathya Nikasi Karta Shangha
8.	Swadeshi (Lebal)	2	Decorative paints and Industrial paints	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
9.	Swadeshi (Lebal)	6	Certain Goods of Common Metals, Prima Cable, mainly unwrought and Partly Wrought Common Metals	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
10.	Swadeshi (Lebal)	16	Paper	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
11.	Swadeshi (Lebal)	19	Cement, Rigid Pipe and Building and Construction Material	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
12.	Swadeshi (Lebal)	21	Glassware and Ceramic Earthenware, Glass	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
13.	Swadeshi (Lebal)	24	Fibre	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
14.	Swadeshi (Lebal)	26		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
15.	Swadeshi (Lebal)	33		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries

S. No.	Name of Collective Trademark	Class	Goods	Address	Owner
16.	Swadeshi (Lebal)	42		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries
17.	Juju Dhau	29	Curd, Milk & Milk Product and Diary Product	Suryabinayak -8, Bhaktapur	Bhaktapur Juju Dhau: Byabasayi Sangh

3.1.5 Budget Speech

Budget Speech of Fiscal Year 2082/83 BS (2025/26 AD)

The budget has stated the followings in the part of the intellectual property:

- a. There shall be an arrangement to secure IP that are generated from agriculture research.⁵⁰⁹
- b. There shall be policy level reform concerning the protection of IP.⁵¹⁰

3.1.6 Policies

a. Industrial Policy 2067 BS (2011 AD)

The industrial policy aims to enhance the industrial sector. It incorporates the provisions of the IP.⁵¹¹ The policy asserts that an effective body will be established to safeguard industrial IPR.⁵¹² Additionally, the policy states that there will be an IP protection office encompassing the entire IP area.⁵¹³ The office will be responsible for promoting and effectively protecting IP.⁵¹⁴

b. Trade Policy 2072 BS (2015 AD)

The Trade Policy, 2072 BS, aims to promote and protect intellectual property rights at the regional and international levels.⁵¹⁵ The strategy is to promote and

⁵⁰⁹ Nepal Ministry of Finance, Budget Speech for Fiscal Year 2082/83 (2025/26 AD), available at https://giwmscdnone.gov.np/media/pdf_upload/Webside%20Final%20budget%20Speech%202_15_qbn3jyt.pdf (last visited June 22, 2025).

⁵¹⁰ *Id.*

⁵¹¹ Nepal Government Industrial Policy, No. 1 (2011).

⁵¹² *Id.* at no. 8(18).

⁵¹³ *Id.* at no. 20 (9).

⁵¹⁴ *Id.*

⁵¹⁵ *Id.* at no. 9(9).

increase trade expansion related to Intellectual Property Rights in the global market. Under the policy to enhance and protect intellectual property, rights related to business promote access to Nepali products in the worldwide market.⁵¹⁶ Encouragement, support, and coordination will be provided for the registration and protection of intellectual property, including geographical indications for exportable goods,⁵¹⁷ in the international market.

c. The National Intellectual Property Policy 2073 BS (2017 AD)

The policy has the aim to develop a new legal framework or revise the existing ones for the “patent, trademark, copyright, industrial design, geographical indication, trade secrets, plant species, integrated circuit, traditional and indigenous knowledge, layout design, traditional cultural expression and folklore, biodiversity, and genetic resource according to the need of the country.” The policy has made provisions for the GI policy.⁵¹⁸

d. The Sixteenth Plan (Fiscal Year 2081/82- 2085/86 BS 2024/25-2028/2029 AD)

The sixteenth plan has the provision of the transformative strategies of country for the smooth graduation to developing country, “Nepal shall make legal arrangement for the protection of GI and develop capacity of related organizations for implementation.”⁵¹⁹ Previously, The Fifteenth Plan had the plan to promote innovations by protecting IPR.⁵²⁰ Also it has been stated that a self-regulated mechanism with legal and institutional powers protects IPR, eventually resulting in the increment of several IP, including GI, registered from Nepal in the worldwide database of the WIPO.⁵²¹ Then, the sixteenth plan incorporates, “As a transformative strategy in the development of quality infrastructure and intensive inter connectivity the government shall adopt a policy of utilizing resources and traditional skills and knowledge available at the local level, and

⁵¹⁶ *Id.* no. 10 (9).

⁵¹⁷ *Id.* at no. 10 (9) (3).

⁵¹⁸ The National Intellectual Property Policy, No. 8(2)(e) (2017).

⁵¹⁹ NEPAL GOVERNMENT, NATIONAL PLANNING COMMISSION, THE SIXTEENTH FIVE- YEAR PLAN 224 (2025).

⁵²⁰ NEPAL GOVERNMENT, NATIONAL PLANNING COMMISSION, THE FIFTEENTH FIVE-YEAR 36 (2020).

⁵²¹ *Id.* at 36 & 43.

establish IPR that helps in transfer of knowledge for generations to generations and upgrade it.”⁵²²

e. Nepal Trade Integration Strategy (NTIS) [2079/80 BS (2023 BS) – 2084/85 BS (2028 AD)]⁵²³

Nepal Trade Integration Strategy 2023 has given priority to export potential sectors. The different categories are provided, such as agro-based products, forest sectors, craft and manufacturing products, small and cottage industries, and even a service, which is also included in the export category. The list is: in the agro-based products (Cardamom, Ginger, Tea, Medicinal and Aromatic Plants, lentils, jute, vegetables, fruits, spices and coffee), in the forest sector (Handmade Lokta Paper, Rosin and Turpentine, Fragrant Oil and Textiles of Long Fiber), in the Craft and Manufacturing Products (All Fabrics, Textile, Yarn and Rope, Leather, Footwear, Pashmina, Carpets), in the small and cottage industry category (Iron and Steel, Readymade Garments and Cement, Pasta, Jewelry, Honey, Himalayan spring water, dog chew and felt) and electricity have been added in the service export category.

f. Annual Policies and Programs of the Government of Nepal

The Government of Nepal, in the Annual Policies and Program made the commitment for the protection of the intellectual property and promotion of the innovation.⁵²⁴ Further, IP shall be linked to the communities is mentioned in the policy.⁵²⁵

3.1.7 Guideline

a. Trademark Work- Conduction Guidelines 2072 BS (2015 AD)

This guideline has been established to commercialise the goods and services, to simplify and clarify the trademark registration process, and to benefit the

⁵²² NEPAL GOVERNMENT, NATIONAL PLANNING COMMISSION, THE SIXTEENTH FIVE- YEAR PLAN 115 (2025).

⁵²³ MINISTRY OF COMMERCE, NEPAL TRADE INTEGRATION STRATEGY (2016).

⁵²⁴ Nepal Government, *Annual Policies and Programs of the Government of Nepal* 13 (2025).

⁵²⁵ *Id.* at 18.

producer, retailer, and consumer, based on the PDTA 2022, the Paris Convention, and the TRIPS Agreement.⁵²⁶ Number 1© of the Trademark Work- Conduction Guidelines 2072 BS defines a collective as determined by the Collective Mark Registration-Related Directive 2067 BS.⁵²⁷ It has provisions related to trademarks.

3.1.8 Bill

a. Industrial Property Bill, 2082 BS

A Bill Made to Amend and Consolidate the Laws Related to Industrial Property (Industrial Property Bill, 2082). The bill includes the term ‘geographical indication’ in the definition of industrial property.⁵²⁸ Further, the GI is defined as the sign, maps, geographical name or mixture of all for the goods produced in a particular place or area; such goods have that quality, reputation and other characteristics because of being produced in that place.⁵²⁹ The bill has incorporated the provision of application for the registration of the GI,⁵³⁰ the provision that should be incorporated along with an application, management of the conflict between the GIs and trademarks of the similar goods,⁵³¹ the provisions which states GI shall not be registered as trademark,⁵³² the provisions when the GIs protections is not available, provisions relating to homonyms GIs,⁵³³ the things which is considered as the just use of the GIs,⁵³⁴ provisions relating to preliminary investigation relating to GIs,⁵³⁵ substantive investigation in regards to GI, ⁵³⁶ the certificate of the GI,⁵³⁷ provisions relating to amendment

⁵²⁶ Trademark Work- Conduction Guidelines, Pmbl. (2072).

⁵²⁷ *Id.* at No. 1©.

⁵²⁸ Industrial Property Bill, § 2(f) (2025).

⁵²⁹ *Id.* at § 2(u).

⁵³⁰ *Id.* at § 52.

⁵³¹ *Id.* at § 52.

⁵³² *Id.* at § 53.

⁵³³ *Id.* at § 54.

⁵³⁴ *Id.* at § 56.

⁵³⁵ *Id.* at § 58.

⁵³⁶ *Id.* at § 59.

⁵³⁷ *Id.* at § 60.

and quashed of the GI,⁵³⁸ provisions relating to national logo of the GI,⁵³⁹ rights of the GI owner,⁵⁴⁰ and special provision relating to GI.⁵⁴¹

3.2. Regional Legal Frameworks on Geographical Indications

GIs protection exists at the regional level through agreements. They might differ regarding economic, political and social objectives or institutional development,⁵⁴² but these agreements provide a comprehensive sense of the international IP system's rules.⁵⁴³ These regional agreements are significant because the north-south debate on GIs stems from the disagreements between the European Union and the United States regarding the methods of protecting GIs, which may be safeguarded through sui generis GI law or collective marks.⁵⁴⁴ The details of the regional legal frameworks on GIs are provided below.

3.2.1 European Union (EU)

Protecting farmer interests and community branding through GIs are two significant objectives of the EU's GI policy.⁵⁴⁵ EU registration-based mechanism became an internationally influential model of sui generis GI protection after it was introduced in 1992 and enjoyed a high level of protection guaranteed by a *sui generis* GI system.⁵⁴⁶ The EU regulations have defined GIs as signs used for agri-food products with a specific geographical origin and that possess qualities and reputations that are essentially or exclusively due to the geographical environment, because of natural and

⁵³⁸ *Id.* at § 61.

⁵³⁹ *Id.* at § 62.

⁵⁴⁰ *Id.* at § 63.

⁵⁴¹ *Id.* at § 64.

⁵⁴² FREDERICK M. ABBOTT ET AL., INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY 79 (4th ed. Aspen Publishing 2019).

⁵⁴³ *Id.*

⁵⁴⁴ Laxmi Sapkota, *Necessity of Sui generis Geographical Indication Laws in Nepal*, 16 NJA L. J. 125 (2022).

⁵⁴⁵ Bassem Awad & Marsha S. Cadogan, *The Development of Legal Protection for GIs around the World*, JSTOR 4 (2017), <http://www.jstor.org/stable/resrep15528.9> (last visited Apr. 17, 2024).

⁵⁴⁶ Claire Bernard-Mongin et al., *Geographical Indication Building Process for Sharr Cheese (Kosovo): "Inside Insights" on Sustainability*, 13 SUSTAINABILITY 5696 (2021), <https://www.mdpi.com/2071-1050/13/10/5696> (last visited Oct. 22, 2024).

human factors.⁵⁴⁷ The regime features two central systems of protection, Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI), under the 'Quality Schemes'.⁵⁴⁸ and the other two GIs, which differ. The types of GIs under the EU are PDO, PGI, Traditional Speciality Guaranteed (TSG), and Geographical Indication of Spirit Drinks and Aromatised Wines (GI).

PDO: EU Regulations define PDO as “a designation of origin is a name which identifies a product orientating in a place, region, or, in exceptional cases, a country whose quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production steps of which all take place in the defined geographical area.”⁵⁴⁹ PDO protects the product that features a substantive connection to a specific area, consisting of natural and human factors that mean physical/ environmental elements combined with the exact local know-how and the products that are entirely produced in the designated area of the origin.⁵⁵⁰ PDO covers “agricultural, food products and wines related to the products of a particular geographical region, considering that all segments' production, preparation and processing are performed in the same geographical areas.”⁵⁵¹ A PGI or PDO is not registered where, taking into account a trademark's reputation and renown and the duration of its use, registration may mislead the consumer about the product's identity.⁵⁵²

PGI: EU Regulations define PGI as “a name which identifies a product orienting to a specific place, region, or country whose given quality, reputation or other characteristics are attributable to its geographical origin, at least one of the production

⁵⁴⁷ Riccardo Crescenzi et al., *Geographical Indications and Local Development: The Strength of Territorial Embeddedness*, 56 REGIONAL STUDIES 381, 384 (2021), 10.1080/00343404.2021.1946499 (last visited Mar. 2, 2025).

⁵⁴⁸ Andrea Zappalaglio, *Understanding the Functioning of EU Geographical Indications*, 116 South Centre Policy Brief (2023), <https://www.southcentre.int/category/publications/policy-briefs/> (last visited Mar. 5, 2025).

⁵⁴⁹ Regulation 1151/ 2012 of the European Parliament and the Council, art. 5(1), 2012 O.J. (L 343) 1 (EU).

⁵⁵⁰ *Id.*

⁵⁵¹ Miloš Ćirić et al., *Consumer Attitudes and Habits About Products with Geographical Indication in Serbia*, 70 Economics of Agriculture 81 (2023), <https://doi.org/10.59267/ekoPolj230181C> (last visited Mar. 8, 2025).

⁵⁵² Szu-Yuan Wang, *Geographical Indications as Intellectual Property: In Search of Explanations of Taiwan's GI Conundrum* (2013) (Ph.D. dissertation, New Castle University (on file with New Castle University), <https://theses.ncl.ac.uk/jspui/bitstream/10443/1869/1/Wang%20S.Y.%2013.pdf> (last visited Mar. 7, 2025).

steps occurring in the defined geographical area.”⁵⁵³ PGI includes agricultural, food products, and wines closely related to the geographical area. At the same time, at least one of the stages of production, processing, or preparation takes place in this area, while 85% of the grapes must be from that geographical climate in wine.⁵⁵⁴ PGI is a broader and more flexible quality scheme. It accommodates a qualitative link corresponding to the link that characterised the PDO and a reputational one.⁵⁵⁵ Third countries' products protected in the EU due to the bilateral agreement are registered as PGIs.⁵⁵⁶ The fundamental difference between PDO and PGI is the connection between a product and a place where the PDO requirements are stricter, while the prerequisites for a PGI are lenient.⁵⁵⁷

TSG: TSG includes “food and agricultural products.” This label indicates the traditional aspects of the products, such as the way they are made or their composition, by linking them to a particular geographical area, protecting them from counterfeiting and misuse.⁵⁵⁸

Geographical Indication of Spirit Drinks and Aromatised Wines: GI of Spirit Drinks and Aromatised Wines safeguard the name of an alcoholic beverage or aromatised wine originating in a country, region, or locality where the product's core exceptional quality, reputation or other characteristics can be attributed to its geographical origin.⁵⁵⁹ PDOs have a more vital link with the territory because of the mandatory localisation of the entire production process and the provenance of raw materials. Conversely, PGIs

⁵⁵³ Regulation 1151/ 2012 of the European Parliament and the Council, art. 5(2), 2012 O.J. (L 343) 1 (EU).

⁵⁵⁴ Miloš Ćirić et al., *Consumer Attitudes and Habits About Products with Geographical Indication in Serbia*, 70 *Economics of Agriculture* 81 (2023), <https://doi.org/10.59267/ekoPolj230181C> (last visited Mar. 8, 2025).

⁵⁵⁵ Regulation 1151/ 2012 of the European Parliament and the Council, art. 5(1), 2012 O.J. (L 343) 1 (EU).

⁵⁵⁶ *Id.*

⁵⁵⁷ KALLIOPI DANI, *GEOGRAPHICAL INDICATIONS: IN COMMUNITY COLLECTIVE MARKS: STATUS, SCOPE AND RIVALS IN THE EUROPEAN SIGN LANDSCAPE* 32 (1st ed., 2014), <http://www.jstor.org/stable/j.ctv941rjv.8> (last visited Nov. 7, 2024).

⁵⁵⁸ Miloš Ćirić et al., *Consumer Attitudes and Habits About Products with Geographical Indication in Serbia*, 70 *Economics of Agriculture* 81 (2023), <https://doi.org/10.59267/ekoPolj230181C> (last visited Mar. 8, 2025).

⁵⁵⁹ *Id.*

require only one phase to be localised in the territory.⁵⁶⁰ PDOs ensure the manufacturing process is conducted within a designated geographical area from inception to completion. PGIs are “awarded even if only a single phase of the production process takes place within the specified territory.”⁵⁶¹

3.2.2 Andean Community

The Andean Community was established in 1969. Initially, it included Colombia, Bolivia, Ecuador, Peru, and associated members Uruguay, Chile, Brazil, Paraguay, and Argentina. It sets a standard external tariff and creates a free trade area among its members, maintaining common institutions such as the Court of Justice, Parliament, Presidential Council, and Council of Ministers.⁵⁶²

An international seminar was organised in Cusco, Peru, on "Geographical Indications and Denominations of Origin in the Andean Community," which evaluates the GIs and Denominations of Origin within the Andean countries. The seminar emphasised the importance of intellectual property in distinguishing and positioning products in national and international markets. The role of GIs and designations of origin in the social and economic development of Andean producers and artisans is vital, as they protect the unique, high-quality products linked to their geographical origin.⁵⁶³ At the regional level, institutions collaborate to register their GIs. For example, the EU has agreed to register 10 GIs from Colombia, Peru, and Ecuador under the Multiparty Trade Agreement between the EU and these three nations. Representatives from the EU and the three Andean countries will further strengthen their cooperation and commitment to safeguarding local knowledge and high-quality food products, thereby contributing

⁵⁶⁰ Silvia Falasco et al., *Can Geographical Indications Promote Environmental Sustainability in Food Supply Chains? Insights from a Systematic Literature Review*, JCP 141100 (2024), <https://doi.org/10.1016/j.jclepro.2024.141100> (last visited Apr. 6, 2024).

⁵⁶¹ Enrico Bonadio et al., *Geographical Indications Between the Old World and the New World, and the Impact of Migration*, 73 GRUR INT'L 3 (2023), <https://doi.org/10.1093/grurint/ikad122> (last visited Mar. 1, 2024).

⁵⁶² FREDERICK M. ABBOTT ET AL., *INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY* 84 (4th ed. Aspen Publishing 2019).

⁵⁶³ IP Key Latin America, *Geographical Indications For Andean Countries: Challenges and Opportunities*, <https://ipkey.eu/en/latin-america/activities/geographical-indications-andean-countries-challenges-and-opportunities> (last visited Mar. 8, 2025).

to rural development by recognising quality agricultural products whose history is closely tied to specific regions.⁵⁶⁴

3.2.3 Association of Southeast Asian Nations (ASEAN)

Of the ten countries in the ASEAN, eight have sui generis GIs laws. Thailand⁵⁶⁵, Indonesia,⁵⁶⁶ Malaysia,⁵⁶⁷ Vietnam,⁵⁶⁸ Cambodia,⁵⁶⁹ Laos,⁵⁷⁰ Myanmar,⁵⁷¹ Singapore,⁵⁷² Japan,⁵⁷³ India.⁵⁷⁴ However, the Philippines and Brunei do not have sui generis GIs laws.⁵⁷⁵ The ASEAN member states and five of ASEAN's free trade partners (Japan, Australia, New Zealand, South Korea, and China) have a free trade agreement known as the Regional Comprehensive Economic Partnership (RCEP). Section D of Chapter 11 includes provisions for GIs. During the negotiations, there were two proposals in the RCEP: the first by ASEAN, Australia, and New Zealand, which states that GIs may be protected through a trademark system, a sui generis system, or any other means.⁵⁷⁶ In contrast, India and Japan opposed the protection of GIs through trademarks. Ultimately, they agreed on protection via a trademark system, a sui generis system, or other legal means.⁵⁷⁷

⁵⁶⁴ European Commission, The EU Protects 10 New Geographical Indications From Colombia, Peru and Ecuador, European Commission, https://agriculture.ec.europa.eu/news/ten-new-gis-andean-countries-2022-11-17_en (last visited Mar. 8, 2025).

⁵⁶⁵ Act on Protection of Geographical Indications, 2003 (B.E.2546), Ministerial Regulation, 2004, Ministerial Notification 2004, Department of Intellectual Property Notification. 2004 (Thailand).

⁵⁶⁶ Law on Trademarks and GIs 20/2016, Regulation on GIs 51/2007, Regulation on GIs 694/2019 (Indonesia).

⁵⁶⁷ GI Act 2000 (Act 602), Regulations 2001 (Malaysia).

⁵⁶⁸ Intellectual Property Law 2005 (Vietnam).

⁵⁶⁹ Law on GIs (Jan. 20, 2014) Ministerial Regulations (Pakistan) on the Procedure for the Registration and Protection of GIs, 2016 (Cambodia).

⁵⁷⁰ Law on Intellectual Property 2012, Decision of the Minister of Science and Technology on implementing GIs under the Law on Intellectual Property, 2016 (Laos).

⁵⁷¹ Trademark Law, 2019 (Myanmar).

⁵⁷² GI Act No. 19, 2014 (Sing.).

⁵⁷³ Act on Protection of the Names of Specific Agricultural, Forestry, and Fishery, Products and Foodstuffs, Act No.84 of Jun. 25, 2014 (Japan).

⁵⁷⁴ GIs of Goods (Registration and Protection) Act, 1999, GIs of Goods (Registration and Protection) Rules, 2002 (India).

⁵⁷⁵ Delphine Marie-Vivien, *Protection of Geographical Indications in ASEAN countries: Convergences and Challenges to Awakening Sleeping Geographical Indications*, 23, JWIP, 328 (2020), <https://doi.org/10.1111/jwip.12155> (last visited Mar. 6, 2025).

⁵⁷⁶ ANANTHU S HARI & RAJU KD, GEOGRAPHICAL INDICATIONS IN THE FREE TRADE AGREEMENT SIGNED BY ASIAN COUNTRIES 157 (Cambridge Scholar Publishing 2024).

⁵⁷⁷ *Id.* at 158.

Creating a uniform IP system in ASEAN faces challenges stemming from the political dynamics within member countries. Some ASEAN members hesitate to amend their national laws to align with Western standards. And others seek to promote their national interests by preserving their national languages and IP offices. Furthermore, some insist on establishing a central IP office, which has underscored the developmental and technological disparities among ASEAN members.⁵⁷⁸

3.2.4 Mercosur

Argentina, Uruguay, Brazil, and Paraguay are committed to mutually respecting the GIs of each country, as stipulated in a resolution approved by the Common Market Group, the executive body of Mercosur, which was formed in 1991.⁵⁷⁹ The agreement outlines the coexistence of two or more GIs about the same service or product. Additionally, GIs can coexist like those of other countries outside the bloc. Recognised GIs shall not be registered as trademarks for analogous products or services in the member countries unless the application for trademark registration has been submitted before the resolution of the Common Market Group. Furthermore, trademarks that incorporate GIs shall not be registered if their use constitutes an act of unfair competition or has the potential to mislead consumers.⁵⁸⁰

3.2.5 South Asian Association for Regional Cooperation (SAARC)

The SAARC has eight members: “Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka and Afghanistan.” It does not have the provisions of the GIs. But in case of dispute settlement in regards of homonymns GIs, the role of the SAARC would be important.⁵⁸¹ As the annex of the SAFTA has the provisions that the members

⁵⁷⁸ FREDERICK M. ABBOTT ET AL., INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY 86 (4th ed. Aspen Publishing 2019).

⁵⁷⁹ *Id.* at 87.

⁵⁸⁰ European Commission, Mercosur Agreement on GIs Approved by the Brazilian Senate, https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/mercotur-agreement-gis-approved-brazilian-senate-2023-10-23_en (last visited Mar. 8, 2025).

⁵⁸¹ Muhammad Shahzeb Usman, *Basmati Rice and Geographical Indications: Options for Pakistan*, (Islamabad Policy Research Inst., Policy Brief, May 2024), <https://ipripak.org/wp-content/uploads/2024/05/Basmati-Rice-and-Geographical-Indications-Options-for-Pakistan.pdf> (last visited May 26, 2025).

technical support with IP and that includes cooperation about geographical indication in SAARC.⁵⁸²

3.2.6 Others

Alongside the European Commission, the Andean Community, the Association of Southeast Asian Nations, Mercosur, the North American Free Trade Agreement, the Bangui Agreement from West Africa. These regional organisations are crucial as they comprehensively understand the rules within the international IP system.

Similarly, there is also the bilateral legal framework on Geographical Indication, including the French Swiss Agreement of 1928; the EC and Austria, the EU and the US have different legal outlooks on GI, particularly in trade agreements and negotiations. Identically failed Doha Round Negotiation, Trans-Pacific Partnership, and Transatlantic Trade and Investment Partnership.

3.3. International Legal Framework on Geographical Indications

The first attempt to protect GIs stated from France. It used to protect its traditional cuisine which has history along with reputation.⁵⁸³ Later GI is protected by several international instruments with various names protect GIs. “The Paris Convention for the Protection of Industrial Property, 1883 AD,” includes the words "Indication of Source", “Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891 AD (Madrid Agreement),” and the "Indication of Source" words. “The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD (Lisbon Agreement)” includes the word Appellation of Origin. The Lisbon Agreement is extended to the “Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, 2015 AD (Geneva Act),” which incorporates AO and GI. The TRIPS and WIPO comprise the word Geographical Indication.

⁵⁸² *Id.*

⁵⁸³ NIHARIKA SAHOO BHATTACHARYA, GEOGRAPHICAL INDICATION PROTECTION IN INDIA THE EVOLVING PARADIGM 8 (Springer 2022).

In 1990, the “WIPO Committee of Experts on the International Protection of GIs” dealt with the need to establish a new international system for GI protection. The restricted scope of the Paris Convention and the ratification by a few in the Madrid and Lisbon Agreements case were some of the essential reasons for the lower number of nations ratifying GIs.⁵⁸⁴ The book focuses on the international legal regime for GIS formed under the TRIPS Agreement rather than their own.⁵⁸⁵ TRIPS require legal provisions for the country to protect GI. Each country has different laws to safeguard GI, which creates uncertainty in international agreements.⁵⁸⁶ International IP laws, such as the WTO’s TRIPS and the WIPO treaty, set minimum standards and allow countries to adjust for domestic concerns and interests. The international laws on GIs are as follows:

3.3.1 “The Paris Convention for the Protection of Industrial Property, 1883 AD”

“The Paris Convention for the Protection of Industrial Property (Paris Convention)” was concluded on March 3, 1883, and amended on September 28, 1979, AD. It is the first international convention on the protection of GI, including the names 'Indication of Source' and 'Appellations of Origin'.⁵⁸⁷ The convention directs the countries to constitute a union to protect Industrial Property.⁵⁸⁸ The indication of source and appellation of origin applies to industry and commerce and also to agricultural and extractive industries, and all manufactured or natural products like grains, wines, flour, tobacco leaf, cattle, fruit, minerals, mineral waters, flowers and beer.⁵⁸⁹ It ensures the national treatment of nationals of countries that are in the union for the protection of industrial property in all other countries that are in the union.⁵⁹⁰ There should be clarity

⁵⁸⁴ ANANTHU S HARU & RAJU K.D, GEOGRAPHICAL INDICATIONS IN THE FREE TRADE AGREEMENTS SIGNED BY ASIAN COUNTRIES 17 (Cambridge Scholar Publishing 2024).

⁵⁸⁵ DANIELA BENAVENTE, THE ECONOMICS OF GEOGRAPHICAL INDICATIONS 34 (Graduate Institute Publications 2013).

⁵⁸⁶ Rianda Dirkareshza et al., *Comparative Study of the State Jurisdiction: The Protection Towards Geographical Indication at Indonesia, The EU and US* 4 ACLJ 96, 99 (2023), <https://doi.org/10.22219/aclj.v4i2.26434> (last visited Mar. 8, 2025).

⁵⁸⁷ Paris Convention for the Protection of Industrial Property, art.1(2), Mar. 20, 1883, *Compilation of Multilateral Treaties* 43-55 (Government of Nepal, 2024).

⁵⁸⁸ *Id.* art.1(1), at 43.

⁵⁸⁹ *Id.* art.1(4), at 43.

⁵⁹⁰ *Id.* arts. 1(2),10, at 45.

regarding the source of goods. Using the false indication of source on goods, packaging or in connection with the service is prohibited.⁵⁹¹

It discusses false indications of goods regarding their source or the producer's identity. It has the provisions of the prior article applied in cases of direct or indirect use of a false indication of the source of the goods.⁵⁹² Or the false identity of the producer, merchant, or manufacturer.⁵⁹³

“The interested party as any producer, manufacturer, or merchant, whether a natural person or a legal entity, engaged in the production or manufacture of or trade in such goods and established either in the locality falsely indicated as the source or in the region where such locality is situated, or in the country stated, or in the country where the false indication of source is used.”⁵⁹⁴ Further, the union countries are bound to ensure the national laws of such countries' adequate protection against unfair competition.⁵⁹⁵ Moreover, any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition⁵⁹⁶ where the following are prohibited:⁵⁹⁷

- a. *“all acts of such a nature as to create confusion by any means with a competitor's establishment, the goods, or the industrial or commercial activities,”*
- b. *“false allegations during trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities of a competitor,”*
- c. *“the indications or allegations used during trade are liable to mislead the public regarding the nature, the manufacturing process, the characteristics, and the suitability for their purpose or the quantity of the goods.”*

The convention states that the countries of the union undertake to assure the nationals of the other countries of the union of appropriate legal remedies effectively to repress

⁵⁹¹ *Id.* art.6 bis, at 49.

⁵⁹² *Id.* art. 10 (1), at 54.

⁵⁹³ *Id.*

⁵⁹⁴ *Id.* art. 10bis (1), at 55.

⁵⁹⁵ *Id.* art. 10bis (1), at 55.

⁵⁹⁶ *Id.* art. 10 bis (2), at 55.

⁵⁹⁷ *Id.* art. 10 bis (3), at 55.

all the acts of False indications of goods bearing false indications as to their source or the producer's identity and against unfair competition.⁵⁹⁸ Furthermore, “they undertake further to provide measures to permit federations and associations representing interested industrialists, producers, or merchants, provided that the existence of such federations and associations is not contrary to the laws of their countries, to take action in the courts or before the administrative authorities, to repress the acts referred to false indications of goods bearing false indications as to their source or the identity of the producer and against unfair competition in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.”⁵⁹⁹

Hence, the “Paris Convention obliges Paris Union Members, as well as WTO Members, to provide effective protection against acts of unfair competition.” It commences in Section 2 by tracing the historical development of Article 10 *bis* from the start of the 20th century. Section 3 then discusses the core concept of ‘honest practices in industrial or commercial matters’ in Article 10 *bis* (2). The need for a ‘competitive relationship’ is addressed in Section 4 before consideration in Section 5 of the examples of prohibited unfair acts in Article 10 *bis* (3). Section 6 explores potential additional unfair acts that may require interventions to provide sufficient protection against unfair competition. Section 7 offers concluding remarks.⁶⁰⁰

3.3.2 “Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods 1891, AD (Madrid Agreement)”

Under the Madrid agreement, there are the “Madrid agreement for the repression of false and deceptive indications of the source of goods,” the “Madrid agreement concerning the international registration of marks” and the Madrid Agreement Protocol for the further development of international registration of marks.⁶⁰¹

⁵⁹⁸ *Id.* art. 10ter (1), at 55.

⁵⁹⁹ *Id.*

⁶⁰⁰ Martin Senfleben, *Article 10 bis of the Paris Convention as the Common Denominator for Protection Against Unfair Competition in National and Regional Contexts*, 19 J I P L P 81, 85 (2024), <https://doi.org/10.1093/jiplp/jpad122> (last visited Mar. 5, 2025).

⁶⁰¹ MITSUO MATSUSHITA ET AL., *THE WORLD TRADE ORGANIZATION LAW, PRACTICE, AND POLICY* 639 (3rd ed. 2017).

The Madrid Agreement concerning the international registration of marks was signed on April 14, 1891. This agreement uses the word 'indication of the source.' It does not provide for the use of false or deceptive indications in translation, or accompanied by qualifiers such as 'kind', 'type', 'style', etc. It is still in force but is not part of the TRIPS Agreement.

The Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods of 1891 AD, together with the Additional Act of Stockholm of Jul. 14, 1967 AD, consisted of six articles and was the first treaty to “(1) prevent the deceptive use of indications of source, (2) include a genericity exception, and (3) set a special regime for wines.” The last two principles are stated in Article 4,⁶⁰² which states:⁶⁰³

"The courts of each country shall decide which appellations, due to their generic character, do not fall within the provisions of this Agreement, regional appellations concerning the source of products of the vine being excluded from the reservation specified."⁶⁰⁴

Nepal is not a party to this Agreement. This Agreement states that all goods bearing a false or misleading indication to a signatory country or placed in that country shall be seized on importation.⁶⁰⁵ Article 1 states that all goods bearing a false or deceptive indication to a signatory country or to place in that country shall be seized on importation.⁶⁰⁶

3.3.3 Madrid Agreement Concerning the International Registration of Marks, 1891 AD

The Madrid Agreement governs the Madrid System for the International Registration of Marks, which was concluded in 1891, alongside the Protocol relating to the Madrid

⁶⁰² Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, art. 4, Apr. 14, 1891, https://www.wipo.int/edocs/pubdocs/en/wipo_pub_261.pdf (last visited Mar. 4, 2025).

⁶⁰³ DANIELA BENAVENTE, THE ECONOMICS OF GEOGRAPHICAL INDICATIONS 40 (Graduate Institute Publications 2013).

⁶⁰⁴ *Id.* at 45.

⁶⁰⁵ Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, art. 1, Apr. 14, 1891 https://www.wipo.int/edocs/pubdocs/en/wipo_pub_261.pdf (last visited Mar. 4, 2025).

⁶⁰⁶ *Id.*

Agreement, which was concluded in 1989.⁶⁰⁷ The agreement states that the protection of marks extends to goods or services registered in the country of origin.⁶⁰⁸ This system protects a mark in multiple countries by obtaining an international registration that affects each designated contracting party. The agreement means that an application in the international bureau works for international registration. There is no requirement for a separate national application in the country where one applies for registration, which does not necessitate different languages, fees, or adherence to various national rules and regulations. There is also a very straightforward way to amend and renew a registration.⁶⁰⁹

The Madrid Agreement and its Protocol are open to any state party to the Paris Convention. These treaties are independent and parallel to each other, to adhere to either or both.⁶¹⁰

It was signed. Since then, many countries have used this agreement to protect GIs as collective, certification, or guarantee trademarks. “The world has been divided between those countries that protect GIs through an *ad hoc* system and those that use their trademark law.”⁶¹¹ Altogether, 115 countries are parties to the Madrid Protocol.

3.3.4 The Versailles Peace Treaty, 1919 AD

With the attempts to revise the Madrid Arrangement and the Versailles treaty, the protection of geographical indications was carried far out of the concept of

⁶⁰⁷ World Intellectual Property Organization, Summary of the Madrid Agreement Concerning the International Registration of Marks (1891) and the Protocol Relating to that Agreement (1989), https://www.wipo.int/treaties/en/registration/madrid/summary_madrid_marks.html (last visited Mar. 7, 2025).

⁶⁰⁸ Madrid Agreement Concerning the International Registration of Mark, art. 1(2), Apr. 14, 1891, <https://www.wipo.int/wipolex/en/text/283529> (last visited Mar 4, 2025).

⁶⁰⁹ World Intellectual Property Organization, Summary of the Madrid Agreement Concerning the International Registration of Marks (1891) and the Protocol Relating to that Agreement (1989), https://www.wipo.int/treaties/en/registration/madrid/summary_madrid_marks.html (last visited Mar. 2, 2025).

⁶¹⁰ *Id.*

⁶¹¹ DANIELA BENAVENTE, THE ECONOMICS OF GEOGRAPHICAL INDICATIONS 525 (Graduate Institution Publication 2013).

misconception and already some way towards absolute proprietary protection. Such absolute proprietary protection is also sought by bilateral treaties to protect GI.⁶¹²

The treaty regulated post-war settlement with Germany, requiring it to disarm, pay reparations, and make territorial concessions. The Treaty of Versailles (including its provisions on intellectual property) was used as a model for peace treaties with German allies (Austria, Hungary, Bulgaria, and Turkey).⁶¹³ The Treaty of Versailles addressed IP matters by restoring German-owned IP rights in Allied and Associated Powers and regulating GIs.⁶¹⁴ It aimed to reinstate pre-war IP ownership in Germany by reactivating conventions like the Paris Convention and reviving lapsed IP rights. However, the Allied Powers could maintain wartime measures on German-owned IP rights, and German nationals couldn't claim damages for their use during the war.

Additionally, the treaty addressed GIs by obliging Germany to prohibit and seize goods with false indications of origin, expanding the definition of "indirect" use. The treaty mentioned unfair competition, including Germany agreeing to enact laws and administrative measures to prevent unfair competition in commercial transactions, protecting goods produced by Allied and Associated Powers.⁶¹⁵ This includes prohibiting and penalising the importation, exportation, manufacture, distribution, sale, or marketing of goods with misleading indications of origin or characteristics. Additionally, Germany agrees to respect the laws and decisions of Allied or Associated States regarding regional appellations for wine or spirits and to prohibit and penalise the sale of products bearing false or inconsistent regional appellations.⁶¹⁶

After World War I, France was concerned that Germany might try to market "Champagne" from the region around Reims. To address this, an article was included in the Treaty of Versailles to protect legal, administrative, and judicial decisions

⁶¹² CHRISTOPHER HEATH & ANSELM KAMPERMAN SANDERS, *NEW FRONTIERS OF INTELLECTUAL PROPERTY LAW* 99 (Hart Publishing 2005).

⁶¹³ Anastasiia Kyrylenko, *Geographical Indications and the Versailles Peace Treaty of 1919: Then and Now*, <https://ipkitten.blogspot.com/2023/01/geographical-indications-and-versailles.html> (last visited Mar. 6, 2025).

⁶¹⁴ TREATY OF PEACE WITH GERMANY (TREATY OF VERSAILLES), art. 275 (1919).

⁶¹⁵ *Id.* at art. 274.

⁶¹⁶ *Id.*

regarding the labelling of wine or spirits, marking special attention in the treaty for wine and spirits for the 2nd time in the treaty.⁶¹⁷

Germany agrees that, in exchange for the same treatment, it will respect any law, administrative decision, or court ruling from any Allied or Associated State that is communicated to Germany and that defines or regulates the use of regional names for wine or spirits produced in that state, or the conditions under which such names may be used.⁶¹⁸ Germany's government will prohibit the importation, exportation, manufacture, distribution, sale, or offering for sale of products bearing regional names inconsistent with the law or order communicated by the proper authorities.⁶¹⁹

3.3.5 “International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951 AD”

The treaty was adopted in Stresa on Jun. 1, 1951, and entered into force on Jul. 12, 1953. The treaty's parties are some cheese-producing countries, such as Austria, Denmark, France, the Netherlands, Norway, Sweden, and Switzerland. They pledge to prohibit and repress the use,” within their respective territories, of specific cheese-related terms in a language of the state or a foreign language if they contradict the principles outlined in Articles 2 to 9.⁶²⁰ The signatory countries committed to prohibiting the use of false designations of origin on their territory and to take all necessary measures to ensure the application of the convention.⁶²¹ The convention has borrowed the term appellations d'origine from the French Controlled appellation of origin (AOC) legislation.⁶²²

⁶¹⁷ DANIELA BENAVENTE, *THE ECONOMICS OF GEOGRAPHICAL INDICATIONS* 34 (Graduate Institute Publications 2013).

⁶¹⁸ *Id.*

⁶¹⁹ TREATY OF PEACE WITH GERMANY (TREATY OF VERSAILLES), art. 274 (1919).

⁶²⁰ MICHAEL BLAKENEY, *THE PROTECTION OF GEOGRAPHICAL INDICATION, LAW AND PRACTICE* 13 (Elgar Intellectual Property Law and Practice 2014).

⁶²¹ Aboujeib, Rasha & D'Auria, Andreina, *Geographical Indications and Indications of Sources: A Comparison Between the Syrian and European Italian Systems in Light of New Developments*, WIPO Acad., U. of Turin and ITC-ILO, Master of Laws in IP, Research Papers Collection, 2015-2016 (Feb. 22, 2017), <https://ssrn.com/abstract=2922227> (last visited Mar. 5, 2025).

⁶²² MICHAEL BLAKENEY, *THE PROTECTION OF GEOGRAPHICAL INDICATIONS: LAW AND PRACTICE* 14 (Elgar Intellectual Property Law and Practice 2014).

The convention has two main categories: - High levels of protection for four specific types of cheese: “Gorgonzola, Parmigiano Reggiano, Pecorino Romano, and Roquefort.” The protection of other varieties of cheese, such as Emmental, Camembert, or Danablu. This protection is granted only upon compliance with specific criteria, which mainly refer to the shape, weight, size, type and colour of the rind and curd, as well as the fat content of the cheese. This method is deemed necessary as these names have become generic (the term 'Edam' refers to a type of cheese and is not a designation of origin)⁶²³ and were used outside their geographical area of origin.⁶²⁴

The Stresa Convention did not endure due to two significant weaknesses: first, only a few countries that produce cheese signed it, including Denmark, Austria, Italy, France, Norway, the Netherlands, Switzerland, and Sweden, which resulted in its limited international appeal. The second issue was that only two cheeses, Pecorino Romano and Roquefort, received appellation status at the convention. Signatories could request that cheese be upgraded from 'denomination' to appellation; however, to be successful, the application needed support from 75 % of the Permanent Council.⁶²⁵

3.3.6 “The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD (Lisbon)”

This agreement is called the “Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of Oct. 31, 1958.”⁶²⁶ Lisbon has defined the “Appellation of Origin” as a name used to identify products that strongly connect to a particular geographical location and possess qualities or characteristics that are essentially linked to that region.⁶²⁷ The main aim of the Lisbon agreement is to prevent

⁶²³ Ministère Public v. Gérard Deserbais, Case 286/86, (1988) E.C.R. 4907 (EC), https://www.biicl.org/files/1975_c-286-86.pdf (last visited Mar. 8, 2025).

⁶²⁴ Aboujeib, Rasha & D'Auria, Andreina, *Geographical Indications and Indications of Sources: A Comparison Between the Syrian and European Italian Systems in Light of New Developments*, WIPO Acad., U. of Turin and ITC-ILO, Master of Laws in IP, Research Papers Collection, 2015-2016 (Feb. 22, 2017), <https://ssrn.com/abstract=2922227> (last visited Mar. 5, 2025).

⁶²⁵ DAVID M. HIGGINS, BRANDS, GEOGRAPHICAL ORIGINS, AND THE GLOBAL ECONOMY: A HISTORY FROM THE NINETEENTH CENTURY TO THE PRESENT 189 (1st ed. 2018).

⁶²⁶ Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, art. 1(1), May 20, 2015, <https://tind.wipo.int/record/28896?v=pdf> (last visited Mar 4, 2025).

⁶²⁷ The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, art. 1, Oct. 31, 1958, <https://www.wipo.int/wipolex/en/text/285838> (last visited Mar. 4, 2025).

unauthorised use of this appellation, ensuring that only products authentically originating from a specific place can bear the associated name. The protection extends to products like handicrafts, agricultural goods, wine, etc., where the geographical location plays a vital role in defining the product's unique characteristics and qualities. The Lisbon Agreement traces its origin back to the “International Union for the Protection of New Varieties of Plants,” recognising the need for distinct protection of GI and AO. And later, in 2015, it was extended to the Geneva Act.

It has defined appellation of origin as the “*Geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are exclusively or essentially due to the geographical environment, including natural and human factors.*”⁶²⁸

The Lisbon Agreement was criticised for never accommodating countries without a sui generis system, which was unacceptable to most common law countries with a trademark regime.⁶²⁹ This approach hindered the anticipated expansion of the agreement.⁶³⁰

3.3.7 “Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications, 2015 AD”⁶³¹

The act is the improved and extended version of the “Lisbon Agreement for the Protection of Appellation of Origin and their International Registration, 1958 AD.” This act has provisions for both AO and GI. It has defined GI as any indication protected in the country of origin, with the name of the geographical area, which identifies a good as originating in the geographical location, where a given quality, reputation or other characteristic of the good is attributable to its geographical origin.⁶³² In simple, GI means the interaction between a product (A product with a specific name and specific name or

⁶²⁸ *Id.*

⁶²⁹ ANANTHU S HARI & RAJU K D, GEOGRAPHICAL INDICATIONS IN THE FREE TRADE AGREEMENT SIGNED BY ASIAN COUNTRIES 49 (Cambridge Scholar Publishing 2024).

⁶³⁰ *Id.*

⁶³¹ Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, May 20, 2015, <https://tind.wipo.int/record/28896?v=pdf> (last visited Mar. 4, 2025).

⁶³² *Id.* at art. 2(1)(ii).

reputation), a producer's group (know how: GI products are often traditional products, with a connection to the local knowledge and heritage) and a geographical area (influence of natural conditions, it is different from the ones produced elsewhere).⁶³³

The Geneva Act has extended the scope of protection. It ensures worldwide safeguarding for names of special products and where they come from through a single process with WIPO. These unique product names need to connect the product to where it is made. The Lisbon Agreement and the Geneva Act together create what is called the Lisbon system.

The expansion of Lisbon benefits both producers (gained increased protection for their products, fostering fair competition, and preserving the reputation of their goods); consumers receive accurate information about the origin and quality of the product they purchase, informing them about their choices. There is the provision of high-level protection against any usurpation and imitation, except for refusal, invalidation, and renunciation.

The act's special features are the inclusion of GI (there is no need to distinguish between AO and GI in domestic GI) and the parties' flexibility to choose the type of legislation to protect GIs in contracting parties. Accession can be done by intergovernmental organisations, not only countries.

There are different means of GI protection in the Geneva and Lisbon Agreement⁶³⁴ which are discussed below: Sui generis legislation, Trademark System (Collective Marks), Administrative System and Unfair Competition Laws.

3.3.8 “Attempts to Revise the Multilateral System of Protection after 1958 and Draft Treaty on the Protection of Geographical Indications (1975)”

In 1974 AD, WIPO commenced preparing a new treaty to protect AOA and IOS. After the first session of a committee of experts in 1974 AD, the International Bureau of

⁶³³ Alexandra Grazioli, *The Lisbon System: Recent Development and Perspectives*, WIPO Worldwide Symp. on Geographical Indications, Geneva (virtual), Sept. 6 - 8, 2021, https://www.wipo.int/edocs/mdocs/sct/en/wipo_geo_ge_21/wipo_geo_ge_21_panel_1_grazioli.pdf (last visited Mar. 8, 2025).

⁶³⁴ Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, art. 9 & 10, May 20, 2015, <https://tind.wipo.int/record/28896?v=pdf> (last visited Mar. 4, 2025).

WIPO prepared the draft treaty that was submitted to the second session of the committee in 1975. The draft treaty defines GI as the objective of international registration.

The substantive provision has two chapters. The first prohibits using denominations, expressions, or signs that constitute or directly or indirectly contain false or deceptive geographical indications of the source of products or services.

Secondly, the chapter outlines a system for international registration of GIs that must meet the following conditions: a. The GI comprises the official or commonly used name of a state, the name of a significant region within a state, or a term that indicates the source of a product, b. The registering state declares that the indication refers to itself as the state of origin, c. The indication is employed in trade for products originating in the state, and the state certifies such use.

The draft treaty has provisions like the Lisbon Agreement on the process of international registration, including the possibility of objections and the provision of unlimited protection once international registration has become effective. However, the maintenance fee would determine GI's unlimited time protection continuity.⁶³⁵

The revision of the Paris Convention process started in 1970, which also had to deal with GI; therefore, the draft treaty turned into something other than an act. The Paris Convention was revised with the inclusion of Article 10 quarter. Unfortunately, the “Diplomatic Conference for the Revision of the Paris Convention” was never concluded, and the proposals to address the GI proposal were never met.

3.3.9 Trade-Related Aspects of Intellectual Property, 1995 AD

The agreement between WIPO and WTO came into force in 1996 to provide cooperation between the two bodies in implementing the TRIPS.⁶³⁶ The contribution of the Uruguay Round (1986-1994) introduced IP rules into the multilateral trading system

⁶³⁵ Int'l Bureau of WIPO, Worldwide Symposium on Geographical Indications: Information on Speakers, WIPO (2021), https://www.wipo.int/edocs/mdocs/sct/en/wipo_geo_ge_21/wipo_geo_ge_21_inf_3.pdf (last visited Mar. 7, 2025).

⁶³⁶ DAVIS JENNIFER, INTELLECTUAL PROPERTY LAW (4th ed. Oxford Univ. Press 2012).

for the first time.⁶³⁷ TRIPS is an international agreement that aims to harmonise international standards on IP property to ensure a minimum level of knowledge of IPR in developing and poor countries.⁶³⁸ It also protects globally and provides a mechanism for resolving disputes among WTO member states. It sets out the minimum standards member countries must follow regarding IPR, including GI.⁶³⁹

The TRIPS" provides a comprehensive legal structure for GIs globally. It mandates that all participating nations establish their domestic legal systems for GIs, albeit with significant variations across countries.⁶⁴⁰

GIs are symbols representing the specific area where a product originates. The product's unique qualities are attributed to the natural factors of the region, including its land and climate, often referred to as its 'terroir'.⁶⁴¹

TRIPS resulted from seven years of negotiations, from September 1986 to December 1993, as part of the "Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade." TRIPS came into force on the first day of 1995, with the establishment of the World Trade Organisation. The three articles, Article 22, Article 23, and Article 24 are dedicated to GIs. It is the first international instrument to use the word "geographical indication."

a. Relation between the Paris Convention and the TRIPS Agreement

"Article 2 incorporates by reference the substantive provisions of the pre-existing Paris Convention, i.e. Articles 1 to 12 and 19." Article 10 of the Paris Convention deals with the seizure or prohibition of imported goods bearing 'false' indications of source. It defines the 'interested parties' entitled, under certain conditions, to

⁶³⁷ KUMAR INGNAM, INTERNATIONAL TRADE AND BUSINESS LAW 356 (Lex and Juris Publication Pvt. Ltd. 2024).

⁶³⁸ *Id.*

⁶³⁹ DAVIS JENNIFER, INTELLECTUAL PROPERTY LAW (4th ed. Oxford Univ. Press 2012).

⁶⁴⁰ Xiomara F. Quiñones-Ruiz et al., *Collective Action Milieus and Governance Structures of Protected Geographical Indications for Coffee in Colombia, Thailand and Indonesia*, 15 INT'L J. OF THE COMMONS 329 (2020), <https://www.jstor.org/stable/27016569> (last visited Apr. 17, 2024).

⁶⁴¹ HAZEL V J MOIR, AUSTRALIA, THE EUROPEAN UNION AND THE NEW TRADE AGENDA 121 (Annmarie Elijah et al., eds., 2017).

request seizure on importation, namely producers, manufacturers, or merchants. Article 10^{ter} further extends, under certain conditions, the possibility to act to federations and associations representing interested producers or traders.

“Article 22.2 of the TRIPS Agreement specifically refers to Article 10 *bis* of the Paris Convention, which deals with unfair competition.” This provision obliges members to ensure adequate protection against acts of competition contrary to honest practices in industrial or commercial matters.

b. Comparative Study between Paris Convention, Madrid Agreement, Lisbon Agreement and TRIPS Agreement for the Protection of GIs

“The Paris Convention, the Madrid Agreement, the Lisbon Agreement and the TRIPS Agreement” are significant agreements for the protection of GIS. Different names are used in this agreement instead of GIs. Paris Agreement has used Indication of Source (IOS) but not defined it, Madrid Agreement has used Indication of Source but not defined it, Lisbon Agreement has define as Appellation of Origin and defined it 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 human and natural” and TRIPS as GIs and has defined it. There are other differences in terms of scope of protection, preconditions for protection and limitation of scope, which are shown in the table below:

Table 7: Comparative Study between Paris Convention, Madrid Agreement, Lisbon Agreement and TRIPS Agreement for the Protection of GIs.

S. N	Points of Difference	Paris Convention	Madrid Agreement	Lisbon Agreement	TRIPS Agreement
1.	Categories of GIs	The convention uses IS and AO.	The agreement uses IS.	The agreement uses the word AO.	The agreement uses the word GI.
2.	Definition	IS is not defined.	IS is not defined.	The geographical name of a country, region, or locality designates a product originating therein, the quality and characteristics	Goods originating in the territory, locality or region, where a given quality, reputation or other

S. N	Points of Difference	Paris Convention	Madrid Agreement	Lisbon Agreement	TRIPS Agreement
				of which are due exclusively or essentially to the geographical environment, including natural and human factors. ⁶⁴²	characteristic of the goods is essentially attributable to their geographical origin.
3.	Scope of Protection	“Seizure on importation of goods bearing false indications as to their source.” ⁶⁴³ Protections against unfair competition include prohibiting the use of indicators liable to mislead the public regarding the nature and characteristics of a good. ⁶⁴⁴	Seizure on importation of goods bearing a false or deceptive indication of origin. ⁶⁴⁵ Prohibition of publicity material capable of deceiving the public as to the source of the goods ⁶⁴⁶	Protection against any usurpation or imitation of an AO, even if the product's true origin is indicated, or if the appellation is used in translation from or accompanied by terms such as types, make, kinds, imitation, or the like. ⁶⁴⁷ An AO may not be deemed to have become generic in any contracting state so long as its protection continues in its	Prevention of: The use of GI misleads the public about the goods' geographical origin. ⁶⁴⁹ Any use which constitutes an act of unfair competition under the Paris Convention. ⁶⁵⁰ Invalidation of registration of a trademark containing a GIs with respect to goods not originating in the area indicated, if

⁶⁴² The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, art. 2(1), Oct. 31, 1958, <https://www.wipo.int/wipolex/en/text/285838> (last visited Mar 4, 2025).

⁶⁴³ Paris Convention for the Protection of Industrial Property, art.10, Mar. 20, 1883, AD, *Compilation of Multilateral Treaties* 54 (Government of Nepal, 2024).

⁶⁴⁴ *Id.* at 55.

⁶⁴⁵ Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, art. 1, Apr. 14, 1891, https://www.wipo.int/edocs/pubdocs/en/wipo_pub_261.pdf (last visited Mar. 4, 2025).

⁶⁴⁶ *Id.* at art. 3bis.

⁶⁴⁷ The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, art.3, Oct. 31, 1958, <https://www.wipo.int/wipolex/en/text/285838> (last visited Mar. 4, 2025).

⁶⁴⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22.1, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁶⁵⁰ *Id.* at art. 22.2.

S. N	Points of Difference	Paris Convention	Madrid Agreement	Lisbon Agreement	TRIPS Agreement
				country of origin. ⁶⁴⁸	it can mislead the public ⁶⁵¹
4.	Preconditions for Protection	Not specified	Not specified	AO should be recognised and protected as such “in its country of origin and registered at the International Bureau of IP of the WIPO” ⁶⁵²	The GIs should be used and protected in their country of origin.
5.	Limitation on Protection	Not specified	National courts may decide whether an indication has become generic, thereby denying it protection. But regional appellation concerning the source of protection of the vine is expected ⁶⁵³	Contracting parties may declare, within one year of receiving notification of the registration, that they will not protect an AO that has been registered with the International Bureau	

3.3.10 Convention for the Safeguarding of the Intangible Cultural Heritage, 2003⁶⁵⁴

The Convention for the “Safeguarding of Intangible Cultural Heritage, 2003,” was

⁶⁴⁸ The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, art.6, Oct. 31, 1958, <https://www.wipo.int/wipolex/en/text/285838> (last visited Mar. 4, 2025).

⁶⁵¹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 22.3, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁶⁵² The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, art. 1(2)(3), Oct. 31, 1958, <https://www.wipo.int/wipolex/en/text/285838> (last visited Mar. 4, 2025).

⁶⁵³ Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, art. 4, Apr. 14, 1891, https://www.wipo.int/edocs/pubdocs/en/wipo_pub_261.pdf (last visited Mar. 4, 2025).

⁶⁵⁴ Convention for the Safeguarding of the Intangible Cultural Heritage, art. 2, Oct. 17, 2003, *Compilation of Multilateral Treaties* 517 (Government of Nepal, 2024).

adopted on October 17, 2003, and came into force on April 20, 2006. Nepal ratified this convention on June 15, 2010.⁶⁵⁵ The convention defines traditional craftsmanship as an intangible cultural heritage.⁶⁵⁶

3.4. Judicial Decisions on Geographical Indications

There have been no decisions regarding the GI in Nepal in the Supreme Court cases. The case was filed to revise the Department of Industry and the High Court's decision.

3.4.1 Cases Decided by the Department of Industry

There are a couple of cases that are decided by the Department of Industry, including Advocate Ramchandra Subedi, on Behalf of Apex Law Chamber, authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions,⁶⁵⁷ and Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quatermile 2 v. Binod Maharjan on Behalf of Scot & Scot Pvt. Ltd (Nepal).⁶⁵⁸

The geographical indications' issues are not addressed or discussed in all cases.

3.4.2 Cases Decided by the High Court

The High Court Patan cases, from 2060 BS to 2080 BS (2003 AD to 2024 AD), are used for the research.

a. Tea Board of India v Modern Tea Industries Pvt. Ltd, Nepal⁶⁵⁹

In the “Tea Board of India v Modern Tea Industries Pvt. Ltd,” Nepal, The Complainant asserted that "ASSAM TEA" is known worldwide as a Geographical Indication and is manufactured in the Indian state of ASSAM. In

⁶⁵⁵ *Id.* at art. 2 (1).

⁶⁵⁶ *Id.* at art. 2 (2).

⁶⁵⁷ Advocate Ramchandra Subedi, on Behalf of Apex Law Chamber, authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions, Decision No. 70.

⁶⁵⁸ Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quatermile 2 v. Binod Maharjan on Behalf of Scot & Scot Pvt. Ltd (Nepal), Decision No. 74.

⁶⁵⁹ Tea Board of India v Modern Tea Industries Pvt. Ltd. (2077) Case No. 076-DP-1030, Decision No. 169 (High Ct. Patan, Nepal).

the Jurisdiction where GI is recognised, ASSAM TEA has been registered as a certification mark in India and the UK and as a Trademark in Russia. Modern Tea Industries Pvt. Ltd, adding a suffix in ASSAM and naming it "ROYAL ASSAM", applied for trademark registration. The general consumer will be confused if the trademark is registered in the respondent's name. The decision of the Department of Industry to register the "ROYAL ASSAM" Trademark, because the complainant Tea Board of India has obtained the Certificate of Registration of Geographical Indication of Assam (Orthodox) tea, should be repealed. Defendants contended that the ROYAL ASAM trademark had been registered for use in tea under International Class 30, and it has been admitted that the opposing complainant had not registered the trademark before. The complainant does not have the right to complain only based on an international treaty agreement seeking to have the trademark registration application rejected by our company. A trademark registered in one country does not mean that it does not have to be registered in another country.

The court decided the plaintiff's claim of withholding application should be revoked because it does not seem reasonable and lawful. Further, it upheld the decision of the Department of Industries. Although the appellant claimed that the ROYAL ASAM was like its ASSAM (Orthodox), its appeal did not appear valid as the opponent's product could not be claimed to be a copy of its product, and the trademark could not be identical. Further, the legal provisions of Article 21 B of the Patent Design state that "A person concerned with a trademark, design and trademark registered abroad will not have the right to such patent, design and trademark in Nepal without registering in Nepal." The ASSAM (orthodox), which claims to be protected by its own ASSAM (orthodox) without registering in Nepal under national law and only by the provisions of international treaties, is entitled to the same protection as the registered ASSAM (orthodox). Likewise, as the appellant did not register the trademark and related trademarks or even apply for registration, the complainant lacked the right to lodge a complaint seeking registration of the trademark demanded by the respondent.

b. Advocate Anju Uprety Dhakal, on behalf of the Scotch Association v. Dhanusha Distillery Pvt. Ltd and Others⁶⁶⁰

In the case of Scotch Association v. Department of Industry, Tripureshwor states that the complainant, Scotch Association, asserted that the defendant, Department of Industry, has duplicated the Highland trademark and applied for registration as the Highlander (& logo) trademark in the Department of Industry. The mark “Highland” is not just a trademark but is a geographical indication that originates from a place called the Highland of Scotland. The petitioner's reputation will be tarnished by Article 2 and Article 1 of the Paris Convention, 6ter if the trademark is registered. The defendant argued that since the complainant has not registered the Highlander trademark in Nepal, it has no right to oppose the claim against the trademark. Further, the trademark 'Highlander' registered abroad is not well known in Nepal. The Highlander trademark has the original identity of the opponent, and the trademark does not have the geographical indication related to Scottish liquor as per the complainant's claim.

c. Scotch Whiskey Association V. Highland Distillery Pvt. Ltd⁶⁶¹

High Court, Patan, in the case of Scotch Whiskey Association v. Highland Distillery Pvt. Ltd states that the complainant, Scotch Whiskey Association, asserted that the defendant, Highlander Distillery Pvt. Ltd has duplicated the Highland trademark and applied for registration as the Highlander (& logo) trademark in the Department of Industry. The mark “Highland” is not just a trademark but is a geographical indication that originates from a place called the Highland of Scotland. The petitioner's reputation will be tarnished by Article 2 and Article 1 of the Paris Convention, 6ter if the trademark is registered. The defendant argued that since the complainant has not registered the Highlander trademark in Nepal, it has no right to oppose the claim against the trademark. Further, the trademark 'Highlander' registered abroad is not well known in Nepal. The Highlander trademark has the original identity of the opponent, and the

⁶⁶⁰ Advocate Anju Uprety Dhakal, The Scotch Association v. Department of Industry, Tripureshwor (2073) Case No. 071-DP- 2096, Decision No. 124 (2073/03/19) (High Ct. Patan, Nepal).071-DP-2076.

⁶⁶¹ Scotch Whiskey Association V. Highland Distillery Pvt. Ltd (2076) Case No. 076-DP-0292, Decision No. 97 (High Ct. Patan, Nepal).

trademark does not have the geographical indication related to Scottish liquor as per the complainant's claim.

The court decided that the complaint could not be received because the complainant's Highlander trademark was not registered in Nepal without consideration and has been revoked. The Department should investigate the GI potential of “Highland” and decide accordingly. Further, the court declared that the Department of Industry didn't discuss the geographical indication and stated that it would not go beyond the parties' demands by evaluating the trademark and related laws. Using highlander GI obtained by the Scotch Whiskey Association on items other than Scotch Whiskey in such an agreement is likely to create a situation where consumers would be deceived into believing that the product was Scotch Whiskey Association. Further, the Department of Industry decided to register the trademark of Highlander and its logo, stating that Highlander did not get protection even though the world-famous Highland got protection of geographical indication. It was found to be contrary to the provision of not allowing unfair trade practices.

3.4.3 Case in the Supreme Court

Advocate Anju Uprety Dhakal, on behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others⁶⁶²

Supreme Court refused the revision of the case, stating that it does not satisfy the provisions of section 12 of the Administration of Justice Act, 2073 BS, as there is no serious constitutional or legal error, a failure to follow or misinterpret Supreme Court precedent, misappropriation or loss of public property due to improper evaluation of evidence, or if justice is affected due to inadequate representation of vulnerable individuals such as children, women, disabled persons, or those over seventy-five years old.

⁶⁶² Advocate Anju Uprety Dhakal, on Behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others (2079) Case No. 073-RI-2437, 2079/12/24 (Supreme Ct. Nepal).

3.5. Nepal's Position in the IP in the Global Innovation Index

The WIPO, a specialised UN agency, publishes the Global Innovation Index (GII). It ranks world economies according to their innovation capabilities.⁶⁶³

The following data demonstrate the ranking of Nepal over the past five years.⁶⁶⁴

Table 8: Data Demonstrates the Ranking of Nepal from 2020 AD to 2024 AD.

Year/ AD	GII Position	Innovation Inputs	Innovation Outputs
2020	95 th	89 th	106 th
2021	111 st	99 th	106 th
2022	111 st	106 th	111 st
2023	108 th	106 th	103 rd
2024	109 th	110 th	102 nd

In the year (2024), Nepal obtained the 109th position in the GII, securing the 110th position in innovation inputs and the 102nd position in innovation outputs. The data reveal Nepal's standing in the Global Innovation Index, and its innovation inputs and outputs are declining yearly.

3.6. Analysis of the Existing Legal Mechanism of Nepal on Geographical Indications

The analysis of the existing laws of Nepal on GIs, including the analysis of the Constitution of Nepal, analysis of, The Muluki Civil Code, 2074, analysis of statute explicitly stated about GI including The Industrial Enterprises Act, 2076 BS, and the Export and Import (Control) Act, 2013 BS is done. Further analysis of the statute that implicitly stated about GIs that are: the Local Governance Operation Act, 2074 BS, and the Consumer Protection Act of 2075 BS. Other law that has recognized IP like Competition Promotion and Market Protection Act, 2063 BS, the Customs Act, 2064 BS (2006 AD), the Right to Food and Food Sovereignty Act, 2075 BS (2018 AD), and

⁶⁶³ World Intellectual Property Organisation, Global Innovation Index 2024, <https://www.wipo.int/gii-ranking/en/nepal> (last visited Mar. 5, 2025).

⁶⁶⁴ *Id.*

the Standard (Certification Mark) Act, 2037 BS are analysed. The analysis of the Collective Mark Registration-Related Directive 2067 BS is only a directive about registering collective marks, analysis of the Industrial Policy 2067 BS, Trade Policy 2072 BS and The National Intellectual Property Policy 2073 BS including the provision of the Fifteenth Plan (Fiscal Year 2019/20-2023/2024), The Nepal Trade Integration Strategy (NTIS) (2079/80 BS – 2084/85 BS). Along with analysing the international laws of the international obligations of Nepal, the Nepal Treaty Act, 2047 BS, is stated along with the analysis of the judicial interpretations.

Analysis of the provisions of the Constitution of Nepal

The Constitution does not explicitly mention GIs. It states that intellectual property is property and provides a list of federal powers, where it states that the Federal government has the power over intellectual property, which includes patents, designs, trademarks, and copyrights.

However, if GI laws are enacted, the legislative intent of the scattered provisions can be fulfilled. Including the provisions that the state shall ensure the Dalits' abilities to utilise, enhance, and safeguard their traditional occupation, skills, knowledge, and technology and prioritise the Dalit community in contemporary business ventures linked to their traditional occupations.⁶⁶⁵ The state also offers necessary resources and training, often in particular geographic areas. Further, it recognises social justice⁶⁶⁶ and ensures every farmer can access land for agricultural activities and preserve traditional local seeds and farming species.

Further, the Constitution promises to establish legal provisions for implementing the rights conferred by it.⁶⁶⁷ The Legislation Management Committee has presented a report⁶⁶⁸ in which some of the laws related to fundamental rights, including those concerning intellectual property and incorporating GIs, are yet to be drafted. Nepal

⁶⁶⁵ CONST. OF NEPAL. art. 40, cl. 4.

⁶⁶⁶ *Id.* at art. 42, cl. 4.

⁶⁶⁷ *Id.* at art. 4.7.

⁶⁶⁸ LEGISLATION MANAGEMENT COMMITTEE, A STUDY REPORT ON THE LAWS YET TO BE DRAFTED IN ACCORDANCE WITH THE CONSTITUTION OF NEPAL 12 (Committee for Legislation Management 2023).

should draft laws to enforce the FR stated in Article 25. Therefore, drafting the statutes for geographical indications can fulfil the Constitution's directives.

Analysis of the Statutes

The Muluki Civil Code, 2074, lists IP as movable property,⁶⁶⁹ and the property gained or increased from IP or royalty is a person's private property;⁶⁷⁰ the person can do whatever they like with their private property.⁶⁷¹ The Code does not include GIs as a type of IP. Inclusion of the GIs in the laws, especially the *sui generis* GIs law, is a challenge to the Muluki Civil Code, 2074, because GIs demand the extension of the IP domain. The *sui generis* GIs are the community property. Whereas, the Code has considered IP private property, as the IP scope widens to community property from private property once the government introduces the GIs laws.⁶⁷²

The primary statute of industrial property is the Patent, Design, and Trademark Act of 1965. The act does not include GI and does not recognise collective marks. However, the Collective Marks Registration Related Directive, 2067, states that some of the provisions of the trademarks, like the registration provision of trademarks, are also applied to the collective trademark's registration. The PDTA Act must be repealed and revised. How could the directives register the different types of IP and collective marks? In the same way, the Directive is to register the collective marks, and these collective marks do not have provisions for the inclusion of the GIs.

Analysis of Statute Explicitly Stated about GIs

Different statutes, like The Industrial Enterprises Act, 2076 BS, have defined geographical indications while defining Industrial property.⁶⁷³ It states “intellectual property” means intellectual properties, including design, patents, trademarks, trade secrets, service marks, and geographical indications, and the term includes matters defined as copyrights by the prevailing law. Similarly, the Export and Import (Control) Act, 2013 BS has included GI as IP and states that, if the Government of Nepal

⁶⁶⁹ The Muluki Civil Code, §254 (2017).

⁶⁷⁰ *Id.* at § 256 (1) (e).

⁶⁷¹ *Id.* at § 256 (2).

⁶⁷² Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1) JGRA 28, (2023).

⁶⁷³ Industrial Enterprise Act, § 2(k) (2020).

considers that it is necessary to prohibit or control the exportation or importation of any goods for the protection of IPR such as patents, trademarks, copyrights, industrial designs, GIs and protection of undisclosed information.

Analysis of the Statute Implicitly Stated about GIs

The Local Governance Operation Act, 2074 BS (2017 AD) has implicitly stated about the GIs. It states that local intellectual property protection, promotion, and recording fall under municipalities' works, duties, and rights.⁶⁷⁴

Some countries protect their GIs through Consumer protection. The Consumer Protection Act of 2075 BS implicitly talks about GIs. It forbids anyone from conducting unfair trade and business activities, including selling goods by misleading the actual quality of goods, conducting false or misleading advertisements or selling goods that are shown as possessing any speciality or quality.⁶⁷⁵ While these laws have provisions against unfair competition, they are not specific to goods of origin. These laws have not forbidden anyone from using terms in their products that indicate that the goods possess characteristics that are by-products originating from a specific location, i.e. the rules are not GI specific.

Other laws have recognise IP but not GIs as IP including the Competition Promotion and Market Protection Act, 2063 BS, the Customs Act, 2064 BS (2006 AD), the Right to Food and Food Sovereignty Act, 2075 BS (2018 AD), guarantees farmers' rights stating they have right to make choices of local seeds, technology, tools, and agro-species and obtain the protection of intellectual property.⁶⁷⁶ Some countries protect their GIS through certification marks, but the Standard (Certification Mark) Act, 2037 BS, does not protect GIs. It certifies the goods that meet a standard.

Analysis of the Directive

The Collective Mark Registration-Related Directive 2067 BS is only a directive about registering collective marks. It has incorporated the provision for collection mark

⁶⁷⁴ Local Governance Operation Act, §11 (2)(j) (2018).

⁶⁷⁵ *Id.* at § 16.

⁶⁷⁶ Right to Food and Food Sovereignty Act, § 12(2)(d) (2018).

registration in Nepal. Under this Directive, 17 collective marks have been registered, including Changrya Pashmina (class 24), Changrya Pashmina (class 25), Sindhuka (class 29, 30, 35), Everest Big Cardamom (class 30), Himalayan Nepalese Carpet (class 27), Swadeshi (Lebal) of (class 2, 6, 16, 19, 21, 24,26) and Juju Dhau. Some countries, like the US, register their GIS through the collective marks, but in Nepal, it does not include that GIs shall be registered as the CM.

The main act, PDTA, does not recognise the provisions of the collective marks. As per the Legislation Act, the directive is issued if there is the involvement of more than one office in the communication or administration of matters of a similar nature. The federal law may make provisions to confer authority to issue directives with a view to: delineating and coordinating the interrelationship of responsibilities among such offices, determining standards or functional jurisdictions based on the subject matter concerned, making uniformity in procedural part, and, where necessary, prescribing a detailed framework, norms, standards, and hierarchical structure for the effective execution.⁶⁷⁷

Second, it has already been 15 years, but has registered only 17 GIs, including different classes: Changrya Pashmina, Sindhuka, Everest Big Cardamom, Himalayan Nepalese Carpet, Swadeshi (Lebal), and Juju Dhau. It has just six collective marks without class classification.

There might also be questions about whether Nepal could make GIs laws. It has options like protecting through *sui generis* GIs laws, collective marks protection, certification marks protection, or laws focusing on business. However, a north-south (US and EU) debate on GIs exists. TRIPS is open to the selection of ways to protect GIs. Nepal can also opt for collective marks protection, but the Directive does not state that it shall protect the GIs through collective marks. The work of the Directive is to make the work conduct easier and to it can register the separate IP.

However, the Directive registering the Collective Marks only registers the collective trademarks. It has not been stated that it shall register the GIs. Other benefits of

⁶⁷⁷ Legislation Act, §18(1) (2025).

registering GIs through collective marks or sui generis GIs could be different points. We have the collective trademarks laws, not the GIs laws.

Analysis of the Policies/ Plans, and Strategy of the Government of Nepal

Some policies, like Industrial Policy 2067 BS, concern IP. The Trade Policy 2072 BS encourages, supports, and coordinates the registration and protection of IP, including GIs for exportable goods,⁶⁷⁸ in the international market.

The National Intellectual Property Policy 2073 BS aims to develop a new legal framework or revise the existing ones for other forms of IP, including geographical indications. The policy mentions the provisions for the GI policy.⁶⁷⁹ The policy states about identifying and promoting GIs and other forms of IP.⁶⁸⁰ It further mentioned that the maximum use of GIs shall be done using IPs for national development.⁶⁸¹ The policy states about identifying and promoting GIs and other forms of IP.⁶⁸² It states that the maximum use of GIs can be done using IPs for national development.⁶⁸³ It states that identifying national and human-made goods,⁶⁸⁴ could be done. The logo and names could be used to show the differences between such goods⁶⁸⁵ It also states that the forest products, agricultural goods, handicrafts, foodstuffs, wine, spirits, and industries shall be recognised for market access through collective marks or GIs.⁶⁸⁶ The provisions like GIs shall be protected through the *sui generis*⁶⁸⁷ The marks registered as certification marks shall not get GI's registration.⁶⁸⁸ The goods protected by GIs shall not be

⁶⁷⁸ *Id.* at no. 10 (9) (3).

⁶⁷⁹ The National Intellectual Property Policy, No. 8(2)(e) (2017).

⁶⁸⁰ *Id.* at no. 8(1) (2).

⁶⁸¹ *Id.* at no. 8(1) (4).

⁶⁸² *Id.* at no. 8(1) (2).

⁶⁸³ *Id.* at no. 8(1) (4).

⁶⁸⁴ *Id.* at no. 8(2) (15).

⁶⁸⁵ *Id.* at no. 8(2) (15).

⁶⁸⁶ *Id.* at no. 9(1) (6).

⁶⁸⁷ *Id.* at no. 9(1) (3).

⁶⁸⁸ *Id.* at no. 9(2) (i).

protected by trademarks, and goods protected under trademarks shall not receive GI protection.⁶⁸⁹ And, the rights of the GIs are non-transferable.⁶⁹⁰

The sixteenth plan has the provision that Nepal shall make legal arrangement for the protection of GI and develop capacity of related organizations for implementation.”⁶⁹¹ Previously, The Fifteenth Plan had the plan to promote innovations by protecting IPR.⁶⁹² Also it has been stated that a self-regulated mechanism with legal and institutional powers protects IPR, eventually resulting in the increment of several IP, including GI, registered from Nepal in the worldwide database of the WIPO.⁶⁹³ Then, the sixteenth plan incorporates, “As a transformative strategy in the development of quality infrastructure and intensive inter connectivity the government shall adopt a policy of utilizing resources and traditional skills and knowledge available at the local level, and establish IPR that helps in transfer of knowledge for generations to generations and upgrade it.”⁶⁹⁴

The Nepal Trade Integration Strategy (2079/80 BS – 2084/85 BS)⁶⁹⁵ has given priority to export potential sectors. The categories of agro-based products, forest sectors, craft and manufacturing products, small and cottage industries, and even a service, which is also included in the export category, are given.

Analysis of the International Obligations of Nepal

Nepal is a party to “The Paris Convention for the Protection of Industrial Property, 1883 AD” in 2001 AD and the “Trade-Related Aspects of Intellectual Property Rights, 1995 AD” in 2004 AD. As per the, Nepal Treaty Act, 2047 BS, Nepal must abide by international laws. The act has legal provisions implementing such treaties or agreements.⁶⁹⁶ Section 9 of the act has given equal importance to the provision of

⁶⁸⁹ *Id.* at no. 9(2) (h).

⁶⁹⁰ *Id.* at no. 8(2) (16).

⁶⁹¹ NEPAL GOVERNMENT, NATIONAL PLANNING COMMISSION, THE SIXTEENTH FIVE- YEAR PLAN 224 (2025).

⁶⁹² *Id.* THE FIFTEENTH FIVE-YEAR 36 (2020).

⁶⁹³ *Id.* at 36 & 43.

⁶⁹⁴ NEPAL GOVERNMENT, NATIONAL PLANNING COMMISSION, THE SIXTEENTH FIVE- YEAR PLAN 115 (2025).

⁶⁹⁵ MINISTRY OF COMMERCE, NEPAL TRADE INTEGRATION STRATEGY (2016).

⁶⁹⁶ Nepal Treaty Act, Pmbl. (1990).

applicable treaties, such as Nepali laws.⁶⁹⁷ The treaty is enforceable according to Nepali law.⁶⁹⁸ Further, Nepal is also a party to the “Convention for the Safeguarding of Intangible Cultural Heritage, 2003.” The convention defines traditional craftsmanship as an intangible cultural heritage. And traditional craftsmanship is GIs. Being party to the international laws, Nepal must protect its intangible cultural heritage, GIs, and traditional craftsmanship.

TRIPS has provided 10 years of transitional period for LDC to implement minimum IP rules into their national law.⁶⁹⁹ The given period extended for the four times by the TRIPS Council.⁷⁰⁰ On 29 June 2021, the Members agreed on a 13-year extension of the then transition period for LDC for until 1 July 2034.⁷⁰¹ Hence, Nepal could implement minimum IP rules until 1 July 2034. Further, the questions and answer session in WTO before 22 years ago, in 2002, Nepal stated that it is preparing a new draft of industrial property law including GI in 2003 and planned to endorse that legislation in July 2005.⁷⁰²

Analysis of the judicial interpretations

There are cases decided by the Department of Industry, including Advocate Ramchandra Subedi, on Behalf of Apex Law Chamber, authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions,⁷⁰³ and Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quatermile 2 v. Binod

⁶⁹⁷ Nabin Kumar Subba, *Domestication of International Laws in Nepalese Context*, *N.B.C.L.J.* 246 (2020).

⁶⁹⁸ Nepal Treaty Act, § 9 (1) (1990).

⁶⁹⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 66, Apr. 15, 1994, *Compilation of Multilateral Treaties* 412 (Government of Nepal, 2024).

⁷⁰⁰ Pratyush Nath Upreti, The Battle for Geographical Indication Protection of Basmati Rice: A View from Nepal, 54 *IIC-Int'l Rev. Intell. Prop. & Competition L.* 713 (2023), <https://link.springer.com/content/pdf/10.1007/s40319-023-01323-w.pdf?pdf=button%20sticky> (last visited Jun. 5, 2025).

⁷⁰¹ World Trade Organization, *Extension of the Transition Period Under Article 66.1 for Least Developed Country Members*, WTO Doc. IP/C/W/668 (Oct. 1, 2020), <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q%3A/IP/C/W668.pdf&Open=True> (last visited Jun. 5, 2025).

⁷⁰² World Trade Organization, Working Party on the Accession of Nepal, *Accession of the Kingdom of Nepal: Legislative Actio Plan Revision*, WT/ACC/NPL/ 10/ Rev. 1 at 1 (May 5), 2003), available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/ACC/NPL9.pdf&Open=True> (May 10, 2025).

⁷⁰³ Advocate Ramchandra Subedi, on Behalf of Apex Law Chamber, authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions, Decision No. 70.

Maharjan on Behalf of Scot & Scot Pvt. Ltd (Nepal).⁷⁰⁴ The GIs issues are not addressed or discussed in all cases. Similarly, in the High Court Patan cases, from 2060 to 2081 BS. The three cases are found; the first is Tea Board of India v Modern Tea Industries Pvt. Ltd, Nepal,⁷⁰⁵ there were the indications of the GIS that Assam tea is a GIs of Assam of India). Similarly, in the case of Advocate Anju Uprety Dhakal, on behalf of the Scotch Association v. Dhanusha Distillery Pvt. Ltd and Others,⁷⁰⁶ mentioned that the mark "Highland" is not just a trademark but is a geographical indication that originates from a place called the Highlands of Scotland. Likewise, in the case of Scotch Whiskey Association V. Highland Distillery Pvt. Ltd,⁷⁰⁷ there was the issue that the mark "Highland" is not just a trademark but is a geographical indication that originates from a place called the Highlands of Scotland. The high court did not mention the GIS. Similarly, in the case of "Advocate Anju Uprety Dhakal, on behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others,"⁷⁰⁸ the Supreme Court refused the revision of the case, stating that it does not satisfy the provisions of section 12 of the Administration of Justice Act, 2073 BS. The court could give precedence on the issues of the GIs. As precedent is also a source of law, the court makes a landmark case by entertaining the case in the Supreme Court.

Analysis of Cases for the Shared Ownership of GIs in the EU

In 1997, US patented Basmati rice to the RiceTech company. India opposed it in 2000. Then Ricetech withdrew Basmati Patent in 2002, Similarly, Nepal became the member to WTO in 2004. Basmati rice got GI tag in India in 2010. Further, in 2018, India applied GI tag to Basmati rice in EU. On December 9, 2020, Nepal opposed and submitted the letter to EU. Also, in February 4, 2021, Nepal sent detail evidence to EU

⁷⁰⁴ Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK, Quaternile 2 v. Binod Maharjan on Behalf of Scot & Scot Pvt. Ltd (Nepal), Decision No. 74.

⁷⁰⁵ Tea Board of India v Modern Tea Industries Pvt. Ltd. (2077) Case No. 076-DP-1030, Decision No. 169 (High Ct. Patan, Nepal).

⁷⁰⁶ Advocate Anju Uprety Dhakal, The Scotch Association v. Department of Industry, Tripureshwor (2073) Case No. 071-DP- 2096, Decision No. 124 (2073/03/19) (High Ct. Patan, Nepal).071-DP-2076.

⁷⁰⁷ Scotch Whiskey Association V. Highland Distillery Pvt. Ltd (2076) Case No. 076-DP-0292, Decision No. 97 (High Ct. Patan, Nepal).

⁷⁰⁸ Advocate Anju Uprety Dhakal, on Behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others (2079) Case No. 073-RI-2437, 2079/12/24 (Supreme Ct. Nepal).

regarding Basmati rice shared ownership.⁷⁰⁹ However, it did not receive a response because Nepal does not have the laws to protect our goods under the GI laws.⁷¹⁰ It is an urgent call for Nepal to conserve and promote its rice⁷¹¹ and other GIs-capable products.

On this issue an Author, Pratyush Nath Upreti states that the Basmati Case would be solved through the homonymous GIs protection and coexistence of Basmati without leading confusion to the consumer.⁷¹²

Analysis of Other Existing Provisions

Annual Foreign Trade Statistics Book 2079-80 shows that significant export destinations of Nepal include India, the USA, Germany, and China. The major commodities exported to China in FY 2079/80 include carpets, other textile floor coverings, medicinal plants, and handicraft paintings, also considered potential GI-capable goods of Nepal. Similarly, primary Nepali goods exported to the United States in fiscal year (FY) 2079/80 are woollen carpets, readymade garments, pashmina and handmade paper. Handmade paper, garments, carpets, and pashmina shawls are the primary exported goods to the UAE. The primary impact is on Nepal's carpet and apparel exports to the EU, the UK, and Canada.⁷¹³ Likewise, Japan makes its currency the Yen from the Lokta paper imported from Nepal. Such Lokta papers could be registered as Nepali GIs.⁷¹⁴

This year, in the Global Innovation Index 2024, Nepal obtained the 109th position in the GII, securing the 110th position in innovation inputs and the 102nd position in

⁷⁰⁹ Bal Krishna Joshi, et al., *Intellectual Property Rights on Basmati Rice: Current Scenario and Evidence of Origin, Diversity, Cultivation and Use Values of Basmati Rice in Nepal* 9 *N.J. of Biotechnology*. 93 (2021), <https://doi.org/10.3126/njb.v9i1.38671> (last visited Mar. 5, 2025).

⁷¹⁰ *Id.*

⁷¹¹ Kamana Rayamajhi, et al., *Nepalese Fine and Aromatic Rice Landraces: A Review*, 24 *JAE*, 197, 197 (2023).

⁷¹² Pratyush Nath Upreti, The Battle for Geographical Indication Protection of Basmati Rice: A View from Nepal, 54 *IIC-Int'l Rev. Intell. Prop. & Competition L.* 713 (2023), <https://link.springer.com/content/pdf/10.1007/s40319-023-01323-w.pdf?pdf=button%20sticky> (last visited June 5, 2025).

⁷¹³ National Planning Commission, LDC Graduation Status of Nepal, https://www.unescap.org/sites/default/d8files/event-documents/Session%20I%20-%20Nepal_1.pdf (last visited Mar. 5, 2025).

⁷¹⁴ Laxmi Sapkota, Necessity of Geographical Indications Law, *Kantipur Daily Newspaper*, (Nov. 5, 2024), at 5.

innovation outputs. The data reveal Nepal's standing in the Global Innovation Index, and its innovation inputs and outputs are declining yearly.

Also, the Ministry of Industry, Commerce and Supplies, alongside the National Gene Bank, is undertaking the necessary documentation to assign GI tags to Khokuko Suntala (Orange) and Palpako Sakhar (Jaggery).

Nepal has failed to adopt the laws of GI because of different stakeholder dynamics like: Political stability and political will are two components of not creating a new law. Despite the adoption of IP Policy mentioning GIs, there is still a gap of more than eight years in formulating GI-specific laws. Another is a lack of awareness of the benefits of registering GIs. Since stakeholders do not recognise the significance of these benefits, they cannot advocate for creating the necessary laws. Further, there is a causal link between the judiciary's role and the creation of law. Analysing the precedence of the Nepal judiciary (cumulatively looking at the High Court and the Supreme Court), the issues of IPR were confined to trademarks when they could have been linked to GI. The department of Industries could play significant role creation of GIs laws if we take the example of PDTA Act analysed in present study, collective mark is nowhere stated in the statute however with the passing of the Collective Mark Registration Related Directive the collective marks is being registered. The department did not emphasise the need for GI legislations in the disputes brought before it or through the legislative power exercised in the collective market. TRIPS extended the date of making Nepal's laws compatible with it, and Nepal is delaying drafting statutes.

Analysis of the Industrial Property Bill, 2082 BS

The bill was submitted to the House of Representatives in 2082/ 02/23.⁷¹⁵ This House has almost five sessions remaining. Two sessions are left for the bill's discussion, while the other three sessions will be more focused on the budget part. If this bill completes the process of the two sessions, it could only transform into an “Act” upon reaching the national assembly. If the bill could not be discussed within this period, the House would be dissolved for another election in 2084 BS, and all the existing bills would remain

⁷¹⁵ Industrial Property Bill, 2082 (House of Representatives, Nepal), <https://hr.parliament.gov.np/np/bills/vlo1HxCh> (last visited June 12, 2025).

inactive. Some bills have not become an Act and are still in the NA. For example, the Commission for Investigating the Abuse of Authority (3rd amendment) has been in the National Assembly since 2076/ 10/06. The registered bill means the country has proposed the law, but some technicalities remain to be implemented.

The procedure that remains to be a bill for authentication is as follows:⁷¹⁶It is distributed to the members of the HoR. The next step shall be the presentation of the bill in the HoR. Further, there shall be a general discussion of the bill. Likewise, there is the “Industry, Commerce, Labour and Consumer Welfare Committee.” The bill will be discussed in this committee. Then, the committee shall submit the report. Next, the House will pass the bill. The National Assembly might pass or return it. And the bill shall be authenticated if it is re-passed by the NA.⁷¹⁷

At length, the country has marched ahead bringing its *sui generis* GI laws in an integrated form as an Industrial Property Bill, 2082 BS.

3.7. Comparison of the Compatibility of Nepal's Provisions on GIs with that of the TRIPS Agreement

Nepal is a party to the TRIPS agreement on 23 April 2004. Being a party, it must fulfil its obligations as per the TRIPS agreement. However, Nepal has a ten-year transition period for implementing IP rules in its national system, being an LDC (the least developed country).⁷¹⁸ This transitional period is renewable. It acknowledges the economic and administrative challenges LDCs face and highlights the need for flexibility to establish a sustainable technological base.⁷¹⁹ The TRIPS Council has provided four extensions to the transitional period under TRIPS. On June 29, 2021,

⁷¹⁶ *Id.*

⁷¹⁷ *Id.*

⁷¹⁸ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art. 66, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷¹⁹ Pratyush Nath Upreti, *The Battle for Geographical Indication Protection of Basmati Rice: A View from Nepal* 54 IIC 710, 731 (2023), <https://doi.org/10.1007/s40319-023-01323-w> (last visited Mar. 4, 2025).

members approved a 13-year extension for LDCs, moving the deadline to July 1, 2034. As a result, Nepal must follow the minimum IP rules set by TRIPS until that date.⁷²⁰

As per “Article 22 of the TRIPS Agreement,” there are three primary conditions for the recognition of a product name as a GI under the TRIPS Agreement:⁷²¹

- a. “The GI must relate to a specific type of goods,
- b. These goods must originate from a defined area,
- c. The goods must have qualities, reputations or other characteristic linked to the goods' geographical origin.”

“Any sign, even if it is a geographical name that does not fulfil these three conditions, cannot be protected as a GI under the terms of the TRIPS Agreement.”⁷²²

“The primary function of GIs is to identify the origin of goods, and that the product derives its qualities and reputation from that place. These signs can acquire a high reputation and commercial value and, for these reasons, may be exposed to misappropriation, misuse, and counterfeiting.”

According to the TRIPS Agreement, three ways to protect GIs are protection against use by others, protection against use as a trademark, and factually accurate but misleading use in articles 22.2, 22.3, and 22.4, respectively.

- a. The members must provide the legal means to prevent the misleading use of GIs.⁷²³ The unfair competition includes misleading use of competitors' goods or reputation,⁷²⁴ as outlined in the Paris Convention.

⁷²⁰ Melissa A. Loucks, *Trademarks and Geographical Indications: Conflict or Coexistence?*, (2012) (unpublished LL.M. thesis, Univ. of W. Ont.), <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd> (last visited Mar. 5, 2025).

⁷²¹ Irina Kireeva & Bernard O'Connor, *Geographical Indications and the TRIPS Agreement: What Protection is Provided to Geographical Indications in WTO Members*, 13 J. WORLD INTELLECTUAL. PROP. 275 (2010).

⁷²² *Id.*

⁷²³ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22.2, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷²⁴ Paris Convention for the Protection of Industrial Property, art.10 bis, Mar. 20, 1883, *Compilation of Multilateral Treaties* 55 (Government of Nepal, 2024).

- b. It refuses to register the trademark to stop misuse of GIs, which could mislead consumers about a product's origin.⁷²⁵
- c. The homonyms GIs can mislead consumers regarding the origin of products despite being factually correct. ‘Moillesulaz’ in France and Switzerland potentially affects the marketing of products like a protected sausage with that name.⁷²⁶

Nepal has the Collective Marks Registration Related Directive, 2067. The directive has made the provision clear, stating that the main act, Patent, Design and Trademark, 2022, has not made the explicit provisions of the collective mark. However, the countries' laws should be made according to international laws. The directive has provisions for collective marks, not geographical indications.

The analysis focuses on the TRIPS agreement, Patent Design and Trademark Act (PDTA) 2022, and the Collective Mark Registration Related Directive 2067 is given below:

Table 9: Comparing the TRIPS with PDTA, CM Registration Relative Directive & Compatibility
Assessment of Laws of Nepal

Points of Differences	TRIPS	PDTA	CM Registration Related Directive	Compatibility assessment of the laws of Nepal
Definition of GIs	The place and quality, and reputation of that place	No provisions of GIs	CM is registered, which may include GIs	No alignment because there is no definition of GIs
Protection of GIs	For the GIs, the party should have legal measures: a. “to prevent use of indications which mislead the public as to the geographical origin of the goods.” ⁷²⁷ b. “the use which constitutes an act of unfair competition within the meaning of	Protection of collective trademarks	CM protects the collective trademarks that may have character as GIs	Partial alignment, no direct protection through GIs laws but provides protection of GIs capable goods through Collective Marks.

⁷²⁵ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22.3, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷²⁶ *Id.* at art. 22.4.

⁷²⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22 (3)(a), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

Points of Differences	TRIPS	PDTA	CM Registration Related Directive	Compatibility assessment of the laws of Nepal
	Article 10bis of the Paris Convention. ⁷²⁸			
Scope	All products, such as food and handicrafts.	No provisions	Goods and services are protected.	No dedicated GIS, but goods capable of being protected through the collective trademarks
Prevent misuse	Member must misleadingly prevent the GIs.	No explicit provision	Collective mark protection provisions	No compatibility
Prevent unfair competition	GIs should not be used in a way which damages their reputation.	No provisions	Provisions for the trademark is mentioned	No compatibility
Generic term	GIs is not protected.	No provisions	Not mentioned.	No compatibility

The GIs capable goods that are protected under the Collective Marks Directive does not align with the TRIPS Agreement. The main act of the industrial property in Nepal that is Patent, Design and Trademark Act, 2022 doesnot align with the TRIPS agreement.

3.8. Comparing the TRIPS Provisions on GIs with the National Intellectual Property Policy, 2074 BS

The National Intellectual Property Policy (NIPP) aligns with the TRIPS agreement. TRIPS stipulates that the intellectual property of its parties must be protected. The policy outlines the GI's policy in Number 8 (2) (15), which states that GIS from specific locations will be protected; these goods may be either natural or human-produced, and they must possess uniqueness that identifies their geographical origin.⁷²⁹ Also, the policy states that the ownership of the GIs is non-transferable.⁷³⁰ The objective of

⁷²⁸ *Id.* at. art. 22 (3).

⁷²⁹ National Intellectual Property Policy, No. 8(2) (15) (2074).

⁷³⁰ *Id.* at no. 8(2) (15).

comparing TRIPS provisions and Nepali Legal Provisions of GIs is to analyse the compatibility of laws.

The PDTA does not include provisions for geographical indications and lacks explicit provisions for collective marks. The Collective Mark Registration Related Directive, 2067, in its miscellaneous provisions,⁷³¹ states that limitations on collective marks, the duration of collective marks, provisions related to collective marks obtained illegally, the renewal procedure for collective marks, fees, and other aspects shall be applicable according to the provisions outlined in the PDTA, 2022.⁷³² One might question how a directive intended to facilitate the registration of different types of intellectual property can achieve this. The policy has incorporated the separate GIs policy. The comparison between TRIPS and the NIPP 2074 is given below:

Table 10: Comparing the TRIPS with the National IP Policy, 2017 BS.

Point of Differences	TRIPS Provision	National Intellectual Property Policy
GIs	GIs of a member should be protected	The policy states about identifying and promoting GIs and other forms of IP. ⁷³³ Maximum use of GIs shall be done using IPs for nation development. ⁷³⁴
Definitions	GIs has been included in the types of GIs	The provisions of GIs policy are included in the NIPP. Identification of national and human-made goods, Identification of the geography of such goods ⁷³⁵
Provisions of GIs		Use of logo and names to show the differences between such goods ⁷³⁶ Forest products, agricultural goods, handicrafts, foodstuffs, wine, spirits, and industries shall be

⁷³¹ Collective Mark Registration Related Directive, § 6 (2010).

⁷³² *Id.* at § 6.

⁷³³ National Intellectual Property Policy, No. 8(1) (2) (2017).

⁷³⁴ *Id.* at no. 8(1) (4).

⁷³⁵ *Id.* at no. 8(2) (15).

⁷³⁶ *Id.* at no. 8(2) (15).

Point of Differences	TRIPS Provision	National Intellectual Property Policy
		recognised for market access through collective marks or GIs. ⁷³⁷
Provisions of GIs and CM	Separate provisions for GIs and CM.	GIs and collective marks policy are included.
General protection	States about the general protection of GIs of goods.	GIs shall be protected through the <i>sui generis</i> ⁷³⁸ Marks registered as certification marks shall not get GI's registration. ⁷³⁹ Goods protected by GIs shall not be protected by trademarks, and goods protected under trademarks shall not receive GI protection. ⁷⁴⁰
Rights of GIs	Protection of GIs is non-transferable; if protected through collective marks, it is transferable.	Non-transferable rights of GIs. ⁷⁴¹

The National Intellectual Property Policy has incorporated the provisions of the GIs policy. Also, the policy has incorporated the provisions that forest products, agricultural goods, handicrafts, foodstuffs, wine, spirits, and industries should be recognised for market access through collective marks or GIs. It emphasised that the GIs shall be *sui generis*. The logo and the name shall be used to identify GIs. The features of the non-transferable rights of the GIs are also stated in the NIPP. It has already been eight years since the policy was implemented. As noted, the policy would be converted into an act within two years, but it has not been done.

⁷³⁷ *Id.* at no. 9(1) (6).

⁷³⁸ *Id.* at no. 9(1) (3).

⁷³⁹ *Id.* at no. 9(2) (i).

⁷⁴⁰ *Id.* at no. 9(2) (h).

⁷⁴¹ *Id.* at no. 8(2) (16).

3.9. Comparing the TRIPS Provisions on GIs with the Industrial Property Bill, 2082 BS

The Industrial Property Bill is registered in the HoR. The compatibility of the Bill with TRIPS is given below:

Incorporation of the Term Geographical Indications

In comparing the Industrial Property Bill with the TRIPS provisions on GI, the bill states that GI is industrial property,⁷⁴² which is also expressed by TRIPS,⁷⁴³ which means the provisions of the bill and TRIPS are compatible.

Definition of GIs

According to the Bill's definition of GIs, the goods must originate from a specific geographical place, possess quality, reputation, or other distinctive features, and these characteristics must be associated with that particular place.⁷⁴⁴ This definition is compatible with the TRIPS provision.⁷⁴⁵ The bill is broader on this part and incorporates that GI includes name, map or combination in the form of an indication.

Legal Means

There should be legal means for protecting GIs as per the TRIPS.⁷⁴⁶ However, it has not specified the methods of protection, and the Bill has also outlined the legal means to protect the GI. The legal means to protect the GI mentioned in Bill⁷⁴⁷ is compatible with the TRIPS agreement.

Prevention of the Misleading Use of GI

TRIPS states that there shall be legal means to prevent misleading designation, indicating that a product was made somewhere and mentioning it was made there.

⁷⁴² Industrial Property Bill, § 2(f) (2025).

⁷⁴³ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.3, Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷⁴⁴ Industrial Property Bill, § 2(u) (2025).

⁷⁴⁵ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22 (1), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷⁴⁶ *Id.* at art.22 (2)(a).

⁷⁴⁷ Industrial Property Bill, § 56 (a) (2025).

Similarly, the bill states that no one shall use any GI indication that goods originate in a territory where they do not come from.⁷⁴⁸ Thus, the provision of the bill is compatible with the provisions of the TRIPS agreement.⁷⁴⁹

Unfair Competition

The bill states about unfair competition. It prohibits the use of GIs for commercial gain that mislead or exploit the GI's reputation.⁷⁵⁰ Furthermore, it prohibits imitation packaging, marketing, or misleading consumers, even if not a direct false representation.⁷⁵¹ And it prohibits unfair commercial practices, deception, and wrongful attributions.⁷⁵² TRIPS states the legal means to prohibit unfair competition, as mentioned in “Article 10 bis of the Paris Convention.”⁷⁵³ The provisions mentioned in the bill are compatible with the TRIPS provision.

Coexistence v. Invalidation

Regarding the provision of GI and TM, TRIPS provisioned that the “member country must refuse or invalidate a trademark that includes a GI, for goods not originating from the indicated region, ex officio or at request, if use of the mark misleads the public about origin.”⁷⁵⁴ Whereas, the bill provisioned under section 53 that the GIs registered under this act shall be registered as the TM. Provided that if TM is registered before this act is used, then both get the protection until the time of the protection of the TM ends.⁷⁵⁵ The bill talks about the coexistence of earlier trademark and later GI, even if there is confusion in the public about the goods. Furthermore, the bill does not provide a refusal for the misleading use, as Article 22(3) has done. This provision is incompatible with the TRIPS

⁷⁴⁸ *Id.*

⁷⁴⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22 (2)(a), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷⁵⁰ Industrial Property Bill, § 56 (b) (2025).

⁷⁵¹ *Id.* at § 56(c).

⁷⁵² *Id.* at § 56(d).

⁷⁵³ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22 (2)(b), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷⁵⁴ *Id.* at 22 (3).

⁷⁵⁵ Industrial Property Bill, § 53 (2025).

Prohibition of Misleading GIs

The TRIPS agreement states that even if the use of GI is actual but misleads the public about origin, then it must be prohibited.⁷⁵⁶ Section 56 (a) of the bill prohibits any use of GIs that mislead consumers about the true geographical origin, even if the name of the place is correct.

Equal Treatment and National Treatment

TRIPS has incorporated the provision of equal and national treatment. Similarly, the bill has also incorporated the provision of equal treatment of foreign IP (GI) as domestic, as mentioned in the Paris Conventions.⁷⁵⁷ Similarly, equal protection and treatment for TRIPS contracting parties⁷⁵⁸ are stated.

Table 11: Comparing the Provisions of the Industrial Property Bill on GI with the TRIPS.

S.N.	Industrial Property Bill, 2082	TRIPS Agreement	Compatibility / Incompatibility Test of Bill and TRIPS Provisions
1	Chapter 6 of the Bill incorporates GI: Industrial Property includes the GI.	Section 3 of the TRIPS in article 22 TRIPS includes GI.	Compatible
2	Section 52 As per bill, the GIs should have the followings: a. Specifies that the goods produced in a geographical place b. “Quality, reputation or other specific features are due to that area”	Article 22.1 As per the TRIPS, the GIs should have the followings: a. Indicates that goods originate in a territory or region b. “Quality reputation, or other characteristic must be attributable to geographical origin” c. Not specified	Compatible

⁷⁵⁶ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22 (4), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷⁵⁷ Industrial Property Bill, § 111 (2025).

⁷⁵⁸ *Id.* at § 112.

S.N.	Industrial Property Bill, 2082	TRIPS Agreement	Compatibility / Incompatibility Test of Bill and TRIPS Provisions
	c. Includes name, map or combination in the form of indication d. Goods should come from the geographical location or area and special due to that area	d. Goods must originate in the specified area and attributes must be due to that origin	
3	Section 52 The bill chooses the <i>sui generis</i> GI method as the legal means for the GI protection⁷⁵⁹	Article 22.2 TRIPS states there should be the legal means for the protection for GI	Compatible
4.	Section 55 Homonyms GIs are registered if it does not mislead public Section 56(a) No one shall unjustly use the GIs. Use of any GI indication that goods originate in a territory where it does not come cannot be done.⁷⁶⁰	Article 22.2 (a) TRIPS states that there should be the legal means to prevent misleading designation indicating the product made somewhere and mentioning it is made there.	Compatible
5.	Section 56(b) Bill prohibits use for commercial gain that mislead or exploits GI reputation⁷⁶¹ Prohibiting imitation packaging, marketing or misleading consumers, even if not directly false⁷⁶²	Article 22.2 (b) TRIPS has provisions for the legal means to prohibit unfair competition as mentioned by 10 bis of the Paris Convention	Compatible

⁷⁵⁹ *Id.* at § 52.

⁷⁶⁰ *Id.* at § 56(a).

⁷⁶¹ *Id.* at § 56(b).

⁷⁶² *Id.* at § 56(c).

S.N.	Industrial Property Bill, 2082	TRIPS Agreement	Compatibility / Incompatibility Test of Bill and TRIPS Provisions
	Prohibits unfair commercial practices, deception and wrongful attributions ⁷⁶³		
6.	Section 54(a) The protection of GI is denied if it does not meet GI definition. Section 59(2)(h) Substantial examination of the GIs is done and if GI laws confused about the true origin. Section 53 Co-existence of TM and GI until the time expires of the TM. The bill focuses on the prior registered trademarks until the time expires.	Article 22.3 TRIPS mentioned that the “member must refuse or invalidate a trademark that includes a GI, for goods not originating from the indicated region, ex officio or at request, if use of the mark misleads the public about origin.” TM that includes GI should be refused or invalidated for goods not originating from the indicated region.	Incompatible The bill talks about the coexistence of the GIs and TM whereas TRIPS states any trademarks that mislead public about the true origin of the goods shall not get protections of such goods.
7.	Section 56 (a) Prohibit any use of GIs that mislead consumers about the true geographical origin even if the name of the place is correct	Article 22.4 If use of GI is true but mislead the public about origin, then it must be prohibited.⁷⁶⁴	Compatible
8.	The bill has the provision of the equal treatment of foreign IP (GI) as domestic	TRIPS implicit through the article 2 of the Paris Convention for the national treatment⁷⁶⁷	Compatible

⁷⁶³ *Id.* at § 56(d).

⁷⁶⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22.4, Apr. 15, 1994, *Compilation of Multilateral Treaties*, (Government of Nepal, 2024).

⁷⁶⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.2, Apr. 15, 1994, *Compilation of Multilateral Treaties*, (Government of Nepal, 2024).

S.N.	Industrial Property Bill, 2082	TRIPS Agreement	Compatibility / Incompatibility Test of Bill and TRIPS Provisions
	mention about Paris Conventions ⁷⁶⁵ Further, it mentions about the equal protection and treatment for TRIPS contracting parties. ⁷⁶⁶	mentioned about Paris Convention (Article 3)	

The Industrial Property Bill will take time; until it is passed, it cannot be taken as a law. It lacks implementation. The bills demonstrate that Nepal is committed to fulfilling its international obligations under the TRIPS agreement and the Paris Convention.

3.10 Analysis

The first question could be: Why is there a compatibility test with the TRIPS agreement when there are no laws of GI in Nepal?

WIPO has published World IP Indicators 2024, which shows data on GI protection in various countries. The protection mechanism includes ‘*sui generis*,’ ‘trademarks,’ ‘regional,’ ‘other national legal means,’ ‘agreements,’ and the ‘Lisbon system’.⁷⁶⁸ This shows that there is no uniformity in the protection of GI worldwide.

The categories demonstrate that a country must protect GI, but in what way? Is it at its discretion? In Nepal's context, it has the Collective Marks Registration Related Directive 2067, which registers collective marks. It has already registered 17 collective trademarks. Can these collective marks not be taken as GI?

The simple reason is that Nepal is safeguarding its collective marks through the directives, and the principal act (PDTA) has not recognised the collective marks.

⁷⁶⁵ *Id.* at § 111.

⁷⁶⁶ *Id.* at § 112.

⁷⁶⁸ World Intellectual Property Organization, World Intellectual Property Indicators, <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-941-2024-en-world-intellectual-property-indicators-2024.pdf> (last visited Mar. 5, 2025).

A provision could also state that the country's GI shall be protected through collective marks. However, the problem persists as the directive must be converted into law. In this context, Nepal could protect its GI through various means.

Example of Sri Lanka: In Sri Lanka, prior to the 2022 amendment,⁷⁶⁹ there were three laws to protect GI. The first is the IP Act,⁷⁷⁰ which has the sui generis provisions entitled to Geographical Indication⁷⁷¹ as per the basis provisions of the TRIPS agreement.⁷⁷² The second is protection under trademarks,⁷⁷³ which is more justified with the provisions stating, “a certification mark which consists of a sign or indication which may serve in trade to designate the geographical origin of the goods and services may be registered.”⁷⁷⁴ The proprietor gets rights to initiate infringement proceedings under the certification marks,⁷⁷⁵ if a third party unauthorizedly uses or does any misleading act. GIs also get protection under unfair competition, that is,” “any act or practice carried out or engaged in, during industrial or commercial activities, that is contrary to honest practice shall constitute an act of unfair competition.”⁷⁷⁶ The provisions dealing with “unfair competition” to GIs take Sri Lanka’s laws within the requirements set out in TRIPS,⁷⁷⁷ that “mandates WTO members to guarantee that GIs are protected against any use that constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention.” However, the academia and industry stakeholders raised concerns that the lack of domestic registration has disadvantages for Sri Lankan GIs regarding their protection in other jurisdictions.⁷⁷⁸

⁷⁶⁹ Intellectual Property (Amendment) Act, (2022) (Sri Lanka).

⁷⁷⁰ Intellectual Property Act, (2003) (Sri Lanka).

⁷⁷¹ *Id.* at § 161.

⁷⁷² Althaf Marsoof, Critical Reflections on Sri Lanka’s New Sui generis Geographical Indication Registration System, 18 *J. Intell. Prop. L. & Prac.* 907 (2023), <https://doi.org/10.1093/jiplp/jpad091> (last visited Jun. 3, 2025).

⁷⁷³ Intellectual Property Act, § 161 (1) (ii) (2003) (Sri Lanka).

⁷⁷⁴ *Id.* at § 142(3).

⁷⁷⁵ *Id.* at § 42(7).

⁷⁷⁶ *Id.* at § 160.

⁷⁷⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), art.22. 2 (b), Apr. 15, 1994, *Compilation of Multilateral Treaties* 411 (Government of Nepal, 2024).

⁷⁷⁸ Althaf Marsoof, Critical Reflections on Sri Lanka’s New Sui generis Geographical Indication Registration System, 18 *J. Intell. Prop. L. & Prac.* 907 (2023), <https://doi.org/10.1093/jiplp/jpad091> (last visited Jun. 3, 2025).

Nepal has registered the bill, but it has yet to come into effect as a law. Therefore, the existing law in Nepal regarding GI is not compatible with the TRIPS Agreement. However, the Industrial Property Bill, 2082 states that GI is industrial property, the definition of the GI align with the TRIPS definition of GI. Further, the bill's definition of the GI is border, the bill also states that there should be legal means to protect GIs, the bill to prevent the misleading use of GI, also bill states about the unfair competition which are compatible with the TRIPS provisions.

The bill mentions the coexistence of earlier trademarks and later GI, even if there is confusion in the public about the goods. Furthermore, the bill does not provide for the refusal of misleading use, as Article 22(3) does, which is incompatible with the TRIPS.

In the event of a prohibition on misleading GI, the Bill does not mention it. The TRIPS agreement states that even if the use of GI is actual but misleads the public about origin, then it must be prohibited. But there are no such provisions in the bill. This provision is not explicitly mentioned.

3.11. Conclusion

The main objective of this chapter is to analyse the existing legal provisions of GIs of Nepal and to compare the compatibility of Nepal's provisions on GI with those of the TRIPS agreement. The Constitution does not explicitly mention GIs. It states that is property and provides a list of federal powers on IP and IP has defined as patents, designs, trademarks, and copyrights.

The Muluki Civil Code, 2074 does not include GIs as a type of IP. Different acts have recognised GIs as IP, such as the Export and Import (Control) Act, 2013 BS, and the Industrial Enterprises Act, 2076 BS (2020 AD), which includes GIs as IP. However, the “Patent, Design and Trademark Act, 2022 BS” (1965 AD), Nepal Standard (Certification Mark) Act, 2037 BS (1980 AD), Competition Promotion and Market Protection Act, 2063 BS (2007AD), Customs Act, 2064 BS (2006 AD), Local Governance Operation Act, 2074 BS (2017 AD), The Consumer Protection Act, 2075

BS (2018 AD), The Right to Food and Food Sovereignty Act, 2075 BS (2018 AD), have recognised IP but not GIs.

Collective Mark Registration-Related Directive 2067 BS (2010 AD) registers the collective marks in Nepal. There are 17 collective marks registered in Nepal under this act, including Changrya Pashmina (class 24), Changrya Pashmina (class 25), Sindhuka (class 29), Sindhuka (class 30), Sindhuka (class 35), Everest Big Cardamom, Himalayan Nepalese Carpet, Swadeshi (Lebal), Swadeshi (Lebal), Swadeshi (Lebal), Juju Dhau. Nepal is party to TRIPS and Paris Conventions. The position of Nepal in the Global Innovation Index is unsatisfactory. Nepal has secured the 109th position in the GII, with the 110th position in innovation inputs and the 102nd position in innovation outputs. Further, Nepal did not get the ownership of Basmati Rice due to lack of GIs laws in Nepal. Japan makes its currency the Yen from the Lokta paper imported from Nepal. Also, the Ministry of Industry, Commerce and Supplies, alongside the National Gene Bank, is undertaking the necessary documentation to assign GI tags to Khokuko Suntala (Orange) and Palpako Sakhar (Jaggery).

Nepal has the National Intellectual Property Policy, 2017 which has the GI policy on it. Similarly, the Industrial Bill is registered in the House of the Representatives incorporating the provisions of GI.

In comparing the compatibility of Nepal's provisions on GIs with the TRIPS agreement, it is found that Nepal's provisions are incompatible with those of the TRIPS Agreement. The PDTA 2022 does not address GIs or collective marks. Meanwhile, the Collective Marks Registration Directive 2067 includes provisions for collective trademarks, which do not align with the spirit of GIs. But, the National Intellectual Property Policy, 2074 BS, has stated regarding the GI's policy. Some of the provisions stated in the policy align with the TRIPS provisions. Lately, the Industrial Property Bill is registered in the HoR which can be compared with the TRIPS agreement. The provision of the bill is compatible with the TRIPS regarding 22(1), 22(2), and 22(4) but not compatible with 22 (3).

CHAPTER IV

4. PROTECTION OF GEOGRAPHICAL INDICATIONS GOODS IN THE SAARC COUNTRIES

4.1 Introduction

The “South Asian Association for Regional Cooperation (SAARC)” countries should cooperate in developing their GIs. Before cooperating on SAARC regional laws, they must have national legislation on GIs. Nepal, a party to the SAARC countries, should make its own GI law. That way, Nepal can see the compatibility and differences between the laws of the SAARC Countries. Due to the lack of a uniform policy framework to protect cross-border GIs, developing countries like Nepal face problems trading with their neighbours.⁷⁷⁹

The SAARC is an organisation of South Asian nations. It was formed when the government of “Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka” formally adopted their charter⁷⁸⁰ to promote social and economic progress and cultural development within the South Asia region.⁷⁸¹ Afghanistan was included at the 13th summit held in Dhaka in 2006, and there are now eight members.⁷⁸² As enshrined in its Charter, the primary objective of SAARC is to promote the people’s welfare and to improve their quality of life through accelerated social progress and economic development in the region.⁷⁸³ SAARC comprises 3% of the world's area, 21% of the world's population and 3.8% (US\$2.9 trillion) of the global economy.⁷⁸⁴ Cooperation

⁷⁷⁹ Dewan Alif Ovi & Abdul Hakim Noyon, *A Legal Appraisal of the Protection and Opportunities of Geographical Indication (GI) in Bangladesh*, I UAP Law Review, <https://zenodo.org/records/7541676> (last visited Mar. 3, 2025).

⁷⁸⁰ Charter of the South Asian Association for Regional Cooperation (SAARC), Apr. 29, 1985, *Compilation of Multilateral Treaties* 21 (Government of Nepal, 2024).

⁷⁸¹ *Id.* at 22.

⁷⁸² Ministry Of Foreign Affairs Nepal, Nepal and SAARC, <https://mofa.gov.np/pages/nepal-and-saarc-5/> (last visited Mar.3. 2025).

⁷⁸³ PRESS INFORMATION BUREAU, *South Asian Association for Regional Cooperation (SAARC) A Milestone in the Institutionalization of Regional Cooperation in South Asia (Ministry of External Affairs)* (2022), <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2022/dec/doc2022128141701.pdf> (last visited Mar. 3, 2025).

⁷⁸⁴ Drishti, South Asian Association for Regional Cooperation (SAARC), <https://www.drishtias.com/pdf/south-asian-association-for-regional-cooperation-saarc.pdf> (last visited Mar. 3, 2025).

within the framework of the SAARC shall be “based on respect for the principles of sovereign equality, territorial integrity, political independence, non-interference in the internal affairs of other States and mutual benefit.”⁷⁸⁵ Such cooperation shall not be inconsistent with bilateral and multilateral obligations.⁷⁸⁶ To help promote regional cooperation through mandated work, currently, there are five regional centres: 1. SAARC Agricultural Center, Dhaka; 2. SAARC Tuberculosis and HIV/AIDS Center, Kathmandu; 3. SAARC Energy and Environment Centre, Islamabad; 4. SAARC Cultural Centre, Kandy, Sri Lanka; 5. SAARC Disaster Management Centre, New Delhi⁷⁸⁷

The South Asian Countries, the parties to the TRIPS Agreement (Bhutan having observer status April 1998), are obliged to protect their GI-capable goods. It may be safeguarded by obtaining protection through statutory measures using *Sui generis* legislation (of its kind of law, or *Maulik* law, unique law), certification mark, collective mark, or Laws focusing on business practices. Out of eight countries (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka) in the SAARC, four countries (Sri Lanka, Bangladesh, India, Pakistan) have protected their Geographical Indications through *sui generis* GI law. Through doctrinal research, the paper has done a comparative study of the legal provisions of GI laws. It suggests the importance of the *sui generis* GI laws over other protection measures, especially over the collective mark (trademark). The presence of Nepal in international trade is not felt due to the lack of GI laws. Therefore, the research suggests the best way to protect and promote Nepal's GI-capable goods is by enacting *sui generis* (*Maulik*). GI laws. SAARC countries should establish a comprehensive domestic GI system before venturing into regional cooperations.⁷⁸⁸

Bangladesh, India, Pakistan, and Sri Lanka have *sui generis* GIs laws to protect their GI-capable goods. Nepal has the provision to protect its GI-capable goods through a Collective Mark Registration-Related Directive that needs improvement. Further, it has

⁷⁸⁵ *Id.*

⁷⁸⁶ *Id.*

⁷⁸⁷ MINISTRY OF FOREIGN AFFAIRS NEPAL, NEPAL AND SAARC, <https://mofa.gov.np/pages/nepal-and-saarc-5/>, (last visited Mar. 3, 2025).

⁷⁸⁸ ANANTHU S HARI & KD RAJU, EXPLORING ASIA: CONCEPTS AND CONTEXT 274 (Ravi Prakash Vyas and Sachin Siwakoti eds., 2021).

proposed bill in the HoR to protect all the industrial property including GI. This is a doctrinal study on the *sui generis* GI laws of the South Asian Countries for Nepal's reference in protecting and promoting its GI-capable goods. Nepal has brought the Bill for the protection of the GI.

The comparative law assists in comprehending and enhancing legal systems by comparing laws and cultures. Learning from other countries' IP laws helps improve domestic policies. Therefore, the researcher has done the comparative study on the laws of GIs keeping in mind that the *sui generis* GI means own kinds of laws.

4.2. SAARC Countries' Status on the Ratification of International Instruments on GIs Laws

Table 12: SAARC Countries Status as Signatories to the Paris Agreement, Madrid Agreement, Lisbon Agreement, World Intellectual Property Organization, and TRIPS Agreement.

S. N.	Countries	Paris Agreement	Madrid Agreement, 1891/ Protocol	Lisbon Agreement	World Intellectual Property Organization	TRIPS Agreement
1.	Afghanistan	May 14, 2017	June 26, 2018	Not available	December 13, 2005	July 29, 2016
2.	Bangladesh	March 3, 1991	Not available	Not available	May 11, 1985	January 1, 1995
3.	Bhutan	August 4, 2000	August 4, 2000	Not available	March 16, 1994	Observer status, April 1998
4.	India	December 7, 1998	July 8, 2013	Not available	May 1, 1975	January 1, 1995
5.	Maldives	Not available	Not available	Not available	May 12, 2004	May 31, 1995
6.	Nepal	June 22, 2001	Not available	Not available	February 4, 1997	April 23, 2004
7.	Pakistan	July 22, 2004	May 24, 2021	Not available	January 6, 1977	January 1, 1995
8.	Sri Lanka	December 29, 1952	Not available	Not available	September 20, 1978	January 1, 1995

4.2.1 Analysis

The table above demonstrates that among the 179 contracting states of the Paris Convention, all except for the Maldives are parties to it. Afghanistan became a party on May 14, 2017; Bangladesh on March 3, 1991; Bhutan on August 4, 2000; India on December 7, 1998; Nepal on June 22, 2001; Pakistan on July 22; and Sri Lanka on December 29, 1952.

Furthermore, Bangladesh, Maldives, Nepal, and Sri Lanka are not parties to the “Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods 1891” and its Protocol. Afghanistan became party on June 26, 2018; Bhutan on August 4, 2000; India on July 8, 2013; Pakistan on May 24, 2021.

Similarly, among 38 countries contracting parties to, “The Lisbon Agreement for the protection of Appellation of Origin and their International Registration,” the countries of the SAARC still need to ratify it.

All eight SAARC countries are parties to the “World Intellectual Property Organization,” established in 1970, which was signed in Stockholm on 14 July 1967 and came into force in 1970. Afghanistan became a party on 13 December 2005; Bangladesh on 1 January 1995; Bhutan on 16 March 1994; India on 1 May 1975; the Maldives on 12 May 2004; Nepal on 4 February 1997; Pakistan on 6 January 1977; and Sri Lanka on 20 September 1978.

Likewise, Bhutan has an observer status to the TRIPS Agreement 1995, and all other SAARC countries are parties to it. Afghanistan became a party on July 29, 2016; Bangladesh on January 1, 1995; India on January 1, 1995; Maldives on May 31, 1995; Nepal on April 23, 2004; Pakistan on January 1, 1995; and Sri Lanka on January 1, 1995.

The above table, which shows the status updates of the SAARC countries, indicates that Nepal still needs to make its laws compatible with international standards. Nepal is a member of the Paris Convention, TRIPS Agreement, and World Intellectual Property Organization, but it is not a party to the Madrid and Lisbon agreements. The ratification of the international agreement mandates the protection of GI laws and demonstrates the country's solidarity on global platforms.

4.3. Constitutional Protection of Intellectual Property in the SAARC Countries

Maldives does not recognise intellectual property in its constitution. Conversely, all other SAARC countries (Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan, and Sri Lanka) have recognised intellectual property in their constitution. The constitutional provisions of the respective countries that have protected their GI-capable goods are shown below:

Table 13: Provisions for Intellectual Property in the Constitution of SAARC Countries.

S. N	Country	Provision
1.	Afghanistan	The Constitution in its fundamental rights recognizes the IP. ⁷⁸⁹
2.	Bangladesh	The Constitution in its fundamental rights mention about the recognition of human intellectual labor. ⁷⁹⁰
3.	Bhutan	The constitution of Bhutan has stated about the material interest resulting from intellectual. ⁷⁹¹
4.	India	The Constitution of India in its Seventh Schedule has listed patents, inventions, and designs; copyright; trademarks and merchandise marks. ⁷⁹²
5.	Maldives ⁷⁹³	Not mentioned.
6.	Nepal	The fundamental rights state the right to property and in its explanation, clause states property includes intellectual property right. ⁷⁹⁴
7.	Pakistan	The fourth schedule has listed copyright, inventions, designs, trademarks, and merchandise marks. ⁷⁹⁵
8.	Sri Lanka	In the schedule, Patents inventions, and designs; copyright, trademarks, and merchandise marks ⁷⁹⁶ are included.

⁷⁸⁹ CONST. OF THE ISLAMIC REPUBLIC OF AFGHANISTAN, art. 47.

⁷⁹⁰ THE CONST. OF PEOPLE REPUBLIC OF BANGLADESH, art. 20.

⁷⁹¹ BHUTAN'S CONST. OF 2008, art. 13.

⁷⁹² THE CONST. OF INDIA, sch.7.

⁷⁹³ MALDIVES CONST. OF 2008.

⁷⁹⁴ CONST. OF NEPAL, art. 25.

⁷⁹⁵ CONST. OF PAKISTAN, art. 70(4).

⁷⁹⁶ CONST. OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, Sched., List II. amend. 2020.

4.3.1 Analysis

No country in the eight SAARC countries has mentioned geographical indications in its constitution. Except for the Maldives, other countries, such as Nepal, Afghanistan, Bangladesh, India, Pakistan, Bhutan, and Sri Lanka, have protected their 'intellectual property' provisions as FR.

The Constitution of Afghanistan focuses on copyright protection. In its fundamental rights, the Constitution of Bangladesh acknowledges the recognition of human intellectual labor. The Constitution of Bhutan states that the author or creator has the right to material interests resulting from any scientific, literary, or artistic production. The Constitution of India enumerates copyrights, designs, inventions and patents, merchandise marks, and trademarks. The Constitution of Nepal also recognises intellectual property as property. The Constitution of Pakistan lists trademarks, inventions, copyrights, designs, and merchandise marks. The Constitution of Sri Lanka recognises copyrights, inventions, patents, designs, trademarks, and merchandise marks as intellectual property. This clearly shows these countries are aware of the recognition and protection of intellectual property.

FR are those rights guaranteed in the Constitution. They are justifiable because they are enforceable through courts.⁷⁹⁷ It cannot be derogated by the legislative action, unlike the general rights given by the legislative action and may be impaired by legislative action. If violated, the affected person may move to the High Court or Supreme Court, as mentioned in the FR for constitutional remedy. It is an individual's right against the state and cannot be waived.⁷⁹⁸ The *Constitution of Nepal*, Articles 16 to 47, has FR and duties. Article 46 provides the right to constitutional remedies, and Articles 133 and 144 state the enforcement of FR. Article 47 mentions the implementation of FR.

There have been seven constitutions in the history of Nepal, ranging from the Government of Nepal Act 2004 to the Constitution of Nepal promulgated in 2072, which are discussed below:

⁷⁹⁷ Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1) JGRA 28, (2023).

⁷⁹⁸ LAXMI SAPKOTA ET AL., GENERAL CONCEPT OF LAW 18 (Lex and Juris Publication Pvt. Ltd. 2023).

The Government of Nepal Act 2004 guarantees citizens fundamental rights, including personal liberty, freedom of speech, and equality before the law.⁷⁹⁹ It also outlines citizens' duties to promote public welfare and to remain loyal to the State⁸⁰⁰ and its Constitution. Additionally, it ensures the security of private property⁸⁰¹ and the right to justice and education for all.

The Interim Government of Nepal Act 2007 BS⁸⁰² did not establish a separate chapter dedicated to fundamental rights; instead, it integrated them with the Directive Principles of State Policy, which delineates the basic principles of law.⁸⁰³ This includes provisions concerning property that, in the context of fundamental rights, permit the acquisition, holding, and disposal of property.⁸⁰⁴

The Constitution of the Kingdom of Nepal, 2015 BS,⁸⁰⁵ provides personal liberty, equality, religion, property, political freedom, public good, and the right to constitutional remedies as fundamental rights.⁸⁰⁶ The provisions of the property section state that no person is deprived of his property by law,⁸⁰⁷ and every citizen is entitled to the right to earn, possess, hold, and sell the property.⁸⁰⁸

The Constitution of Nepal (1962) 2019 BS states the Fundamental Rights in Articles 9 to 17,⁸⁰⁹ including the provision regarding property. The provisions state that no person is deprived of his/her property saved by the law⁸¹⁰

Constitution of the Kingdom of Nepal (1990) 2047 BS: affirmed Fundamental Rights in Article 11-23.⁸¹¹ It has the provisions of the property, which state that all citizens

⁷⁹⁹ GOVERNMENT OF NEPAL ACT 1948, art. 4.

⁸⁰⁰ *Id.* at art. 5.

⁸⁰¹ *Id.* at art. 4.

⁸⁰² THE INTERIM GOVERNMENT OF NEPAL ACT 1951.

⁸⁰³ *Id.* at art.17.

⁸⁰⁴ *Id.*

⁸⁰⁵ THE CONST. OF KINGDOM OF NEPAL 1959.

⁸⁰⁶ *Id.* at art. 3-9.

⁸⁰⁷ *Id.* at art. 6 (1).

⁸⁰⁸ *Id.* at art. 6 (2).

⁸⁰⁹ THE CONST. OF NEPAL 1962.

⁸¹⁰ *Id.* at art. 15.

⁸¹¹ CONST. OF KINGDOM OF NEPAL 1990.

have the right to acquire, own, sell, and dispose of property.⁸¹² The state, except in the public interest, requisition, acquires or creates any encumbrance on the property of any person.⁸¹³ The basis of compensation and procedure for giving compensation for any property requisitioned, acquired, or encumbered by the state in the public interest will be prescribed by the laws.⁸¹⁴

The Interim Constitution of Nepal (2007) 2063 BS stated Fundamental Rights in Articles 12 to 32.⁸¹⁵ The Constitution contains provisions regarding property, which are as follows: every citizen has the right to acquire, own, sell, and otherwise dispose of property;⁸¹⁶ the State shall not acquire or create any encumbrance on a person's property except in the public interest. However, this provision does not apply to property obtained through illegal means.⁸¹⁷ Compensation shall be provided for any property encumbered, requisitioned, or acquired by the State in implementing a scientific land reform program or in the public interest, as prescribed by law. The amount, basis of compensation, and relevant procedures are outlined in the law.⁸¹⁸

The Constitution of Nepal (promulgated in 2072 BS, 2015 AD) includes provisions regarding Fundamental Rights and Duties in Articles 16-46. Article 25 pertains to property, which encompasses intellectual property as well. It states that every citizen has the right to acquire, own, sell, dispose of, profit from, and otherwise manage property.⁸¹⁹ However, the State may impose a tax on an individual's property, as well as on their income, based on progressive taxation principles. Furthermore, the explanation clarifies that "property" includes any form of movable and immovable property and encompasses intellectual property rights. In the development of the constitution, intellectual property has been established as a FR in the Constitution of Nepal (2015).

⁸¹² *Id.* at art. 17, §1.

⁸¹³ *Id.* at art. 17, §2.

⁸¹⁴ *Id.* at art. 17, §3.

⁸¹⁵ THE INTERIM CONST. OF NEPAL 2007.

⁸¹⁶ *Id.* at art. 19, §1.

⁸¹⁷ *Id.* at art. 19, §2.

⁸¹⁸ *Id.* at art. 19, §2.

⁸¹⁹ CONST. OF NEPAL. art. 25.

“The IP scope is widening from the core copyright, patent, design, and trademark to other intellectual property, as the National Intellectual Property Policy of 2017 AD has included GI, trade secrets, plant species, integrated circuits, traditional and indigenous knowledge, layout design, conventional cultural expression, and folklore as IP.”⁸²⁰

“IP ownership should shift from private ownership to the community in the case of GI, as Nepal has the promise in its preamble that it is committed to socialism to achieve prosperity.⁸²¹ Furthermore, Article 4 states that Nepal is a socialist-oriented state,⁸²² which means it must enact laws that benefit the community rather than a single individual or a select few individuals.”⁸²³

4. 4. Ways Adopted for the Protection of the Geographical Indications Goods by the SAARC Countries

TRIPS Agreement advises three ways to protect the GI, one of which is, “obtaining protection directly in the jurisdiction concerned. They are protected through the Trademark System (Collective Marks, Certification Marks), Sui generis System (making their kinds of GI laws), and Laws focusing on business practices. Also, it may be protected by taking advantage of a bilateral agreement concluded between countries or through WIPO's Lisbon system for the international registration of an appellation of origin and through the Madrid System for the international registration of marks.”⁸²⁴ The following table shows that only three countries (Bangladesh, India, Pakistan, and Sri Lanka) have the sui generis GI laws. In contrast, other countries (Afghanistan, Bhutan, Maldives, Nepal) protect their GI through trademark laws. The following table shows in more precise.

⁸²⁰ National Intellectual Property Policy, (2017).

⁸²¹ CONST. OF NEPAL. Pmbl.

⁸²² *Id.* at art. 4.

⁸²³ Laxmi Sapkota, *Intellectual Property as the Fundamental Right: Widening Scope and Changing Dimension of Ownership of Intellectual Property*, 12(1) JGRA 28, (2023).

⁸²⁴ *Id.*

Table 14: Legislation on *Sui Generis* GI Laws and Trademarks in SAARC Countries.

S. N	Countries	<i>Sui generis</i> GI Laws	Trademark Laws
1.	Afghanistan	Not available Draft Laws on GIs	Law on Trademark Registrations, 2009.
2.	Bangladesh	“Geographical Indication (Registration and Protection) Act 2013” “The Geographical Indications of Goods (Registration and Protection) Rules, 2015”	Trademark Act, 2009
3.	Bhutan	Not available	“The Industrial Property Act of the Kingdom of Bhutan 2001”
4.	India	“Geographical Indications Goods (Registration and Protection) Act, 1999” “Geographical Indications Goods (Registration and Protection) Rules, 2002”	Trademark Act, 1999
5.	Maldives	Not available	“Trademark Registration Process of Maldives” Additional Class, Word Mark and Logo 0.00 USD
6.	Nepal	Not available Industrial Property, Bill 2025 AD (proposed bill)	Patent Design and Trademark Act, 2022BS (1965 AD) & Collective Mark Registration Related Directive, 2067 BS (2010 AD)
7.	Pakistan	The Geographical Indication (Registration and Protection) Act, 2020.	Trademark Ordinance, 2001.
8.	Sri Lanka	“The Intellectual Property (Amendment) Act 2022, No. 8.” ⁸²⁵	“Intellectual Property Act, 2003, No. 36 and Amended in Intellectual Property (Amendment) Act, No. 8 of 2022.”

The legislation on the collective marks in the SAARC Countries are shown below:

⁸²⁵ PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, INTELLECTUAL PROPERTY (AMENDMENT) ACT, No. 8 OF 2022, <https://www.nipo.gov.lk/web/images/Act/IP-Act-AE.pdf> (last visited Dec. 1, 2024).

Table 15: Legislation of Collective Marks in SAARC Countries.

S. N	Country	Laws Relating to Collective Marks	Provision and Definition of collective marks
1.	Afghanistan	Law on Trademarks Registration, 2009.	Does not explicitly mention about collective marks
2.	Bangladesh	Trademarks Act, 2009	It “includes visible sign in the application for registration, which- that can distinguish the origin or any other common characteristics of different enterprises, is used by different enterprises and is used in respect of goods or service by a group of individually collectively engaged in the same business as abentity.” ⁸²⁶
3.	Bhutan	The Industrial Property Act of the Kingdom of Bhutan 2001	“CM means any visible sign designated as such in the application for registration and capable of distinguishing the origin or any other common characteristic, including the quality, of goods or services of different enterprises which use the sign under the control of the registered owner of the collective mark.” ⁸²⁷
4.	India	The Trademark Act 1999	“CM means a trademark distinguishing the goods or services of member of an association of persons which is the proprietor of the mark from those of others.” ⁸²⁸
5.	Maldives	Not available	No laws
6.	Nepal	Collective Marks Registration Directive 2067	Section 2(1, 2), any group, association or cooperatives can establish, form or register under prevailing laws may register the mark to distinguish their goods or service with other and only such member can use such mark by their owner.
7.	Pakistan	Trademarks Ordinance, 2001	“A CM is a mark that distinguish goods or services of member of the association which is the proprietor of the mark from those of other undertakings.” ⁸²⁹
8.	Sri Lanka	Intellectual Property Act No 36 of 2003	“CM mean any visible sign designated as such and serving to distinguish the origin or any other common characteristic of goods or services of different enterprises which use the mark under the control of the registered owner”. ⁸³⁰

⁸²⁶ Trademarks Act, §2(25) (2009) (Bangladesh).

⁸²⁷ The Industrial Property Act of the Kingdom of Bhutan, § 24(ii) (2001) (Bhutan).

⁸²⁸ The Trademark Act, § 2(g) (1999) (India).

⁸²⁹ Trademarks Ordinance, § 82(1) (2001) (Pakistan).

⁸³⁰ Intellectual Property Act No 36, §10 (2003) (Sri Lanka).

4.5. Common Provisions of *Sui Generis* Geographical Indication Laws of Goods

TRIPS provides the privilege to protect GI laws according to the needs of the countries that are parties to TRIPS and are also involved in regional cooperation. Further harmonisation of the national legal framework of SAARC countries is essential. Uniformity, or at least a common understanding, helps to maintain the stronger GI alliances in SAARC. Some common ground of legal provisions found in Bangladesh, India, Pakistan and Sri Lanka are discussed below on the yardstick given by the Ministry of Law, Justice and Parliament Affairs of the Nepal Government.⁸³¹ The reason is to make uniformity and to ensure a study in coherence. Similarly, Nepal has proposed a bill. There is a question of the legality and validity of the bill. It is not the act. And its validity is not like that of the laws. However, it is in the process of being put into action. Therefore, the *sui generis* GI laws and the provisions of the draft bill is studied.

4.5.1 Own Kinds of Laws

The *sui generis* GIs law protects the GI-capable goods in India through “The Geographical Indications of Goods Registration and Protection Act 1999.”⁸³² India has drafted the laws before the Bangladesh “Geographical Indication of Goods Registration and Protection Act, 2013” and the Pakistan “Geographical Indications Registration and Protection Act, 2020.”⁸³³ Sri Lanka has the “Intellectual Property Act, 2003, No. 36 and amended in the Intellectual Property (Amendment) Act, No. 8 of 2022.”⁸³⁴ Bangladesh, India and Pakistan have separate laws on GIs, whereas Sri Lanka has the integrated laws of all form of intellectual property where the provisions of GIs are stated in. Industrial Property Bill, 2082 BS is a consolidated bill for all industrial property including GI in Nepal.

⁸³¹ NEPAL KAAANOON TARJUMA DIGDARSHAN 33-63 (Ministry of Law, Justice and Parilamentary Affairs 2020).

⁸³² The Geographical Indications of Goods (Registration and Protection) Act, (1999) (India).

⁸³³ Geographical Indications (Registration and Protection) Act, (2020) (Pakistan).

⁸³⁴ Intellectual Property (Amendment) Act, No. 8, (2022) (Sri Lanka).

4.5.2 Administration of Geographical Indications

The GIs administered in Bangladesh are overseen by the “Department of Patents, Designs and Trademarks under the Ministry of Industries.” The GI is governed by the “Controller General of Patents, Designs and Trademarks Office” in India, part of the Ministry of Commerce and Industry. In Pakistan, the GIs are managed by the Intellectual Property Organization of Pakistan, which operates under the Ministry of Commerce, while in Sri Lanka, the GIs are administered by the National Intellectual Property Office of Sri Lanka. As per the proposed Industrial Property Bill 2082 of Nepal, the Industrial Property Office shall manage the GIs.⁸³⁵

4.5.3 Objective

The laws of all three countries (Bangladesh,⁸³⁶ India,⁸³⁷ and Pakistan⁸³⁸) aim to make provisions for the registration and protection of GI-capable goods. The preamble of Pakistan's GI laws states the benefits of GI, which are recognition and protection of GI for public interest and advancement of economic reform and development of areas. It also states that unfair competition is prevented. The objective stated in the bill of Nepal does not cover all its aspects that should come under purview of the GI. For example, the objective states that “the human-made, invented goods shall be protected...” However, GIs should include nature-made goods.⁸³⁹

4.5.4 Definition of Geographical Indications

All four countries (Bangladesh,⁸⁴⁰ India,⁸⁴¹ Pakistan,⁸⁴² and Sri Lanka⁸⁴³) share the definition of GIs of goods as stated by TRIPS. That is, GI means “an indication which identifies any goods as originating in the territory of a country or a region or locality in

⁸³⁵ Industrial Property Bill, § 77 (2025).

⁸³⁶ Geographical Indication of Goods (Registration and Protection) Act, (2013) (Bangladesh).

⁸³⁷ The Geographical Indications of Goods (Registration and Protection) Act 1999 (India).

⁸³⁸ Geographical Indications (Registration and Protection) Act, 2020, (Pakistan).

⁸³⁹ Industrial Property Bill, Pmb. (2025).

⁸⁴⁰ Geographical Indication of Goods (Registration and Protection) Act, §. 2 (2013) (Bangladesh).

⁸⁴¹ Geographical Indications (Registration and Protection) Act, § 2 (vi) (2020) (Pakistan).

⁸⁴² *Id.* at § 2(vii).

⁸⁴³ Intellectual Property (Amendment) Act, No. 8 § 160(A) (2022) (Sri Lanka).

that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.”

The GI of goods means “agricultural or natural or manufactured goods, which identifies its originating county or territory, or a region or locality of that country or territory, where any specific quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin.” Further, “when such goods are manufactured, one of the activities of either production processing or preparation of the goods concerned takes place in such territory, region or locality.”⁸⁴⁴ The standard definition aligning with TRIPS article 22 helps to achieve international standardisation on GI, avoiding legal discrepancies between member countries.

The Industrial Property Bill of Nepal has defined GI as an indication that identifies any goods as originating in the territory of a country, region, or locality in that territory, where a given “quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.” It also includes the combination of symbols, maps or geographical names. The definition is broader to the given definition by the countries stated above or even extended as per the definition of the TRIPS. The purpose of the definitions is to limit the general meaning of words, to include other words or subjects within that meaning, to extend the general sense, to avoid confusion regarding the terms, and to shorten repetitive words.⁸⁴⁵ The following definitions could be included for our context: generic name or indications, class, homonymous geographical indications, book of specification, foreign geographical indication, producer, and geographical origin.

4.5.5 Goods

Bangladesh,⁸⁴⁶ India,⁸⁴⁷ and Pakistan⁸⁴⁸ define GI-capable goods as natural or agricultural products, handicrafts or industry products and any foodstuff. Further,

⁸⁴⁴ The Geographical Indications of Goods (Registration and Protection) Act, § 2(h) (1999) (India).

⁸⁴⁵ NEPAL GOVERNMENT, MINISTRY OF LAW, JUSTICE AND PARLIAMENTARY AFFAIRS, KAANOON TARJUMA DIGDARSHAN 53 (2077).

⁸⁴⁶ Geographical Indication of Goods (Registration and Protection) Act, § 2.8 (2013) (Bangladesh).

⁸⁴⁷ The Geographical Indications of Goods (Registration and Protection) Act, § 2(f) (1999) (India).

⁸⁴⁸ Geographical Indications (Registration and Protection) Act, § 2(xi) (2020) (Pakistan).

Pakistan has stated that horticulture is natural, raw or manufactured goods and drink products, whether processed, semi-processed or semi-finished.⁸⁴⁹ However, TRIPS does not define goods or goods. Further, in Sri Lanka, “goods means any manufactured or naturally available agricultural products, food, wines, spirits or any item of handicraft or industry.”⁸⁵⁰

Bangladesh and India include goods but not drinks, whereas Pakistan uses the term drinks, while Sri Lanka uses the terms wines and spirits. The Industrial Property Bill, 2082 of Nepal defines GIs goods as agricultural goods, foodstuffs, beverages, natural goods, handicrafts and industrial products.⁸⁵¹ India and Bangladesh do not include beverages, but Pakistan and Sri Lanka use wine and spirits as GIs.

4.5.6 Generic Name

In India⁸⁵² and Bangladesh⁸⁵³ generic name (GN) indicates the “Geographical indicative name of goods which relates to the place or region where the goods are produced initially, exploited or manufactured and have become the common name of such goods and serve as a designation for or indication of the kind, nature, type or other property or characteristic of the goods.”⁸⁵⁴ In Pakistan, GN also means a name that corresponds to the name of a territory, region or locality, and does not have any meaning in Pakistan as an indication or reference of geographical origin and has become a commonly used name for the goods in question.⁸⁵⁵ The Industrial Property Bill of Nepal provides the provisions of generic name in the bill.⁸⁵⁶ It has been defined, GN means a general word or picture used to describe the same kinds of goods used in the territory of Nepal.⁸⁵⁷

⁸⁴⁹ *Id.*

⁸⁵⁰ Intellectual Property (Amendment) Act, No. 8, §. 160 (A) (2022) (Sri Lanka).

⁸⁵¹ Industrial Property Bill, § 52 (1) (2025).

⁸⁵² The Geographical Indications of Goods (Registration and Protection) Act, § 9. explanation (1999) (India).

⁸⁵³ Geographical Indication of Goods (Registration and Protection) Act, §. 2(4) (2013) (Bangladesh).

⁸⁵⁴ *Id.*

⁸⁵⁵ Geographical Indications (Registration and Protection) Act, § 2(x) (2020) (Pakistan).

⁸⁵⁶ Industrial Property Bill, § 57 (2025).

⁸⁵⁷ *Id.* at § 2 (x).

4.5.7 Indication

Bangladesh defines it as the “Geographical indicative name of goods which relates to the place or region where the goods are produced initially, exploited or manufactured and have become the common name of such goods and serves as a designation for or indication of the kind, nature, type or other property or characteristic of the goods.”⁸⁵⁸ India includes “any name, geographical or figurative representation or any combination of them conveying or suggesting the geographical origin of goods to which it applies”⁸⁵⁹ Further, Pakistan consists of “any words, letters or numerals, a geographical name or another name, device or any figurative representation, label or any combination thereof indicating or referring or suggesting or conveying the geographical origin of the goods to which it is applied.”⁸⁶⁰ Further, Sri Lanka defines indications of source as “any expression or sign used to indicate that a product or service originates in a given country or group of countries, region, or locality.”⁸⁶¹ The Industrial Property Bill of Nepal has not defined the terms indications.

4.5.8 Applicant

In Bangladesh, an association, institution, or government body represents the interests of the community;⁸⁶² in India, section 11 with rule 32 states that the applicant represents an association of persons or producer's organisational authority formed by or under the law must represent the interests of the producer community;⁸⁶³ in Pakistan, the term applicant refers to “a natural or legal person, government organisation or statutory body, association, group of producers, or producers’ organisation, or an operator with an interest in the registration.”⁸⁶⁴ In Sri Lanka, the applicant denotes “any association of persons or producers, or any organisation or authority established by law that represents the interests of producers of any relevant goods.”⁸⁶⁵

⁸⁵⁸ Geographical Indication of Goods (Registration and Protection) Act, §. 2 (2013) (Bangladesh).

⁸⁵⁹ The Geographical Indications of Goods (Registration and Protection) Act, § 2(f) (1999) (India).

⁸⁶⁰ Geographical Indications (Registration and Protection) Act, § 2(xii) (2020) (Pakistan).

⁸⁶¹ Intellectual Property (Amendment) Act, No. 8 § 101 (2022) (Sri Lanka).

⁸⁶² Geographical Indication of Goods (Registration and Protection) Act, §. 9 (2013) (Bangladesh).

⁸⁶³ The Geographical Indications of Goods (Registration and Protection) Act, § 11 (1999) (India).

⁸⁶⁴ Geographical Indications (Registration and Protection) Act, § 2(i) (2020) (Pakistan).

⁸⁶⁵ Intellectual Property (Amendment) Act, No. 8 § 161 (2022) (Sri Lanka).

As per the Industrial Property Bill, 2082, the following can give an application for the registration of the GI:

- a. Producers' organisation or any organisation or offices,⁸⁶⁶
Governmental and Non-Governmental Organisations can give an application in case of geographical specification⁸⁶⁷
- b. A foreign GI, registered in that country's governmental body of a foreign country can be an applicant⁸⁶⁸
- c. If there is a bilateral agreement between the countries, then there shall be the provision of the protections of GI.⁸⁶⁹

4.5.9 Registration of Geographical Indications

Registration of GIs acknowledges the product and confers legal protection and remedies to the places and communities associated with it to prevent inappropriate use. To register a GI, the first step is to understand the definition of an applicant. The GI legislations of the selected countries define the term 'applicants' in a way that endorses the welfare and development of the community. Once you have determined the applicant, eligible applicants can begin applying with the relevant authority.⁸⁷⁰

Registration for GI is optional in all four countries. Registration gives prima facie evidence of validity.⁸⁷¹ Further, registration gives better legal protection to facilitate an action in case of infringement of goods. As, the registered proprietor and authorised users can initiate infringement actions. Further, authorised users could exercise the exclusive

⁸⁶⁶ Industrial Property Bill, § 52 (1) (2025).

⁸⁶⁷ *Id.* at § 52 (3).

⁸⁶⁸ *Id.* at § 52 (4).

⁸⁶⁹ *Id.* at § 52 (5).

⁸⁷⁰ Sayantani Datta et al., *Comparative Perspectives on the Protection of Food Geographical Indications in Asian Countries*, 19 Asian JCL, 89, 1–18. (2024), <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/comparative-perspectives-on-the-protection-of-food-geographical-indications-in-asian-countries/E57887033A4E1CE52BB40030571DA6B6> (last visited Mar. 4, 2024).

⁸⁷¹ Geographical Indications (Registration and Protection) Act, § 29 (2020) (Pakistan).

right to use GI.⁸⁷² The GI registration process is based on the jurisdiction of concerned nations. The bill of Nepal has not discussed about registered GI.

4.5.10 Ground for Refusal of Registration of Geographical Indications

The grounds for refusal of registration of GI in Bangladesh are “if it does not confirm the definition given in the act, if it is apprehended that its use may deceive or cause confusion, if its use is contrary to any law in force, if it is contrary to public order or morality, if it comprises or contains any matter likely to hurt to religious susceptibilities of any citizen of Bangladesh, if it is, or may otherwise be, disentitled to protection, it is determined to be a generic name or indication, or is not or has ceased to be protected in its country of origin, if it accurate as to the territory, region or locality in which the goods originate, but falsely represents that the goods originate in another territory, region or locality.”⁸⁷³

Likewise, in India also, the grounds for refusal of registration of GI are: “if the use of which would be likely to deceive or cause confusion; the use of which would be contrary to any law for the time being in which comprises or contains obscene matter; susceptibilities of any class or section of the citizens; or which comprise or contains any matter likely to hurt the religion; which would otherwise be disentitled to protection in a court; or which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country; or which although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality.”⁸⁷⁴

In the same way, in Pakistan, the grounds for refusing to register GI are “if it does not correspond to the definition, the use of which is likely to deceive or cause confusion, which is not or has ceased to be protected in its country of origin, which has fallen into disuse in that country, which Registrar determines to be a generic name or an indication, which is opposed to morality or public policy.”

⁸⁷² The Geographical Indications of Goods (Registration and Protection) Act, § 21 (1999) (India).

⁸⁷³ Geographical Indication of Goods (Registration and Protection) Act, §. 19 (2013) (Bangladesh).

⁸⁷⁴ The Geographical Indications of Goods (Registration and Protection) Act, § 9 (1999) (India).

The language is different, but GI-capable goods are only allowed to register if they correspond with the definition of GI in their countries. It is better to say that they have their grounds for refusing registration for GI-capable goods.

In Nepal the proposed Industrial Property Bill has given the following grounds for refusal of registration of GI goods in Nepal:

- a. if it does not confirm the definition given in the act,⁸⁷⁵
- b. if the use of GI is contrary to public order or morality,⁸⁷⁶
- c. if the GI protection is not given or has ceased to be protected in the country of origin,⁸⁷⁷
- d. if the name of the GI matches the customarily practised common language,⁸⁷⁸
- e. if the GI corresponds with the plants, vegetation, or breeds of birds and animals of the territory, region, or place in Nepal,⁸⁷⁹
- f. if the GIs tag goods that are reputed or well-known and have been used for a long time but are produced in a different place or territory.⁸⁸⁰ (legal problems)

The major missing elements in terms of the grounds for refusal of registration of GI goods in Nepal should include the following:

- a. if it is apprehended that its use may deceive or cause confusion,
- b. if its use is contrary to any law in force, if it comprises or contains any matter likely to hurt to religious susceptibilities of any citizen. As in the context of Nepal, many foods stuff which are likely to be GI as the products of traditions and culture. Having Mixed beans, Jujudhau, yam in the festivals is the produts of the religion and culture in Nepal.

⁸⁷⁵ Industrial Property Bill, § 54 (a) (2025).

⁸⁷⁶ *Id.* at § 54 (b).

⁸⁷⁷ *Id.* at § 54 (c).

⁸⁷⁸ *Id.* at § 54 (d).

⁸⁷⁹ *Id.* at § 54 (e).

⁸⁸⁰ *Id.* at § 54 (f).

4.5.11 Prohibition to Assign, Transfer of Geographical Indications

GIs cannot be assigned, transferred, mortgaged, pledged, licensed, or subject to any other such agreement in Bangladesh,⁸⁸¹ India,⁸⁸² or Pakistan.⁸⁸³ Similarly, the bill of Nepal has incorporated the provisions that the GI owner does not have the right to give for the possession or cannot transfer of the ownership of GI.⁸⁸⁴

4.5.12 Registration of Homonymous Geographical Indications

Homonymous GIs are registered in Bangladesh,⁸⁸⁵ India,⁸⁸⁶ Pakistan⁸⁸⁷, and Sri Lanka.⁸⁸⁸

- a. Equitable treatment of the producer of such homonymous goods.
- b. The authority will also set the rules to distinguish those goods.
- c. Consumers will be protected from misleading information.

Homonymous GIs are registered as per the proposed bill of Nepal and are subject to the following: If there are sufficient differences between the previously registered GIs and the GI to be registered, then the office shall register the homonymous GI and shall provide the following:

- a. Equitable treatment of the producer of such homonymous goods.⁸⁸⁹
- b. Consumers will be protected from misleading information.⁸⁹⁰

The missing point in the bill is that the authority will also set the rules to distinguish those goods. The service or goods are stated for the purpose of homonymous GI; by the concept, it includes goods, not services.

⁸⁸¹ Geographical Indication of Goods (Registration and Protection) Act, §. 19 (2013) (Bangladesh).

⁸⁸² The Geographical Indications of Goods (Registration and Protection) Act, § 24 (1999) (India).

⁸⁸³ Geographical Indications (Registration and Protection) Act, § 43 (2020) (Pakistan).

⁸⁸⁴ Industrial Property Bill, § 57 (2025).

⁸⁸⁵ Geographical Indication of Goods (Registration and Protection) Act, §. 7 (2013) (Bangladesh).

⁸⁸⁶ The Geographical Indications of Goods (Registration and Protection) Act, § 10 (1999) (India).

⁸⁸⁷ Geographical Indications (Registration and Protection) Act, § 9 (2020) (Pakistan).

⁸⁸⁸ Intellectual Property (Amendment) Act, No. 8 § 161(3) (2022) (Sri Lanka).

⁸⁸⁹ Industrial Property Bill, § 55 (a) (2025).

⁸⁹⁰ *Id.* at § 55 (b).

4.5.13 Renewal of GI

The registration of GI in India,⁸⁹¹ Bangladesh,⁸⁹² and Pakistan⁸⁹³ is for ten years and should be renewed within ten years. In contrast, the registered authorised user of the GI of goods has five years and can renew for the next three years in Bangladesh.⁸⁹⁴ In Sri Lanka, GIs are “valid for 10 years from the date of application.”⁸⁹⁵ It can be renewed for 10 consecutive years.⁸⁹⁶ As per the Industrial Property Bill of Nepal, the other forms of industrial property should be renewed, but there is no need to renew the GIs. The GIs goods get protection until its existence.⁸⁹⁷

4.5.14 Prohibition in Registration of Trademark

There is a prohibition on registering trademarks as GI of goods in Bangladesh,⁸⁹⁸ India,⁸⁹⁹ and Pakistan.⁹⁰⁰ In Sri Lanka, any person who has registered a GI as a certification mark may register that mark as a GI if he or she wishes to.⁹⁰¹ There is no provision prohibiting the registration of a trademark for a GI. However, if the trademark is already registered, both the trademark and the GIs will remain in existence until the period of trademark protection expires.⁹⁰²

4.5.15 Unregistered Geographical Indications

No legal action has been taken in India⁹⁰³ or Pakistan⁹⁰⁴ for the infringing unregistered GI. Action can be taken against the unregistered GIs under the unfair competition laws.

⁸⁹¹ The Geographical Indications of Goods (Registration and Protection) Act, § 18 (1999) (India).
⁸⁹² Geographical Indication of Goods (Registration and Protection) Act, §. 25 (2013) (Bangladesh).
⁸⁹³ Geographical Indications (Registration and Protection) Act, § 25 (2020) (Pakistan).
⁸⁹⁴ Geographical Indication of Goods (Registration and Protection) Act, §. 16 (2013) (Bangladesh).
⁸⁹⁵ Intellectual Property (Amendment) Act, No. 8 § 161(E) (2022) (Sri Lanka).
⁸⁹⁶ *Id.*
⁸⁹⁷ Industrial Property Bill, § 98 (1) (f) (2025).
⁸⁹⁸ Geographical Indication of Goods (Registration and Protection) Act, §. 21 (2013) (Bangladesh).
⁸⁹⁹ The Geographical Indications of Goods (Registration and Protection) Act, § 25 (1999) (India).
⁹⁰⁰ Geographical Indications (Registration and Protection) Act, § 46 (2020) (Pakistan).
⁹⁰¹ Intellectual Property (Amendment) Act, No. 8 § 161(M) (2022) (Sri Lanka).
⁹⁰² Industrial Property Bill, § 64 (2025).
⁹⁰³ The Geographical Indications of Goods (Registration and Protection) Act, § 20 (1999) (India).
⁹⁰⁴ Geographical Indications (Registration and Protection) Act, § 33 (2020) (Pakistan).

There are provisions regarding the registration of GIs, but there is no mention of protecting unregistered GI.

4.5.16 Provision of Foreign Geographical Indication

Foreign GI is registered in Sri Lanka, but that should be registered as GI or certificate marks in its original country.⁹⁰⁵ It could also be registered in Pakistan but should be registered in its original country.⁹⁰⁶ In Bangladesh, rights are granted to citizens from other countries that are “members of the Paris Convention or WIPO,” provided that such countries have given the right to register and protect GI-capable goods.⁹⁰⁷ India also provides reciprocity to other countries or nationalities of different countries.⁹⁰⁸ In case of Nepal as per the Industrial Property Bill, any foreign government bodies can register the GIs that has been registered in its country of origin.⁹⁰⁹

4.5.17 Legal Provision for Quality Control

There is a legal provision for quality control in India, an inspection structure as the unique body formation, and equal representation of all stakeholders. In its functioning mechanism, the single-body entity checks and inspects the quality maintenance of the registered foodstuffs.⁹¹⁰ Whereas, in Bangladesh, it is also the Inspection mechanism, and authorities are the unique body formation, Majority representation of the government authorities in the formation structure and the functioning mechanism, the single body entity to check and inspect the standard benchmarks of specification that make the product unique and linked to its geographical location.⁹¹¹ The Industrial Property Bill has stated the provision that the industrial property office shall send an officer at any time to inspect if the industrial property including GIs has been properly used or not.⁹¹²

⁹⁰⁵ Intellectual Property (Amendment) Act, No. 8 § 161(K) (2022) (Sri Lanka).

⁹⁰⁶ Geographical Indications (Registration and Protection) Act, § 10 (2020) (Pakistan).

⁹⁰⁷ Geographical Indication of Goods (Registration and Protection) Act, §. 20 (2013) (Bangladesh).

⁹⁰⁸ The Geographical Indications of Goods (Registration and Protection) Act, § 85 (1999) (India).

⁹⁰⁹ Industrial Property Bill, § 52 (4) (2025).

⁹¹⁰ The Geographical Indications of Goods (Registration and Protection) Rule, § 32 (1) (g) (2002) (India).

⁹¹¹ Geographical Indication of Goods (Registration and Protection) Rule, §. 9 (2015) (Bangladesh).

⁹¹² Industrial Property Bill, § 52 (4) (2025).

4.5.18 Offence of Geographical Indications

The GI offence Bangladesh, India, Pakistan, Sri Lanka and Nepal in the Bill has made offence for the followings which is shown below:

Table 16: Offence of Geographical Indications

S. N.	Countries	Offence
1.	Bangladesh	a. Infringement of Protected GI. b. Falsifying or falsely applying GI c. Use fo deceptively similar GI d. Production, transport, storage and sale of false GI goods e. Marketting without renewal f. Breach of conditions of registration g. Forgery of entries of the register
2.	India	a. Falsifying and falsely applying GIs b. Selling of goods by applying false GI c. Second or subsequent offene d. Improperly describing a place of business as having connection with the GI e. Falsification of entiries in the register
3.	Pakistan	a. Falsely applying GI b. Falsely representing a GI as registerd
4.	Sri Lanka	a. Infringement of GI b. False representation of GI
5.	Nepal	a. Falsely applying GI b. Misused of national GI logo c. Infringement of GI

The falsely applying the GI is the common offence in all countries. The infringement of protected GI, use fo deceptively similar GI, production, transport, storage and sale of false GI goods, marketting without renewal, breach of conditions of registration and forgery of entries of the register are consider as the offence of GI. Similarly, in India

selling of goods by applying false GI, improperly describing a place of business as having a connection with the GI, falsification of entries in the register. Further, in Pakistan, falsely representing a GI as registered, in Sri Lanka infringement of GI and in Nepal misused of national GI logo and infringement of GI fall under the domain of offence of GI.

4.5.19 Authority Responsible to Settle Geographical Indications Dispute

The authority responsible to settle the GI dispute in Bangladesh, India, Pakistan, Sri Lanka, and in Nepal are as follows:

Table 17: Authority to Settle the Geographical Indications Dispute

S. N.	Countries	Offence
1.	Bangladesh	For the Infringement of Protected GI, ⁹¹³ district Court to prevent infringement ⁹¹⁴ and the court may issue injunction, compensation for damage and provide other civil remedy ⁹¹⁵ For following: Falsifying or falsely applying GI, for deceptively similar GI, reduction, transport, storage and sale of false GI goods, marketing without renewal, breach of conditions of registration, forgery of entries of the register, The police officer equivalent sub-inspector or above should see the case. ⁹¹⁶ and the offence tried by a Judicial Magistrate of the first class. ⁹¹⁷
2.	India	For selling of goods by applying false GI, improperly describing a place of business as connected with the GI, “falsification of entries in the register and falsifying and falsely applying GIs, the Police officer equivalent deputy superintendent of police above should see the case.” ⁹¹⁸ And the offence tried by a Judicial Magistrate of the first class by the court ⁹¹⁹

⁹¹³ Geographical Indication of Goods (Registration and Protection) Act, §. 28 (2013) (Bangladesh).

⁹¹⁴ *Id.* at §. 28 (4).

⁹¹⁵ *Id.* at §. 28 (5).

⁹¹⁶ *Id.* at §. 38 (3).

⁹¹⁷ *Id.* at §. 38 (4).

⁹¹⁸ The Geographical Indications of Goods (Registration and Protection) Act, § 50 (4) (1999) (India).

⁹¹⁹ *Id.* at §. 50 (2).

S. N.	Countries	Offence
3.	Pakistan	For applying false GI and falsely representing a GI as registered the case is trial in the IP tribunal. ⁹²⁰
4.	Sri Lanka	The case of infringement of GI, false representation of GI shall be trial in the Magistrate ⁹²¹
5.	Nepal	In the case falsely using GI, misused of national GI logo and infringement of GI, the Department of industry sees the case. ⁹²²

The authority responsible to see the GI offences in Bangladesh, India, Pakistan, and Sri Lanka is the tribunal or court. But as per the bill, the offence in Nepal regarding IG shall be decided by Intellectual Property Office.

4.5.20 Punishment in the offence of Geographical Indications

The punishment under the GI laws in Bangladesh, India, Pakistan, Sri Lanka, and Nepal are shown in the table below:

Table 18: Punishment in the Offence of Geographical Indications

S. N.	Countries	Offence
1.	Bangladesh	a. Infringement of Protected GI.⁹²³ District Court to prevent infringement⁹²⁴ Court may issue injunction, compensation for damage and provide other civil remedy⁹²⁵ b. Falsifying or falsely applying GI⁹²⁶ Imprisonment for term upto 3 years but not less than 6 months, or fine upto taka 2 lakhs but not less than 50,000 or with both⁹²⁷ c. Use of deceptively similar GI

⁹²⁰ Geographical Indications (Registration and Protection) Act, § 35 (2020) (Pakistan).

⁹²¹ Intellectual Property (Amendment) Act, No. 8 § 184 (2022) (Sri Lanka).

⁹²² Industrial Property Bill, § 78 (2025).

⁹²³ Geographical Indication of Goods (Registration and Protection) Act, §. 28 (2013) (Bangladesh).

⁹²⁴ *Id.* at §. 28 (4).

⁹²⁵ *Id.* at §. 28 (5).

⁹²⁶ *Id.* at §. 29.

⁹²⁷ *Id.* at §. 29 (1).

S. N.	Countries	Offence
		Imprisonment for term upto 3 years but not less than 6 months, or fine upto taka 2 lakhs but not less than 50,000 or with both⁹²⁸ d. Production, transport, storage and sale of false GI goods Imprisonment for term upto 3 years but not less than 6 months, or fine upto taka 2 lakhs but not less than 50,000 or with both⁹²⁹ e. Marketting without renewal Imprisonment for term upto 3 years but not less than 6 months, or fine upto taka 2 lakhs but not less than 50,000 or with both⁹³⁰ f. Breach of conditions of registration Imprisonment for term upto 3 years but not less than 6 months, or fine upto taka 2 lakhs but not less than 50,000 or with both⁹³¹ g. Forgery of entries of the register Imprisonment for term upto 3 years but not less than 6 months, or fine upto taka 2 lakhs but not less than 50,000 or with both⁹³² h. Second or subsequent offene Imprisonment for term upto 5 years but not less than 2 yearss, or fine upto taka 4 lakhs but not less than 2 lakhs or with both⁹³³
2.	India	a. Falsifying and falsely applying GIs Imprisonemnt for term upto 3 years but not less than 6 months, or fine upto 2 lakhs but not less than 50,000. (court)⁹³⁴ b. Selling of goods by applying false GI

⁹²⁸ *Id.* at §. 30 (1).

⁹²⁹ *Id.* at §. 31 (c).

⁹³⁰ *Id.* at §. 32.

⁹³¹ *Id.* at §. 33.

⁹³² *Id.* at §. 34.

⁹³³ *Id.* at §. 35.

⁹³⁴ The Geographical Indications of Goods (Registration and Protection) Act, § 39 (f) (1999) (India).

S. N.	Countries	Offence
		Imprisonment for term upto 3 years but not less than 6 months, or fine upto 2 lakhs but not less than 50,000. (court)⁹³⁵ c. Second or subsequent offense Imprisonment for term upto 3 years but not less than 1 years, or fine upto taka 2 lakhs but not less than 1 lakhs or with both⁹³⁶ d. Improperly describing a place of business as having a connection with the GI Imprisonment for term upto 2 years or with fine or both⁹³⁷ e. Penalty for falsification of entries in the register Imprisonment for term upto 2 years or with fine or both⁹³⁸ Police officer equivalent deputy superintendent of police above should see the case.⁹³⁹
3.	Pakistan	a. Applying false GI Imprisonment for term upto 3 years but not less than 6 months, or fine not less than 10,000 or with both⁹⁴⁰ b. Falsely representing a GI as registered Imprisonment for term upto 6 months but not less than 1 months, or fine less than 5,000 or both.⁹⁴¹
4.	Sri Lanka	a. Infringement of GI Imprisonment for term upto 6 months or fine less than 5,00,000 or both⁹⁴² b. Second or subsequent offense Imprisonment for term upto 1 years or fine upto 10,00,000 or both (double of first times)⁹⁴³ c. False representation of GI

⁹³⁵ *Id.* at §. 40 ©.

⁹³⁶ The Geographical Indications of Goods (Registration and Protection) Act, § 41 (1999) (India).

⁹³⁷ *Id.* at §. 43.

⁹³⁸ *Id.* at §. 44.

⁹³⁹ *Id.* at §. 50 (4).

⁹⁴⁰ Geographical Indications (Registration and Protection) Act, § 41 (2020) (Pakistan).

⁹⁴¹ *Id.* at §. 42(2).

⁹⁴² Intellectual Property (Amendment) Act, No. 8 § 184 (2022) (Sri Lanka).

⁹⁴³ *Id.* at §. 184.

S. N.	Countries	Offence
		Imprisonment for term upto 6 months or fine less than 5,00,000 or both ⁹⁴⁴
5.	Nepal	In the case Falsely using GI Misused of national GI logo Infringement of GI ⁹⁴⁵ Penalty of 10,00,000 to 15,00,000 and double fine in case of repetition ⁹⁴⁶

Hence, there is the provisions of the imprisonment and fine for the punishment under the offence of GI laws in Bangladesh, India, Pakistan, Sri Lanka. But there is the provisions of fine only in the provisions of GIs in the Industrial Property Bill, 2082 BS in Nepal.

4.6. Implementation Aspect of Geographical Indications in SAARC Countries

The success or failure of anything can be seen from its implementation aspect. The measurement of GI's success is seen in three areas: the number of GI registrations within Bangladesh, India, and Pakistan; the result of the Global Innovation Index of SAARC of 2022; and the “WIPO's Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications (SCT).”

The contribution of the agricultural, forestry and fishing sectors to India's GDP is 17.59% in 2023-24.⁹⁴⁷ Geographical indications are generally used for agricultural commodities and handicrafts, and the government is working on ways to have more products GI-tagged to appraise their value in exports. The Commerce Ministry of India data indicates that India's exports rose 48.34% to US\$ 32.5 billion from May 2020 to

⁹⁴⁴ *Id.* at §. 185 (1).

⁹⁴⁵ Industrial Property Bill, § 79 (e) (2025).

⁹⁴⁶ *Id.* at §. 80 (c).

⁹⁴⁷ Statistics Times, *India GDP sector-wise 2020 - StatisticsTimes.com*, STATISTICSTIMES.COM (2021), <https://statisticstimes.com/economy/country/india-gdp-sectorwise.php> (last visited July 19, 2024).

June 2021.⁹⁴⁸ In over two years, as of the first quarter of 2021, Amazon exported ‘Made in India’ goods worth \$2 billion.⁹⁴⁹ The output value of GI producers in China totalled \$92.771 billion as of 2020. The EU has a \$87 billion GI economy, as per a report published in 2019.⁹⁵⁰

4.6.1. Registration of *Sui Generis* Geographical Indications

The WIPO has provided the following data on registering of the GI in force in 2023.⁹⁵¹

Table 19: Total Number of the GIs Registered in the SAARC Countries

S. N	Country	Act	No of Registered GIs	Ways of Protections
1	Bangladesh	“Geographical Indication of Goods (Registration and Protection) Act, 2013”	34	<i>Sui generis</i>
2	India	“Geographical Indications of Goods (Registration and Protection) Act, 1999”	530	<i>Sui generis</i>
3	Pakistan	“Geographical Indications (Registration and Protection) Act, 2020”	10	<i>Sui generis</i>
4	Sri Lanka	“The Intellectual Property (Amendments) Act, 2022”	18	<i>Sui generis</i>

The registered GIs of Bangladesh after the commencement of the “Geographical Indications of Goods (Registration and Protection) Act, 2013.” is 34.⁹⁵² The registered GIs of India after the commencement of the “Geographical Indications of Goods

⁹⁴⁸ Ankita Sabharwal, *The Economics of Geographical Indications*, (2022), <https://www.lexology.com/library/detail.aspx?g=f9ae3506-1f07-4e09-bd79-52da7887e611> (last visited Dec. 9, 2024).

⁹⁴⁹ Blaise Fernandes, *Indian GI: Local Goes National Goes Global*, GATEWAY HOUSE (2022), <https://www.gatewayhouse.in/indian-gis-local-goes-national-and-global/> (last visited Nov.19, 2024).

⁹⁵⁰ *Id.*

⁹⁵¹ World Intellectual Property Organization, World Intellectual Property Indicators, <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-941-2024-en-world-intellectual-property-indicators-2024.pdf> (last visited Mar. 5, 2025).

⁹⁵² Ministry of Foreign Affairs, Geographical Indication (GI) Products of Bangladesh: Knowing Bangladesh Program, <https://www.dhakatribune.com/bangladesh/339502/three-new-items-gain-gi-status> (last visited Dec.17, 2024).

(Registration and Protection) Act, 1999,” up to March 2024 are 530.⁹⁵³ The registered GIs of Pakistan after the commencement of the “Geographical Indications (Registration and Protection) Act, 2020” from 2020 to 2023/12/1 are 10.⁹⁵⁴

4.6.2. Global Innovation Index

The Global Innovation Index (GII) reflects a country's ability to innovate and how effectively its people follow through with the creation process. High GII values indicate that countries have systems to encourage the development of new ideas, methods, or products.⁹⁵⁵ The GII 2023 is unique in incorporating significant data from the pandemic and post-pandemic years. Country-specific policy responses to the pandemic, including differences in lockdowns and, more recently, the effects of armed conflict, have inevitably impacted the innovation rankings requiring scrutiny.⁹⁵⁶

Nepal's global innovation index was 18.84 in 2023, up from 17.6 the previous year; this is a change of 7.05%.⁹⁵⁷ Switzerland ranks first in the GII 2024 for the 14th year. Sweden is now 2nd and the US 3rd, followed by the UK 4th and Singapore in 5th.⁹⁵⁸ In Southeast Asia, EastAsia, and Oceania, Singapore, the Republic of Korea (10th), and China leads.

Secondly, in the Global Innovation Index of SAARC, India ranks well compared to Bangladesh, Nepal, Pakistan, and Sri Lanka. Still, Afghanistan, Bhutan, and Maldives have yet to be ranked.

⁹⁵³ The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM), *Registered GIs | Geographical Indications | Intellectual Property India*, IPINDIA.GOV.IN (2021), <https://ipindia.gov.in/registered-gls.htm> (last visited July 19, 2024).

⁹⁵⁴ Intellectual Property Organization of Pakistan (IPO-Pakistan), *Registered GIs of Pakistan | IPO Pakistan*, IPO.GOV.PK (2022), https://ipo.gov.pk/gi_registeredGIsPK (last visited Jul. 19, 2024).

⁹⁵⁵ World Population Review, *Global Innovation Index by Country 2024*, <https://worldpopulationreview.com/country-rankings/global-innovation-index-by-country> (last visited Jan. 2025).

⁹⁵⁶ World Intellectual Property Organization, *Global Innovation Index 2023 Innovation in the face of uncertainty*, (2023), <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023-en-main-report-global-innovation-index-2023-16th-edition.pdf> (last visited July 19, 2024).

⁹⁵⁷ World Data Atlas, *Nepal Global Innovation Index, 2013-2023*, <https://knoema.com/atlas/Nepal/topics/World-Rankings/World-Rankings/Global-innovation-index> (last visited Jul. 19, 2024).

⁹⁵⁸ World Intellectual Property Organization *Global Innovation Index 2023*, <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023-en-main-report-global-innovation-index-2023-16th-edition.pdf> (last visited Jul. 19, 2024).

Table 20: Global Innovation Index Ranking of SAARC Countries of 2023 AD and 2024 AD.

S. N	Countries	GII 2023 AD out of 132 Countries	Global Innovation Index 2024 AD out of 133 Countries ⁹⁵⁹
1.	Afghanistan	-	-
2.	Bangladesh	102	106
3.	Bhutan	-	-
4.	India	40	39
5.	Maldives	-	-
6.	Nepal	111	109
7.	Pakistan	87	91
8.	Sri Lanka	85	89

The above table shows that India ranks 39th out of 133 countries in the global innovation index in 2024 AD. Similarly, Sri Lanka ranks 89th, Pakistan ranks 91st, Bangladesh ranks 106th, and Nepal ranks 109th position. Afghanistan, Bhutan, and the Maldives are still waiting for their listing in the ranking.

4.6.3. Members of the “WIPO's Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications”

55 states are members of the “WIPO's Standing Committee on the Law of Trademarks, Industrial Design, and Geographical Indications (SCT).” India is the only SAARC country member of the database, which shows that India is progressing in its scores.

TRIPS is essential for its fundamental principles of international IP protection, including national treatment (article 3), most favoured nations’ treatment (article 4), transparency, territorial independence, ubiquity and exhaustion of rights (article 6), duration of intellectual property rights, right of priority, direct effect and consistent interpretation.⁹⁶⁰

⁹⁵⁹ Global Innovation Index 2024 Result, <https://www.wipo.int/web-publications/global-innovation-index-2024/en/gii-2024-results.html> (last visited Mar. 3, 2025).

⁹⁶⁰ FREDERICK M. ABBOTT ET AL., INTERNATIONAL INTELLECTUAL PROPERTY IN AN INTEGRATED WORLD ECONOMY 106 (4th ed. Wolters Kluwer 2019).

4.6.4 Legal Protection of Goods

GI registration in home countries helps to show the link with the geographical origin of goods if registration is denied in a foreign jurisdiction.⁹⁶¹ The SAARC can be the one which can act vital role in resolving disputes of the GIs among the SAARC countries.⁹⁶²

a. India: Darjeeling Tea Case and Basmati Rice

After enacting the GI Act in India, the “Tea Board” filed for GI protection of Darjeeling in 2003. It was granted GI status in India in 2004, becoming “the first application to be registered as a GI.” The Tea Board hired a Worldwide Agency named Compumark, which found many cases of improper registration and use of Darjeeling and its logo have been reported.⁹⁶³ There was the misuse of Darjeeling tea by different countries with different names, and the Board of India opposed it. To mention a few, France has misused DARJEELING for clothing, perfumes and telecommunications. Japan has misused the Darjeeling name for tea, featuring the Darjeeling map and logo. Germany has misused the Darjeeling logo for the device application. Israel has misused DARJEELING for agricultural products. Russia has misappropriated the term “Darjeeling” for the Darjeeling tea logo. Norway has misused Darjeeling for telecommunications. The USA has used the term Darjeeling Nouveau for the tea, and Sri Lanka has used the term Sakir Darjeeling Tea.⁹⁶⁴

⁹⁶¹ Sanath Sameera Wijesinghe, *The Protection on Geographical Indications in Developing Countries: A Case Study of Sri Lanka*, 1 Balance Int’l Multidisciplinary L.J. 1 (2015), https://www.academia.edu/19877889/The_Protection_on_Geographical_Indications_in_Developing_Countries_A_Case_Study_of_Sri_Lanka (last visited June 3, 2025).

⁹⁶² Muhammad Shahzeb Usman, *Basmati Rice and Geographical Indications: Options for Pakistan*, Islamabad Policy Research Institute (Policy Research Brief 2024), <https://ipripak.org/wp-content/uploads/2024/05/Basmati-Rice-and-Geographical-Indications-Options-for-Pakistan.pdf> (last visited June 19, 2025).

⁹⁶³ Sudhir Ravindran & Arya Mathew, *The Protection of Geographical Indications in India: Case Study on ‘Darjeeling Tea’*, INT’L PROP. RTS. INDEX 58 (2009), https://d1wqtxts1xzle7.cloudfront.net/56556909/darjeeling_tea-libre.pdf?1526252396=&response-content-disposition=inline%3B+filename%3DThe_Protection_of_Geographical_Indications.pdf&Expires=1748010593&Signature=SQ3uR5yTHe43WaOMpcFQyxkUIfOtBwf7XmmbXxvnWSq8XHkZ6W7dFCIS2dqvJBIdTx0EulHidUc61Pvir2Y0oW07FsuuSLBjmES~2sag6NbZylBYbMER7hn0Rpt36~rPFwajTMf-1vD1o6Thkmu2AxXDKKAaq9TsHhSCVAfLT3Gfo5D-18XqB6KN~xhs-F~6sYst88zTt19WgDX5XXXuOb4FdHU5H-mlmje6cn8PeDurXM24JdIO180S5sjp1GUS4gJfOqGzc-Gj1OJV17xNkpZHHmUVveRMIo0tdX41Tt3sr4DOJMZjO1QaJGRxIvDnYv1T3rmKSXZawGcBqFQ4eQ__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA (last visited May 10, 2025).

⁹⁶⁴ *Id.*

Basmati rice of India is protected in India as the GI-tagged goods because of the laws on GIs.

b. Bangladesh: Jamdani Sari

Bangladesh registered its first GI, the Jamdani Sari, on November 17, 2016. Similarly, it registers other GIs and protects them.

c. Pakistan: The Basmati Rice of Pakistan

Pakistan has registered its first GIs. The Basmati Rice of Pakistan was first recognised as a GI in 2021. Similarly, the registration process is ongoing.

d. Sri Lanka: Ceylon Cinnamon

Ceylon Cinnamon was registered in the EU as the first EU. It's an open door to a new market, strengthening positions in the global trade. Similarly, Sri Lanka is protecting its other GI goods.

The exclusive ownership or the shared ownership of the Basmati Rice is the preceding question. First, the country should enact laws and protect its citizens. Nepal should also protect its GI capable goods using GI laws.

4.7. Conclusion

Four of the eight SAARC countries (Bangladesh, India, Pakistan, and Sri Lanka) have *sui generis* GI laws. The standard provisions concerning GI registration and protection in these countries are as follows: Bangladesh, India, and Pakistan have enacted GI laws, whereas Sri Lanka includes a section on geographical indications in its Intellectual Property Act of 2003. The GI acts and provisions aim to register and protect GI-capable goods. The definitions provided in all four countries align with those specified in the TRIPS agreement. GI-capable goods encompass natural or agricultural products, handicrafts, industrial products, and various foodstuffs.

Furthermore, Pakistan specifies that horticulture includes natural, raw, or manufactured goods and beverages, whether processed, semi-processed, or semi-finished. Sri Lanka states that “any manufactured or naturally available agricultural products, food, wines, spirits, or items of handicraft or industry” are included. Bangladesh and India include

various goods but exclude beverages, while Pakistan uses the term 'beverages', and Sri Lanka specifically mentions 'wines' and 'spirits'. The definitions of generic names or indications are provided. The substantive details concerning the application, registration, grounds for refusal of GI registration, and provisions for assignment, transfer, mortgage, pledge, licensing, or other agreements are included along with the definitions. Provisions regarding the registration of homonymous geographical indications are also included. Regulations for the renewal of GIs and prohibitions on registering trademarks as GIs are outlined; however, in Sri Lanka, anyone who has registered a GI as a certification mark may also register that mark as a GI if they wish. No legal actions have been taken in India or Pakistan against infringing unregistered GIs. However, actions can be pursued against unregistered GIs under unfair competition laws. Foreign GIs are registered in all four countries, and provisions for quality control are specified.

According to the data recorded in WIPO, India boasts 530 GIs, Bangladesh has 34, Sri Lanka possesses 18, and Pakistan accounts for 10. Additionally, in the Global Innovation Index, India ranks 39th, Bangladesh is at the 106th position, Pakistan is ranked 91st, and Sri Lanka is placed 89th. Meanwhile, Afghanistan, Bhutan, and the Maldives have yet to be ranked. Furthermore, in “WIPO's Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications,” India is the only SAARC member in the database, indicating that India is making progress in its scores.

CHAPTER V

5. LEGAL MEASURES REQUIRED TO PROTECT GEOGRAPHICAL INDICATIONS GOODS OF NEPAL

5.1. Introduction

The laws regarding GIs of Nepal for the protection of GI-capable goods are incompatible with the TRIPS agreement. TRIPS mandates drafting GIs laws but further it does not mention the types of laws. Among the eight SAARC countries, Bangladesh, Pakistan, India and Sri Lanka have the *sui generis* GIs laws. Afghanistan has drafted the laws on GIs. Nepal has drafted the bill incorporating GI in the Industrial Property Bill 2082 BS. Bhutan, and Maldives do not have *sui generis* GIs laws. TRIPS mandates, Nepal needs to protect its GI-capable goods by any legal measures like *sui generis* GIs, trademark protections (collective marks protection and certification marks), and laws focusing on business.

In the following KII, qualitative, in-depth interviews are conducted with the expert who knows about the geographical indications. This interview aims to collect information from a wide range of experts who have first-hand knowledge about the issues and problems with the topics. The informants can provide ideas of the types of laws required to protect GIs also provide recommendations for solutions. Consulting stakeholders in the lawmaking process or doing empirical research increases transparency. It also increases public confidence and enhances trust in the legitimacy of political decisions. A country's IP law must ensure that the law interacts meaningfully with society and industry. It should promote creativity and innovation and should also addressing domestic concerns. The research has undertaken the key informant interviews.

5.2. Key Informants Interview

The 45 key informants of GIs are taken for the interview, including parliamentarians, professionals with expertise (High Court Judge, Patan), government officials, a representative from the Ministry of the Department, a representative from the Department of Law Ministry, representatives from the Department of Industry, retired government officials, former government officers, academic scholars and experts from

various universities, experts who have completed PhDs in the field of Intellectual Property from the Faculty of Law, TU, authors of intellectual property law books, organisations working on intellectual property, researchers who have written theses on geographical indications, policymakers, lawyers who have worked on GIs and collective marks, politicians, and individuals who have authored articles on GIs in various newspapers and journals. Out of 45 informants, one informant was sent a set of questions, received the reply through email and had a messenger phone conversation interview for further information.

All forty-five key informants are coded based on the interview date taken. Purposive sampling and snowball sampling were employed to select the key informants. The name, along with the code number of the key informants of the interview, are as follows:

Table 21: Details and Coding of the Key Informants of the Research.

Code	Key Informants
01	Dr Swarnim Wagle
02	Dr Govind Prasad Kusum
03	Anju Uprety
04	Bhanu Prasad Acharya
05	Dr Bal Krishna Joshi
06	Gourish Krishna Kharel
07	Aruna Joshi
08	Umesh Prasad Singh
09	Dr. Posh Raj Panday
10	Bharat Bahadur Thapa
11	Prof. Dr. Kumar Ingnam
12	Bisu Kumar KC
13	Madhu Soodan Poudyal
14	Sikshya Rajyalaxmi Rana
15	Saraswoti Shah
16	Dipak Silwal
17	Dr. Ram Bahadur Dhakal

Code	Key Informants
18	Shikha Dangol
19	Sajjan Bar Singh Thapa
20	Tilak Bikram Panday
21	Usha Kala Rai
22	Anish Bastola
23	Samikshya Gaire
24	Rudra Sharma
25	Lajula Maharjan
26	Kripa Shrestha
27	Narayan Chaulagain
28	Raj Kumar Suwal
29	Dr Din Mani Pokhrel
30	Dr Sarita Khanal
31	Rakshya Khanal
32	Ikchha Pokharel
33	Kritika Dahal
34	Sweti Deshemaru
35	Dikshya Rajbhadari
36	Amit Uprety
37	Maan Bahadur Basnet
38	Laxman Bhandari
39	Ranju Basnet
40	Ramchandra Subedi
41	Nina Regmi
42	Kiran Mainali
43	Ambar Bahadur Thapa
44.	Pradip Thapa
45	Krishna Prasad Gyawali

Out of the 45 informants, 44 gave an in-person interview, whereas one of the informants was not in Nepal; therefore, the question was sent by email, and the interview was conducted through messenger.

Table 22: Data Collection Medium of the Key Informants.

Methods of Data Collection	Codes	Frequency	Reason (if any)
Interviewed (In Person)	01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45	44	
Questions sent in email and interview via Messenger	31	1	Outside the country

5.3 Introduction of Geographical Indication Capable Goods

5.3.1 Geographical Indication Capable Goods from KII

Responses to Question Number 1.4: List of GIs capable goods available in the Key informant's locality.

Question Description: Informantss were asked to write their address in the following order: province, district, metropolitan/sub-metropolitan / municipalities, ward number and the available geographical indication-capable goods in their localities.

Summary of the Responses: Only the KII from the five provinces were there and asked what are the GIs capable goods that could be found in their locality. The majority number of respondents were from the Bagmati province, 24; second from the Lumbini province, there are nine informants; and third from the Koshi, Madhesh, and Gandaki provinces, three each.

The informants from Bagmati province stated about Farpingko Naspati, Khokanako Tel, Bhadgaunle Topi Bhaktapur Juju Dhau, Mulpaniko Saag, Tokhako Chaku. Similarly, the informants from Lumbini province mentioned Pyuthaane Moola, Pyuthaane Timoor, Palpako Karuwa, and Gulmiko Gud. Similarly, the informants from

Koshi province gave the list of Ilamko Alainchi, Ilame Chiya, Illamko Cheese, and Koshiko Jalkapoor. Likewise, key informants from the Madhesh provinces talked about Mithila Arts and Painting. Further, informants from Gandaki province stated about Pokhareli Masino, Trisuli/Gorkha/Palpako Pindaloo, and Madhya Nepalko Maas (Lentils). Informant "Code 01" said that "there should be identification of the GIs capable goods by the government." Informant "Code 04" shared that "there used to be so much of 'Kanthakari' (a kind of plant which has a small, ball-type fruit) in his surroundings and used to play, but it is rare in the present context." Informant Code 12 stated, "There is no identification of GI-capable goods by the government; how can it be said if it is GIS capable goods or not?"

Tabular Representation

The responses of the key informants are given below in a table form:

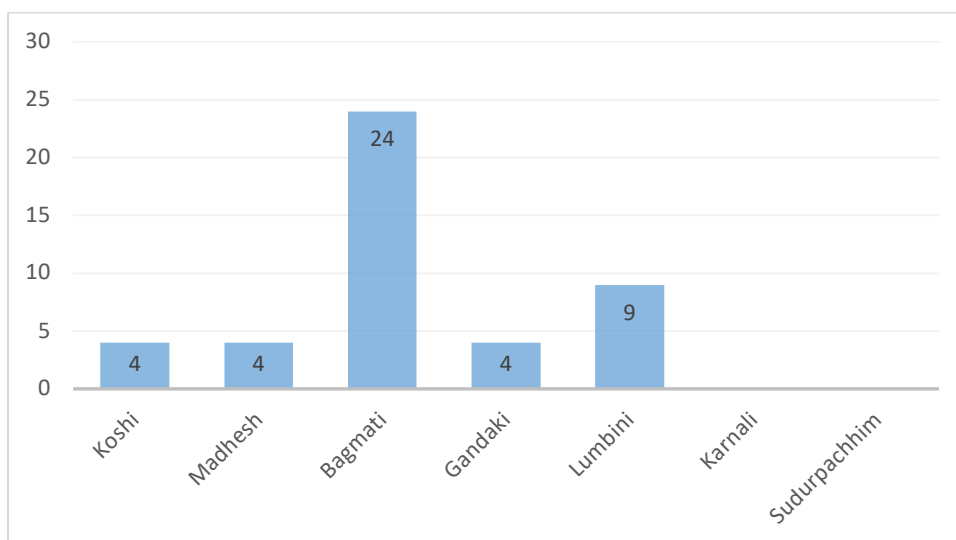
Table 23: Informants as per the Provinces and the Available GIs in their Province.

Province	Koshi	Madhesh	Bagmati	Gandaki	Lumbini	Karnali	Sudurp achhim
Codes	11, 36, 40, 43	08, 17, 21, 35	02, 03, 04, 06, 07, 10, 12, 15, 16, 18, 19, 20, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 38, 42	01, 05, 41, 44	09, 13, 14, 23, 24, 25, 37, 38, 45		
Frequency	4	4	24	4	9		
	Ilam ko Alainchi Ilame Chiya Illam ko Cheese Koshi ko Jalkapoor	Mithila Arts and Painting	Tokha Ko Chaku, Farming Ko Naspati, Khokana Ko Tel, Bhadgaunle Topi Bhaktapure Juju Dhau Tokha Ko Chaku Mulpani Ko Saag	Pokhareli Masino Trisuli/G orkha/Pal pa ko Pindaloo, Madhya Nepalko Maas (Lentils)	Pyuthaane Moola Pyuthane Timoor, Palpa ko Karuwa, Gulmiko Gud		

Bar Chart Representation

The following bar chart shows that four respondents are from Koshi province, four from Madhesh province, twenty-four from Bagmati province, four from Gandaki province

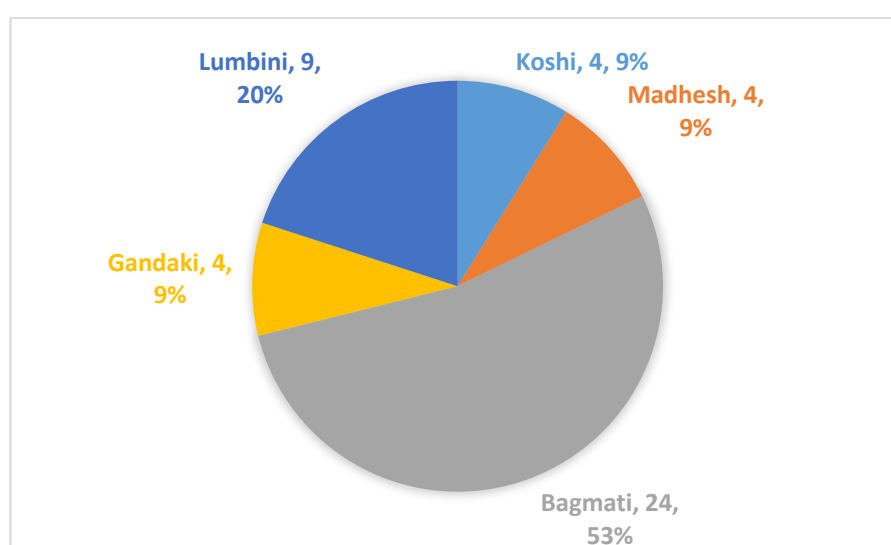
and nine from Lumbini province, where no one is from Karnali and Sudurpachhim provinces. The KII representations are shown in the bar chart representation below:



Bar Chart 1: Informants as per the Provinces and the Available GIs in their Province.

Pie Chart Representations

The following pie chart demonstrates that 9% of respondents are from Koshi province, 9% are from Madhesh province, 53% are from Bagmati province, 9% are from Gandaki province, and 20% are from Lumbini province, where no one is from Karnali and Sudurpachhim provinces. The KII representations are shown in the pie chart representation below:



Pie Chart 1: Informants as per the Provinces and the Available GIs in their Province

5.3.2 Geographical Indication Capable Goods from Doctrinal Studies

The Government of Nepal has not officially identified the number of GI-capable goods. However, this literature and empirical studies has identified a tentative number. In Nepal, there are plenty of GI-capable goods. “A report lists 88 potential GI products from Nepal, including those of plant origin, cultivated goods, cultivated and processed products, wild sources, animal origin, liquors, beverages, and indigenous knowledge and technologies for industrial products.”⁹⁶⁵ (See Appendix 1.)

Moreover, “Trade Policy 2072 BS has identified lists of export potential goods and services of Nepal, including a list of 26 goods gingers/dried gingers, large cardamom, wool and carpets, drugs, medicinal herbs and essential oils, coffee, carpets, silk products, sugar, tea, footwears, textiles, vegetables, vegetable seeds, instant noodles, readymade garments, dairy products, processed leather, pashmina, floriculture, fruits, iron and steel products, honey, pulses, cement, gold, silver ornaments and precious stones, handicrafts, and handmade papers and paper products; and seven lists of export potential services including labour services, health services, tourism, engineering, hydropower, education, information technology and business process outsourcing.”⁹⁶⁶ (See Appendix 2.)

Additionally, there are eight GI products from Nepal in the international market,⁹⁶⁷ including “wild bee honey, fermented leaf or silage of broad leaf mustard, highland coffee, Himalayan honey, organic highland coffee, orthodox tea, turmeric powder, and lentils) are at the international markets.”⁹⁶⁸ (See Appendix 3.)

Further, “Krishna Bal et al. has given a list of 21 potential GI-capable goods of Nepal (Popular Geo-Linked Agri-Product) incorporating bhotechiya, Dharan ko kaalo sungur, Palpali Dhaka, Illam ko Cheese, Yak ko Cheese, Mula ko Chaana, Nepali sutho,

⁹⁶⁵ FOOD AND AGRICULTURAL ORGANISATION OF UNITED NATIONS ET AL., THE IMPLICATION OF WTO MEMBERSHIP IN NEPALESE AGRICULTURE (Ramesh P. Sharma et al., edn. 2005).

⁹⁶⁶ Trade Policy, sched.1 (2072).

⁹⁶⁷ Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur ‘Juju Dhau’ and Greece ‘Greek Yogurt’*, 11(1) KSLR 60, 73 (2022).

⁹⁶⁸ BAL KRISHNA JOSHI ET AL., CONSERVATION AND UTILIZATION OF AGRICULTURAL PLANT GENETIC RESOURCES IN NEPAL 50 (Bal Krishna Joshi et al., eds., 2017).

Trishuli ko asala maachha, Kulekhanani ko asala maachha, Koshiko Jalkappor, Nepali Kaagaj, High land Coffee, Thumbra, Chyaang, Titauro, Masyoraa, Khokana ko tel, Mountain goat pashmina, Tokha ko chhaku, aila, Bhyaglung sheep ko oon, Bhaktapur ko dhahi Juju Dhau.”⁹⁶⁹ (See Appendix 4.)

Furthermore, there is also the list of “eight potential GI-capable goods of Nepal with geo-linked popular crop landraces and their essential traits, incorporating Jumli Bean, Ghiu Banana, Black Lentils, Himali Cumin, Hattipau, Mountain sauf, Mude Potato, Jumli Marshi.”⁹⁷⁰ (See Appendix 5.)

As well, the Nepal Trade Integration Strategy (NTIS) 2079/80- 2084/85 has identified 32 products, including “ten agro-based products (Cardamom, Ginger, Tea, Medicinal and Aromatic Plants, Lentils, Jute, Vegetables, Fruits, Spices, Coffee, seven craft and manufacturing products (All Fabrics, Textile, Yarn and Rope, Leather, Footwear, Pashmina, Carpet) four services (IT and Business Process Outsourcing and IT Engineering, Skilled and Semi-Skilled Professionals in remittance generating services, Tourism that includes leisure, business, education and medical, Electricity) four forest sector (Handmade Lokta Paper, Rosin and Turpentine, Fragrant Oil, Textiles of Long Fibre) categories, three large-scale industries (Iron and Steel, Cement, Readymade garments) and four small-scale industries (Jewelry, Pasta, Himalayan Spring Water, Honey) as priority export potentials based on expert performance and inclusive and sustainable development parameters.”⁹⁷¹ (See Appendix 6.)

Besides, MN Poudel has listed “40 potential GI-capable goods of Nepal with location-specific unique crop landraces to name a few Mungre Kera, Mallaji, Bhate Phaper, Sthaniya, Madale Kaakro, Dalle Kodo, Barshe Kodo, Syangja, Bhagara Sthaniya, Sindur, Murali, Rumjhataar ko Suntala, Local Mayal, Kalo Uwa, Dhanusha Local, Tarkhole, Seto, Dhorpatan Local, Sthaniya, Choto, Pokhareli masilo, Junde Masino, Anadi, Ekle, Jhinuwa, Lekali, Basmati, Mallaji (Red and Black), Anadi, Jarneli,

⁹⁶⁹ *Id.*

⁹⁷⁰ BAL KRISHNA JOSHI ET AL., GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020).

⁹⁷¹ Department of Industry, Trade & Commerce, *Nepal Integration Strategies (2023)*, https://api.giwns.gov.np/storage/6/posts/1706525149_47.pdf (last visited May 17, 2024).

Jhinuwa,, Gudura, Mansara, Ate, Belguti, Chirakhe, Ghaiya, Chattar, Chobo, Pakhe, Jhinuwa, Debkotini, Kalo Jhinuwa, Atte marsi, Dudhe marsi, Anadi, Muktinath, Nawalpur Khario Til- 1, Basaune Ghiraula, Hattipau, Karibot, Kalo and Seto, Kadu, Naaphal, Choto.”⁹⁷² (See Appendix 7.)

Similarly, 37 location-specific crops have unique properties indicating GIs of Nepal,⁹⁷³ such as “Mungre Kera, Mallaji, Bhate Phaper, Sthaniya, Madale Kaakro, Dalle Kodo, Barshe Kodo, Syangja, Bhagara Sthaniya, Sindur, Murali, Rumjataar Suntala, Local Mayal, Kalo Uwa, Dhanusha Local, Tarkhole Seto, Dhorpatan, Local, Sthaniya, Junge Masino, Pokhareli Masino, Anadi, Ekle, Jhinuwa, Lekali, Basmati, Anadi, Jarneli, Jhinuwa, Gudura, Mansara, Atte marsi, Dudhe marsi, Anadi, Ate, Belguti, Chirakhe, Kalo and Seto, Muktinath, Khairo Til-1, Basaune Ghiraula, Hattipau, Kharibot, Kadu, Naaphal, Choto Mula.”⁹⁷⁴ (See Appendix 8.)

And “98 different potential GIs of agriculture commodities, products, ethnic-based endemic itinerary and indigenous foods of Nepal”⁹⁷⁵ are also found stated for example “achhame cattle, Bamboo and bamboo products, Bamboo shoot/Nigalo Tusa, Bhote Lasun/Garlic, Bitten rice, Black gram, Black lentil, Buddha Chitta, Chiuri, Chiraito, Chukauni, whey and native spices, Dal Bhat, a unique Nepali cousin, Different pickles for different ethnic community, Ghee, local/organic Ghee, Gundruk Dhindo, a unique organic Nepali cousin, Handmade black Nepali cap, Palpali/ Tehrathum Dhaka, Gharbuna, Hakupatasi, Him coffee, organic coffee, Hog plum/Lapsi, Honey hunter-Bhir Mauri Honey, Horse gram/Gahat, Kidney beans/Simi, Large cardamom, Local alcoholic drinks, Lokta/Nepali paper, Mandarin orange, Medicinal herbs, Jethi madhu, Katus, Thulo aushadhi, Ghottapre, Sikari Laharo, Paanch Aunle, Pakhan Bhed, Sugandhawaal, Hing, Chillo Batulpate, Orchids, Himalayan olives, ferruginea, Medicinal mushroom, Mountain Chyangra, Bhoj patra, Nepali pepper /Timur, Nepali spices; coriander, ginger, pepper, Kaphal, Panhelo Aiselu, Kalo Aiselu, Amla, Bael,

⁹⁷² M.N. Paudel, *Patenting Need of Unique Geographical Indicator Commodities and Products to Enhance Livelihoods and Resources Conservation in Nepal*, 5 AGRON JN, 1, 8-20 (2021), <https://doacrop.gov.np/public/uploads/Pdffile/Agroonomy%20Journal%20of%20Nepal,%20vol%205,%202021-26756.pdf> (last visited Mar. 6, 2025).

⁹⁷³ *Id.*

⁹⁷⁴ *Id.*

⁹⁷⁵ *Id.*

Chutro, Jamun, Dahi Kamlo, Pureni/wild grape, Angeri, Nepali underutilised vegetables i.e. Niuro, Sipligan, Banko, Jaringo, Koiralo, Kabro, Dumri, Sital Chini/Drum stick, Choto/ Lekali, Newari food, unique combinations of different non-vegan foods etc.”⁹⁷⁶ (See Appendix 9.)

Further, in research on Mandarin of Dhankuta, for the case study for GI, it is suggested by the researcher that GI laws should protect this Orange with traditional knowledge and innovation developed over the period.⁹⁷⁷

Hence, the above list, provided in Appendix 1 to Appendix 10, includes Appendix 1: List of potential GI products of Nepal, Appendix 2: List of Export Potential Goods and Services, Appendix 3: Products of Nepal at the International Markets, Appendix 4: “List of Potential GI-capable goods of Nepal (Popular Geo Linked Agri- Product),” Appendix 5: “List of Potential GI-capable goods of Nepal (Geo-linked Popular Crop and its Important Traits),” Appendix 6: “Goods and Services Identified by Nepal Trade Integration Strategy, 2023,” Appendix 7: “List of Potential GI-capable goods of Nepal (Location Specific Unique Crop Landraces),” Appendix 8: “Location Specific Crops Having Unique Properties Indicating GIs of Nepal,”⁹⁷⁸ Appendix 9: “Some of the potential GIs of agriculture commodities, products, Indigenous foods, and ethnic-based endemic itinerary of Nepal,”⁹⁷⁹ Appendix 10: List of Potential GIs products of Nepal. The name of the GI-capable goods in the territory of the Key Informant is also there, which has added two goods apart from the above, which are Mulpaniko Green Leaves, Mithila Arts and Painting.

⁹⁷⁶ M.N. Paudel, *Patenting Need of Unique Geographical Indicator Commodities and Products to Enhance Livelihoods and Resources Conservation in Nepal*, 5 AGRON JN, 1, 8-20 (2021), <https://doacrop.gov.np/public/uploads/Pdffile/Agronomy%20Journal%20of%20Nepal,%20vol%205,%202021-26756.pdf> (last visited Mar. 6, 2025).

⁹⁷⁷ Santosh Sharma et al., Case Study of Geographical Indication of Mandarin Orange in Dailekh District, MANDARIN ORANGE: HISTORY, SCIENCE AND TECHNOLOGY IN NEPAL: A HISTORICAL SOCIO-CULTURAL AND TECHNICAL COMPENDIUM 139, 159 (Shanta Karki ed., 2024).

⁹⁷⁸ M.N. Paudel, *Patenting Need of Unique Geographical Indicator Commodities and Products to Enhance Livelihoods and Resources Conservation in Nepal*, 5 AGRON JN, 1, 8-20 (2021), <https://doacrop.gov.np/public/uploads/Pdffile/Agronomy%20Journal%20of%20Nepal,%20vol%205,%202021-26756.pdf> (last visited Mar. 6, 2025).

⁹⁷⁹ *Id.*

5.3.3 Analysis

It can be inferred that there are 157 GI-capable goods in Nepal, which states that Nepal has an abundance of GI-capable goods to protect it under the GI laws. They are: Amaala, Amkhora, Ampko Achaar, Anadi, Arna Buffalo, Ate, Belguti, Chirakhe, AtteMarsi, DudheMarsi, Taichen Baji, Basaune Ghiraula, Basmati Rice, Bhadgaunle TakuwaTopi, Bhaktapure Juju dhau, BhatePhaper, BhirmauriKoMaha, BhoteChiya, BhoteLasun/Garlic, BhyaaguteNeuro, Bhyaglung Sheep, Bitten Rice, Bjhang/Simikotko Simi, Buddha Chitta, Cheese/Chhurpi prepared from yak milk, Chhampa, Chilly/ JyanmaraKhursani, Chiraito, Choto Mula, Chuk Amilo, Chukauni, a food made up potato, whey and native spices, Alainchi, Cold water fish, DaanhteNeuro, Dal Bhat, a unique Nepali cousin, Dalechuk, Dalle, Kodo, BarsheKodo, DamberkumariKhasto/Pachhaura, Dharan ko Kaalo Sungur, Dhunibansi/TokhakoUkhu, Dhunibensi ko Ambaa, Ekle, Jhinuwa, Lekali, Basmati, Fibre from Allo, Fibre from Hemp, Fibre from Odal, Gagro, Ghaiya, Chattar, Chobo, Pakhe, Jhinuwa, Debkotini, KaloJhinuwa, Ghalcha, GhiuKera, Gudura, Gundruk, Haakupatasi, Halhale, Hattipau, Highland Coffee, Himalayan Honey, Himalayan musk deer, Himali Jira, HumlaChyapu, Ilame chiyaa, Ilam ko Alainchi, Illam ko Cheese, Jarneli, Jhinuwa, Jire Neuro, Jumli Bean, Jumli/Helambu/MarphakoSyau, Jumli Ghoda, Jumli Marshi, Junde Masino, Kaalo Neuro, Kadu, Kalo and Seto Till, Kalo Mass, Karuwa, mkhora, Ghalcha, Gagro, Khario Till, Khichaa Bhyaatah, Khokhanako Toriko Tel, Khoku ko Suntala, Khukhuri, Khulu-Simali, Khupu, Kidney beans/Simi, Koche Neuro, Koshiko Jalkapoor, Kulekhaani ko Asla Maachhaa, Lapsi, Local Mayal, Lukla ko Simi, Maakacha, Madale Kaakro, Malbhog Keraa, Mallaji, Manaa of Newar, Rumjhatarko Suntala, Manihari koTaamaa, Mansara, Marcha, Masyoraa, Medicinal mushroom (Ganoderma, Merchella, Sitake and many more), Moodeko Aalo, Moolako Chaanaa, Mountain goat/Chyangra, Mountain Sauf, Mulpaniko Saag, Mungre Kera, Murali Makai, Naaphal, Nalu Lakan, Nepali Aaloo ko Achaar, Nepali Cloth/Velvet Lounge Slipper, Nepali LasunkoAchaar, Nepali Makai Bodi, Nepali Moolako Achaar, Nepali Sutho, NigaloTusa, Nigar, Organic Highland Coffee, Orthodox Tea, Palaanchoke Jutta, Palpali Dhaka, Paschim Nepal ko Chiuri Gheu, Pasmina Khasto/Pachhaura, Pharpinge/ChhaimalNaaspaati, Pigeon Pea, Pigmy Hog, Pokharali Battain, Pokhareli Masino, Pop corn, Pyuthaane Moola, Rukh Neuro, Saano Keraau ko Achaar, Sahar Machha (Tor putitora), Sallyani/PyuthaneTimoor,

Sattu, Sea Buck thorn/ DaaleChuk, SelRoti-Achaar, Sindhuli ko Junaar, Sindur, Sisno, Soybean, Spinach/ Palungo and cress/Methi, leaves/Fenugreek, Sthaniya, Tarkhole, Terhathume Dhaka, Thotne, Tikin Baji, Tिताura, Tokhako Chaaku, Toosaa, Trishuli ko Asala Maachhaa, Trisuli/Gorkha/PalpakoPindaloo, Turmeric Powder, TutrunTarul, Uwa, Wolaa Waa, Yak and Yak Cheese, Yam, Yarsha Gumba, Zuzube/Bel. (See Appendix 10.)

The informants suggested that there should be a listing of the KII-capable goods in Nepal, and the goods should be identified from geographical, not political boundaries. For that, there should be collaboration between the three tiers of government.

5.4. Identification of Categories of Geographical Indications Capable Goods

The categories of the goods that should be included in this part, where the suggestions given by the key informants are considered, as well as what exists in the SAARC countries, are discussed below in the doctrinal part:

5.4.1 Identification of Categories of Geographical Indications Capable Goods from KII

To the 45 key informants, the identification of categories of goods capable of GIs is conducted through interviews. The following are the responses.

Responses to Question Number 2.1.1: Inclusion of Categories in Geographical Indication (GIs) of GIs- capable Goods

Question Description: Informants were asked, “Which of the following categories should be there to protect GIs-capable goods in Nepal?” with the following options:

- a. Agricultural goods
- b. Handicrafts
- c. Natural goods
- d. Manufactured goods
- e. Industrial goods

- f. Services
- g. Others

The question aimed to identify respondents' preferences for including specific categories in the geographical indication's goods.

Summary of Responses

All 45 respondents of key informant interview (100%) agreed that agricultural goods, natural goods, handicrafts, manufactured goods, and industrial goods should be included in the geographical indication capable goods categories. Further, 29 respondents (64%) did not agree that services should be included. Codes 05, 09 and 13 stated that anything could be included but should come from the geography. Frequency 13 (02, 03, 10, 15, 18, 19, 25, 28, 29, 37, 41, 43, 44) agreed to keep service in the categories of GIs. At the same time, frequency 28 (01, 04, 06, 07, 11, 12, 14, 16, 17, 20, 21, 22, 23, 24, 26, 27, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 42, 45) did not agree to keep service in the categories of GIs.

Tabular Representation

The responses of the key informants regarding the inclusion of the categories of geographical indications capable goods are given below in a table form:

Table 24: Inclusion of Categories in GIs Capable Goods.

Code	Inclusion of Categories in GIs Capable Goods						
	Agricultural Good	Natural Goods	Handicrafts	Foodstuffs	Manufa ctured	Services	Others
01	√	√	√	√	√	×	
02	√	√	√	√	√	√	
03	√	√	√	√	√	√	
04	√	√	√	√	√	×	
05	√	√	√	√	√	-	
06	√	√	√	√	√	×	
07	√	√	√	√	√	×	
08	√	√	√	√	√	×	
09	√	√	√	√	√	-	
10	√	√	√	√	√	√	
11	√	√	√	√	√	×	

Code	Inclusion of Categories in GIs Capable Goods						
12	√	√	√	√	√	×	
13	√	√	√	√	√	-	
14	√	√	√	√	√	×	
15	√	√	√	√	√	√	
16	√	√	√	√	√	×	
17	√	√	√	√	√	×	
18	√	√	√	√	√	√	
19	√	√	√	√	√	√	
20	√	√	√	√	√	×	
21	√	√	√	√	√	×	
22	√	√	√	√	√	×	
23	√	√	√	√	√	×	
24	√	√	√	√	√	×	
25	√	√	√	√	√	√	
26	√	√	√	√	√	×	
27	√	√	√	√	√	×	
28	√	√	√	√	√	√	
29	√	√	√	√	√	√	
30	√	√	√	√	√	×	
31	√	√	√	√	√	×	
32	√	√	√	√	√	×	
33	√	√	√	√	√	×	
34	√	√	√	√	√	×	
35	√	√	√	√	√	×	
36	√	√	√	√	√	×	
37	√	√	√	√	√	√	
38	√	√	√	√	√	×	
39	√	√	√	√	√	×	
40	√	√	√	√	√	×	
41	√	√	√	√	√	√	
42	√	√	√	√	√	×	
43	√	√	√	√	√	√	
44	√	√	√	√	√	√	
45	√	√	√	√	√	×	
Agree Freque ncy (√)	45	45	45	45	45	13	

Code	Inclusion of Categories in GIs Capable Goods						
Disagree (×)	0	0	0	0	0	29	
Total	45	45	45	45	45	13 (√) 29 (×) Reservation 3(-)=45	

Tabular Representation

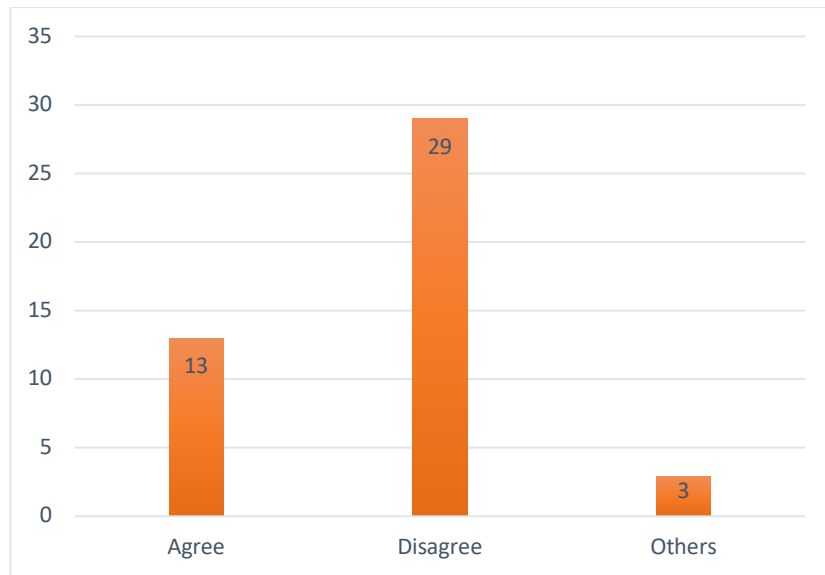
The above table is segregated into the categories of the services. The responses of the key informants regarding the inclusion of services in the categories of geographical indications capable goods are given below in the table form:

Table 25: Services as the Categories in GIs Capable Goods.

Category	Agree (Yes)	Disagree (No)	Others
Codes	02, 03, 10,15, 18, 19, 25, 28, 29, 37, 41, 43, 44	01, 04, 06, 07, 08, 11, 12, 14, 16, 17, 20, 21, 22, 23, 24, 26, 27, 30, 31, 32, 33, 34,35, 36, 38, 39, 40, 42, 45	05,09,13
Total	13	29	3
Percentage	29%	64%	7%

Bar Chart Representation

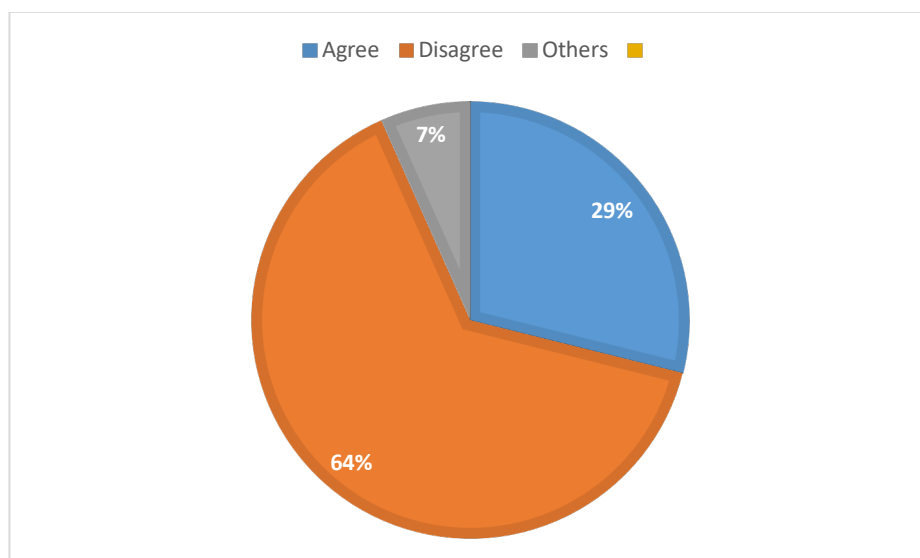
The 13 respondents stated that services should be included in the GIs category. At the same time, 29 respondents did not agree to include services in the GIs category. Three respondents had another opinion on including services in the GIs category. The visualisation of respondents' views on the including services in the categories of GIs capable goods is given in the bar graph below:



Bar Chart 2: Services as the Categories in GIs Capable Goods

Pie Chart Representation

29% of respondents stated that services should be included in the GIs category. At the same time, 64% of respondents did not agree to include services in the GIs category. 7% of respondents had another opinion on including services in the GIs category. The visualisation of respondents' views on the inclusion of services in the categories GIs capable goods is given in the pie chart below:



Pie Chart 2: Services as the Categories in GIs Capable Goods.

5.4.2 Identification of Categories of Geographical Indications Capable Goods from Doctrinal Studies

After studying the SAARC countries (Bangladesh, India, Pakistan, and Afghanistan) practices with *sui generis* GI laws, the services are not regarded as GIs in their jurisdiction too.

5.4.3 Analysis

Many of the key informants (64%) did not agree to classify services as a category of GI-capable goods; similarly, 29% agreed to classify services as a category of GI-capable goods, whereas 7% had a differing view regarding whether to include services under the categories of GI-capable goods. The informant stated that there could be an "other category." In that other category, we could include services if required. Key informants also state that the service is versatile. In Nepal, we can engage others and incorporate service whenever needed, which could be acceptable. The two key informants, "code 3 and 13 said that anything originating from the land, people, and biodiversity (in Nepali, they referred to it as 3 *Jha*, that is, *Jal*, *Jamin*, *Jalbayu*) is GIs. Many local products, both native and naturalised, contribute to Nepal's domestic economy.⁹⁸⁰ As a result, the agriculture sector contributed 26.2% of GDP in the fiscal year 2076/77.⁹⁸¹

5.5. Situation of Geographical Indications Capable Goods in Nepal

5.5.1 Situation of Geographical Indications Capable Goods in Nepal from the KII

The situation regarding the GIs capable goods in Nepal, based on the KII conducted with 45 informants, is presented below in summary form, with tabular, bar chart, and pie chart representations.

Responses to Question Number 2.2.3: Situation of GIs Capable Goods in Nepal

⁹⁸⁰ Samar B. Malla & Puspa R. Shakya, *The TRIPS Agreement: Potential Products for Geographical Indications*, 9(1) DOCREP (2004), <http://www.fao.org/docrep/pdf/008/ae896e/ae896e09.pdf> (last visited Mar. 7, 2025).

⁹⁸¹ Nepal Government, *Economic Survey* (2019/20), <https://mof.gov.np/content/302/my-slug5/> (last visited Mar. 6, 2025).

Question Description

Key informants were asked, “What is the condition of those GIs capable goods in Nepal??” with the following options:

- a. Good Condition
- b. About to Extinct
- c. Extinct
- d. All
- e. Other

The question aimed to identify key informants view on the condition of the geographical indications capable goods in Nepal

Summary of Responses

The responses from the 45 respondents are summarised as follows: The codes 12 and 15 (2 respondents), indicated that the condition of GIs capable goods in Nepal is in 'Good conditions.' Similarly, State of Extinction: Codes 02, 04, 05, 21, 23, 26, 31, 32, 33, 34, 35, 39, 42, 44 and 45 (13 respondents) believed that GI-capable goods in Nepal are in a "state of extinction". Likewise, codes 05, 11 and 30 (3 respondents) stated that GI-capable goods are already "extinct". Also, codes 07, 08, 09, 13,17,19, 20 (7 respondents) believe that they are in all conditions (good conditions, about to extinct and extinct), and codes 01,03,06,10,14,16,18,22,24, 25, 27, 28, 29, 37, 38, 40 (17 respondents) believe that goods are in other conditions and further elaborated that there are significant infringement issues affecting Nepal.

The responses in both categories of ‘about to extinct’ and ‘extinct’ are converted into one category about to extinct and extinct (both) to convert the data into calculations.

In response to the question regarding the condition of the GIs capable goods in Nepal, two respondents (codes 12 and 15) stated that the goods are in good condition. Thirteen respondents (codes 02, 04, 21, 23, 31, 32, 33, 34, 35, 39, 42, 44, and 45) indicated that the GI’s capable goods are ‘about to go extinct’. A respondent with code 30 asserted that the goods were in a state of extinction. Similarly, seven respondents (codes 07, 08,

09, 13, 17, 19, and 20) reported that the goods are in other conditions, while three respondents stated that the goods are in both situations: about to go extinct and already extinct.

Most of the key informants stated that the first thing is that there should be identification of the status of the GIs capable goods from the government side. Code 11 said that, ‘firstly there should be the categorization of goods by the government and the treatment of the goods as per the condition like protection, promotion and sustainability of the goods.

Tabular Representation

The data is organised in the table below for clarity:

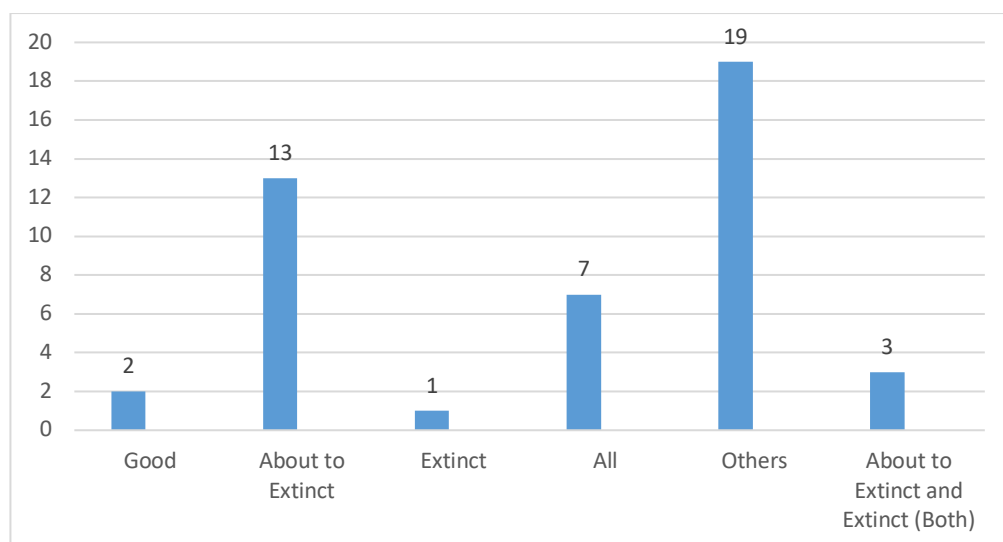
Table 26: Situations of GIs Capable Goods in Nepal.

Code	Conditions of GIs Capable Goods					
	Good	About to Extinct	Extinct	All	Others	About to Extinct and Extinct (Both)
01					√	
02		√			√	
03					√	
04		√				
05						√
06					√	
07				√		
08				√		
09				√		
10					√	
11						√
12	√					
13				√		
14					√	
15	√					
16					√	
17				√		
18					√	
19				√		
20				√		
21		√				
22					√	
23		√				
24					√	
25					√	
26						√

Code	Conditions of GIs Capable Goods					
	Good	About to Extinct	Extinct	All	Others	About to Extinct and Extinct (Both)
27					√	
28					√	
29					√	
30			√			
31		√				
32		√				
33		√				
34		√				
35		√				
36.					√	
37.					√	
38.					√	
39.		√				
40					√	
41.					√	
42.		√				
43					√	
44.		√				
45		√				
Codes	12,15	02,04, 21,23,31,32 33,34,35,39, 42,44,45	30	07,08,0 9,13,17, 19,20	01,03,06,10 ,14,16,18,2 2,24, 25,27,28,29 ,36,37,38,4 0,41, 43	05,11,26
Total Freque ncey	2	13	1	7	19	3
Percent age	4%	29%	2%	16%	42%	7%

Bar Chart Representation

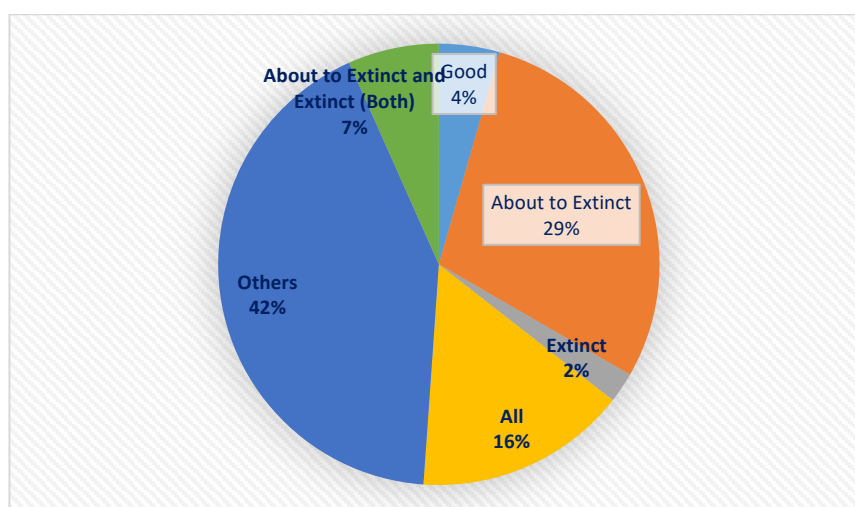
In response to the question regarding the condition of the GI-capable goods in Nepal, three informants stated that the goods are in good condition. Thirteen informants indicated that the GI's capable goods are 'about to go extinct'. An informant asserted that the goods were in a state of extinction. Similarly, seven informants reported that the goods are in all categories (good, about to extinct and extinct), and 19 informants stated that the goods are in the other conditions. Three informants stated that the goods are in both situations: about to go extinct and already extinct. The data is shown in the following bar graph below:



Bar Chart 3: Situations of GIs Capable Goods in Nepal.

Pie Chart Representation

In response to the question regarding the condition of the GI-capable goods in Nepal, 4% of respondents stated that the goods are in good condition. 29% of respondents indicated that the GI's capable goods are 'about to go extinct'. 2% of respondents asserted that the goods were in a state of extinction. Similarly, 16% of respondents reported that the goods are in all conditions (good, about to extinct and extinct). In comparison, 42% of respondents stated that the goods are in other situations, such as infringement or no record. 7% of the respondents said that the GI's capable goods are in both situations: about to go extinct and already extinct. The data is shown in the following pie chart below:



Pie Chart 3: Situations of GIs Capable Goods in Nepal.

5.5.2 Analysis

In response to the question regarding GI-capable goods in Nepal, three respondents stated that the goods are in good condition. Thirteen respondents indicated that the GI-capable goods are ‘about to go extinct’. One respondent asserted that the goods were on the brink of extinction. Similarly, seven respondents reported that the goods are in various conditions, while three respondents noted that the goods fall into both categories: about to go extinct and already extinct. The respondents' main concern was their lack of knowledge about the GI-capable goods in Nepal, and they suggested the need for a list of GI-capable goods, along with updates regarding their status, to be provided by the central government. The local level could then prioritise such items within that territory. The researcher also opines that the status of the goods should be identified.

5.6. Protection of Geographical Indications Capable Goods

5.6.1 Protection of Geographical Indications Capable Goods from KII

The 45 key informants have responded by protecting GI-capable goods in Nepal. The reactions are presented in the summary, tabular representation, bar graphs, and pie charts.

Responses to Question Number 2.2.4: Protection of GIs Capable Goods

Question Description

Key informants were asked, “What can be done for the protection of geographical indication?” with the following options:

- a. By Drafting Laws
- b. Self-Protected
- c. Don’t Know
- d. Others

The question aimed to identify respondents’ preferences for protecting GI-tagged goods in Nepal.

Summary of the Response

All 45 respondents (100%) agreed that GIs capable goods can best be protected "by drafting law." No respondents opted for other options such as "self-protected", "don't know," or "others." All the respondents unanimously stated that there is a necessity for the GI's laws; however, they elaborated that the enforcement and awareness of GI's laws are required.

Tabular Representation

The table representation shows that 45 respondents (100%) agreed that GIs capable goods can best be protected "by drafting law." No respondents who opted for GIs would be "self-protected", "don't know," or "others"; this data has been clearly stated in the table form.

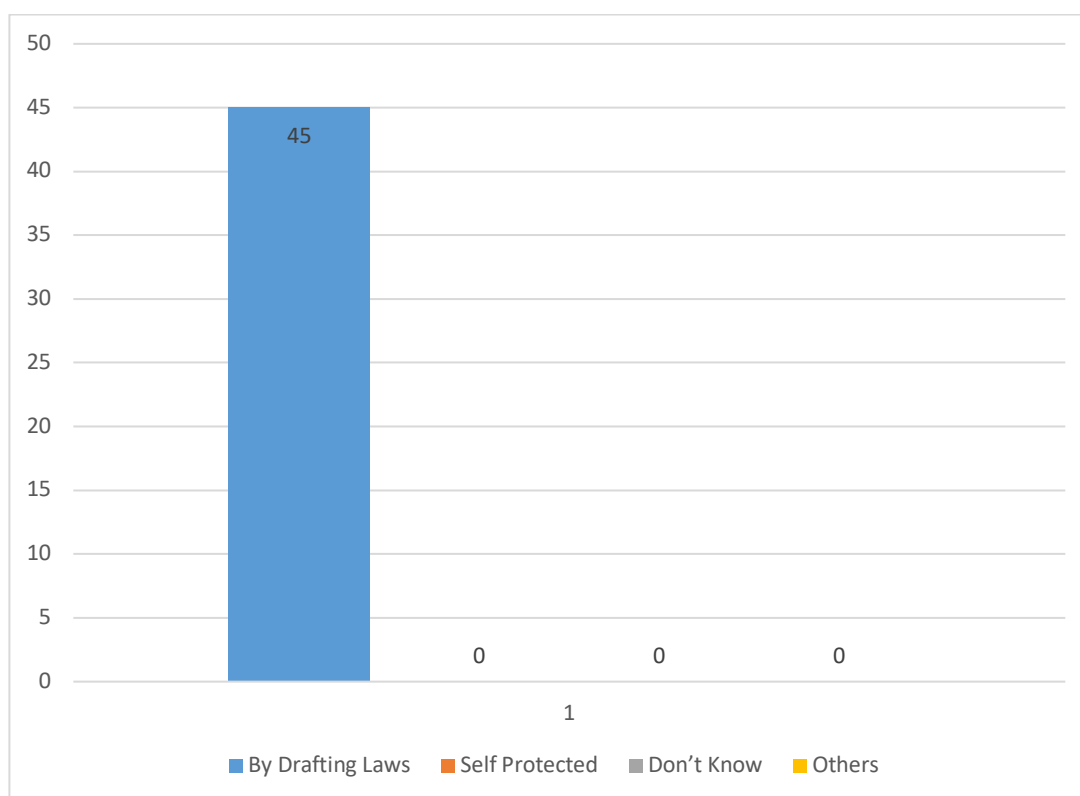
Table 27: Protection of GIs Capable Goods

Code	By Drafting Laws	Self-Protected	Don't Know	Others
01	√			
02	√			
03	√			
04	√			
05	√			
06	√			
07	√			
08	√			
09	√			
10	√			
11	√			
12	√			
13	√			
14	√			
15	√			
16	√			
17	√			
18	√			
19	√			

Code	By Drafting Laws	Self-Protected	Don't Know	Others
20	√			
21	√			
22	√			
23	√			
24	√			
25	√			
26	√			
27	√			
28	√			
29	√			
30	√			
31	√			
32	√			
33	√			
34	√			
35	√			
36	√			
37	√			
38	√			
39	√			
40	√			
41	√			
42	√			
43	√			
44	√			
45	√			
Agree Frequency (√)	45			
Disagree (×)	0			
Total	45	0	0	0
Percentage	100%	0	0	0

Bar Chart Representation

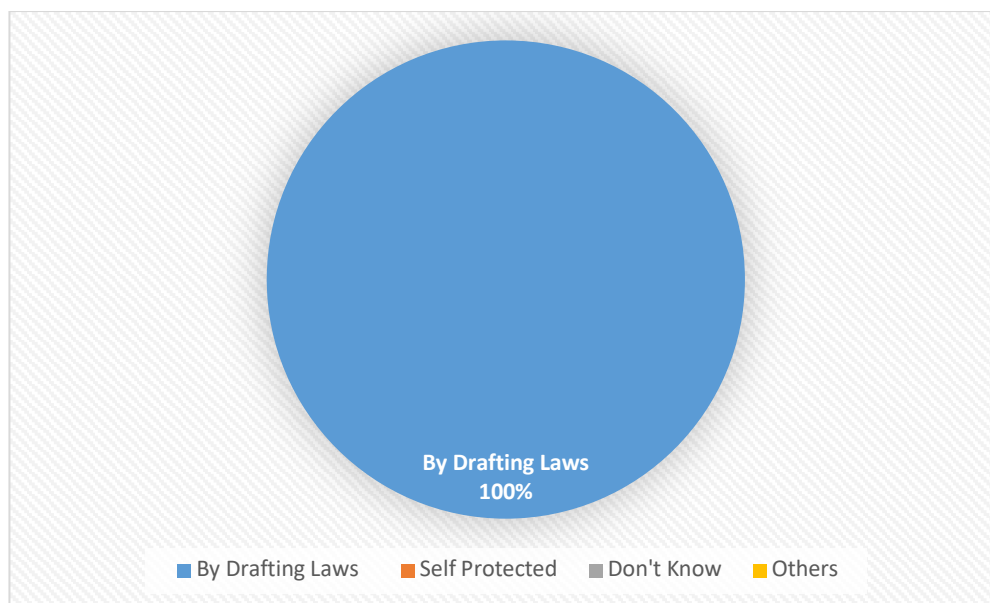
The bar chart below shows that 45 key informantss agreed that GIs goods can best be protected "by drafting the law." No informants opted for GIs would be "self-protected," "don't know," or "others." This data is clearly stated in the bar chart below.



Bar Chart 4: Protection of GIs Capable Goods

Pie Chart Representation

The pie chart below demonstrates that 100% of key informnats agreed that GIs goods should be protected "by drafting the law." None of the informantss who opted for GIs would be "self-protected," "don't know," or "others." This data is clearly stated in the pie chart below:



Pie Chart 4: Protection of GIs Capable Goods

5.6.2 Analysis

The informants were asked to choose their preferred option for the protection of GI-tagged goods in Nepal. The options include a. drafting laws, b. self-protection, c. don't know, and d. others. All 45 informants unanimously choose that the best method to protect GI-tagged goods is 'by drafting law.' The researcher also opines that there should be a law to protect the GIs capable goods of Nepal and that the law should be drafted.

5.7. Preferred Ways of Protection of Geographical Indications Capable Goods

5.7.1 Preferred Ways of Protection of Geographical Indications Capable Goods from KII

The 45 key informants have responded to the preferred methods of protecting GI-capable goods in Nepal. The responses are presented in a summary of responses, tabular representation, bar chart, and pie chart.

Responses to Question Number 2.2.5: Preferred Ways of Protection of GIs Capable Goods

Question Description

Key informants were asked, "What are the preferred ways of protecting geographical indication capable goods in Nepal?" with the following options:

- a. *Sui Generis* GIs Law
- b. Collective Marks Laws
- c. Certification Marks Laws
- d. Laws Focusing on Business
- e. Others

Summary of Responses:

Codes 01, 02, 03, 04, 05, 06, 07, 08, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44 and 45 in total 43 informants stated about the necessity of *sui generis* GIs laws protection of the GIs capable goods in Nepal. Similarly, code 8 (one of the key informants) said that collective mark laws are required to protect the goods of Nepal. Code 27 (one of the key informants) noted that certification mark protection is necessary to protect the good of Nepal.

Tabular Representation

The responses given by the 45 key informants regarding their preferred ways of protecting GIs in Nepal. 3 informants preferred the *sui generis* GIs laws. In contrast, one selected the collective marks protection, one chose the certification marks, and none were selected for laws focusing on business and others. The data is represented in the table below are given:

Table 28: Preferred Ways of Protection of GIs.

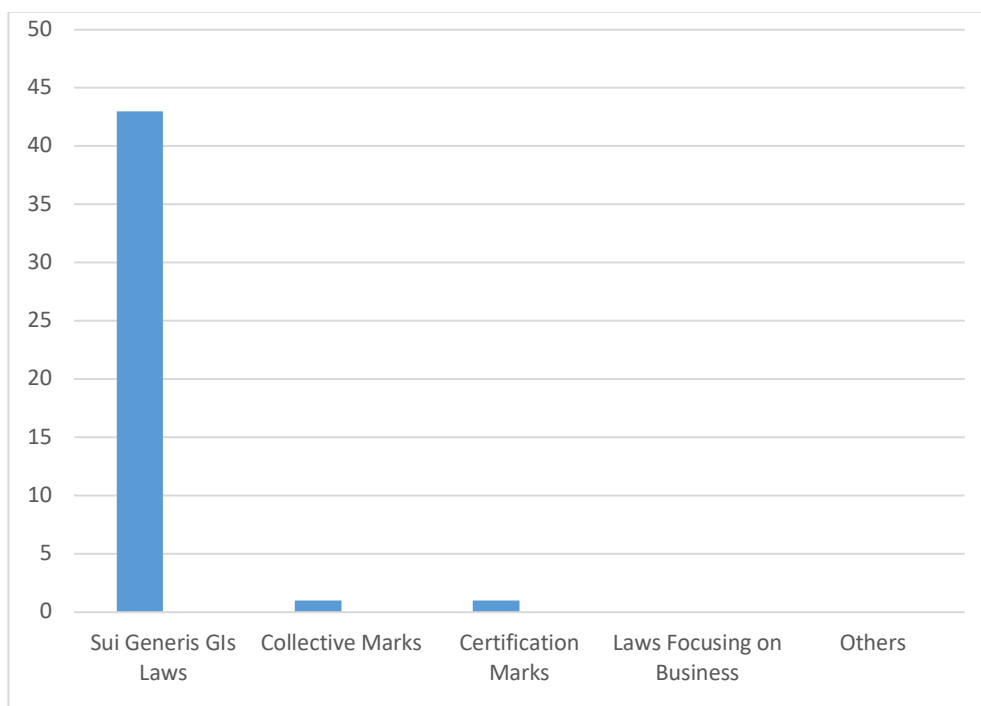
Code	<i>Sui generis</i> GIs Laws	Collective Marks	Certification Marks	Laws Focusing on Business	Others
01	√				
02	√				
03	√				
04	√				
05	√				

Code	<i>Sui generis</i> GLs Laws	Collective Marks	Certification Marks	Laws Focusing on Business	Others
06	√				
07	√				
08	√				
09		√			
10	√				
11	√				
12	√				
13	√				
14	√				
15	√				
16	√				
17	√				
18	√				
19	√				
20	√				
21	√				
22	√				
23	√				
24	√				
25	√				
26	√				
27			√		
28	√				
29	√				
30	√				
31	√				
32	√				
33	√				
34	√				
35	√				
36	√				
37	√				
38	√				
39	√				
40	√				
41	√				
42	√				
43	√				
44	√				
45	√				

Code	<i>Sui generis</i> GIs Laws	Collective Marks	Certification Marks	Laws Focusing on Business	Others
Frequency(√)	43	1	1		
Total codes	01,02,03,04,05,06,07,08,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,28,29,30,31,32,33,34,35,37,38,39,40,41,42,43,44,45	09	27		

Bar Chart Representation

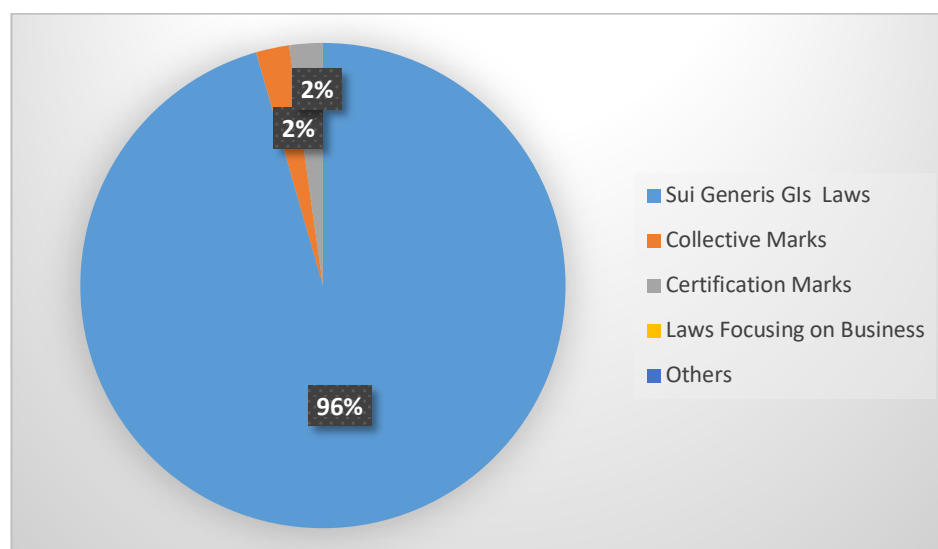
A total of 43 key informants stated that the *sui generis* GIs laws protect the GI's capable goods in Nepal. Similarly, an informant) said that collective mark laws are required to preserve Nepal's goods, and an informant noted that certification mark protection is necessary to protect Nepal's goods. The data has been given in the bar chart below:



Bar Chart 5: Preferred Ways of Protection of GIs.

Pie Chart Representation

96% of key informantss stated that sui generis GI laws protect GI-capable goods in Nepal. Similarly, 2% of informants said collective mark laws are required to protect Nepal's goods. 2% of informantss noted that certification mark protection is necessary to protect Nepal's goods. No laws on business and other protection of GI-capable goods in Nepal have been stated.



Pie Chart 5: Preferred Ways of Protection of GIs.

5.7.2 Analysis

Key informants were asked to choose their preferred method of protection of GIs from the following options: *sui generis* GIs law, collective marks laws, certification marks Laws, laws focusing on business, and others. Forty-three informantss stated that *sui generis* GI laws protect GI-tagged goods in Nepal. All the informants agreed that laws should be drafted to protect Nepal's goods. Similarly, 96% of informnats stated that *sui generis* GI laws are necessary to protect GI-protected goods.

This thesis believes Nepal should protect the goods through the *sui generis* GI, not the other laws, because protecting the goods should benefit the entire community, not specific people, associations, or groups. The Constitution of Nepal has stated that Nepal

“is committed to socialism based democratic norms and values,”⁹⁸² and states it is a socialism-oriented state.⁹⁸³ So, why should we focus on other ways of protecting GIs rather than the GI? Nepal should adopt its own GI laws, not the collective mark laws.⁹⁸⁴ Nepal should have its own jurisprudence.⁹⁸⁵

Sui generis GI is a separate, independent intellectual property that has a geographical origin for the goods. The most essential features of the GI are that the entire community owns it, and the term of protection is unlimited. GI is above human creativity and collective rights, which also challenges the concept of property in Nepal, as the property right is private. The ownership of GI cannot be transferred. Nepal was never colonised. But there is a neo-colonial mindset among the people of Nepal and so many other countries, too. The neo-colonial mindset is that the laws of Western countries are best, citing Western court precedent is good because Westerner knows. In this context, Nepal needs *sui generis* GI laws to protect its GI-capable goods.

⁹⁸² CONST. OF NEPAL. Preamble.

⁹⁸³ *Id.* at art. 4.

⁹⁸⁴ Laxmi Sapkota, *Necessity of Sui generis Geographical Indication Laws in Nepal*, NJA JOURNAL (2022).

⁹⁸⁵ YUBARAJ SANGROULA, DECOLONISATION OF CONSTITUTIONALISM 443 (Lex and Juris Publication Pvt. Ltd. 2023).

CHAPTER VI

6. PROSPECTS AND PROBLEMS OF IMPLEMENTING THE GEOGRAPHICAL INDICATIONS LAW OF GOODS IN NEPAL

The expert in Intellectual Property, Pratyush Nath Upreti, suggested that “Nepal should assess the opportunities and risks of GIs, and the government ought to prepare a comprehensive white paper on both the prospects of GIs and the economic feasibility of maintaining a GI system.”⁹⁸⁶

6.1. Introduction

This chapter explores the perspectives on the prospects and problems of geographical indications as expressed by 45 key informants and existing writing on the subjects. It has scattered laws and is ineffective in protecting and promoting the goods relating to GIs. This chapter focuses on the prospects and problems of implementing sui generis GIs laws and the promotion and sustainability of GIs laws in Nepal.

A country must establish national GI laws to pursue regional GI laws effectively. These laws create a framework for enforcing and benefiting from regional GI protection. Nepal requires its own GI laws and *sui generis* GI laws.

6.2. Prospects of Implementing Geographical Indications Laws in Nepal

The analysis focuses on 11 critical points encapsulating the prospects of implementing GIs law in Nepal. The 45 key informants have shared their views on these prospects. Their opinions regarding GIs have been quantified, and the following table presents the

⁹⁸⁶ Pratyush Nath Upreti, *Geographical Indications in Nepal: In Search of Identity*, RESEARCH GATE (2019), 235-266, https://www.researchgate.net/publication/333780742_Geographical_indications_in_Nepal_in_search_of_identity (last visited Mar. 7, 2025).

statements made by the key informants. The responses to question number 2.2.8, concerning the prospects of implementing GIs law in Nepal, are provided below:

6.2.1 Question Description

Informants were asked, “What are the prospects of implementing a geographical indications law in Nepal?”

6.2.2 Summary of the Responses

Informants provided diverse responses, reflecting their perspectives and experiences. A summary of the reactions to the prospects of implementing the geographical indications law in Nepal is given in qualitative form. However, they have been quantified, and the respondents have provided answers covering one, two or more themes of the prospects of implementing geographical indications. Their opinions cover the themes including two respondents (code 07, 17) opted for the fulfilment of international commitment under international obligations, 11 respondents (code 03, 10, 11, 16, 19, 22,29, 30, 31,33, 35) stating the identification of goods, 14 respondents (code 01,03, 04, 10, 17, 18, 19, 20,22,23, 31, 32, 38, 39) opined the prospects of the legal protection of the goods, eight respondents (code 15,16, 27,28, 36, 38, 43, 44) noted the prospects of implementing GIs laws for the protection of consumers, 20 respondents (code 01, 02, 06, 11, 13, 15, 16, 17, 23, 24,26, 27,31,33, 36, 37, 41, 42, 43, 44) mentioned that GIs laws implementation gives the protection of farmers and producers, 20 respondents (code 01, 02, 03,04, 05, 07, 12, 13, 14, 17, 20,21, 24, 25, 26, 36, 38, 43, 44, 45) stated the implementation of GIs gives the economic prosperity, three respondents (code 04, 38, 40) said about the rural development, 10 respondents (code 05,06,11,13, 17, 21, 28, 31, 37, 41) mentioned that GIs laws give protection of culture, three respondents (code 08, 41, 45) have explained about the protection of the environment, five respondents (code 06, 12,17, 37, 39) have mentioned about protection of traditional knowledge, and 19 respondents (code 01, 02,11, 14, 18, 20,21, 21, 26, 27, 29, 31,33, 34, 38, 40, 41, 43, 45) indicated about national and international recognition of the region and Nepal.

6.2.3 Tabular Representation

The responses of the prospects of implementing the GI laws in Nepal are given in the table below:

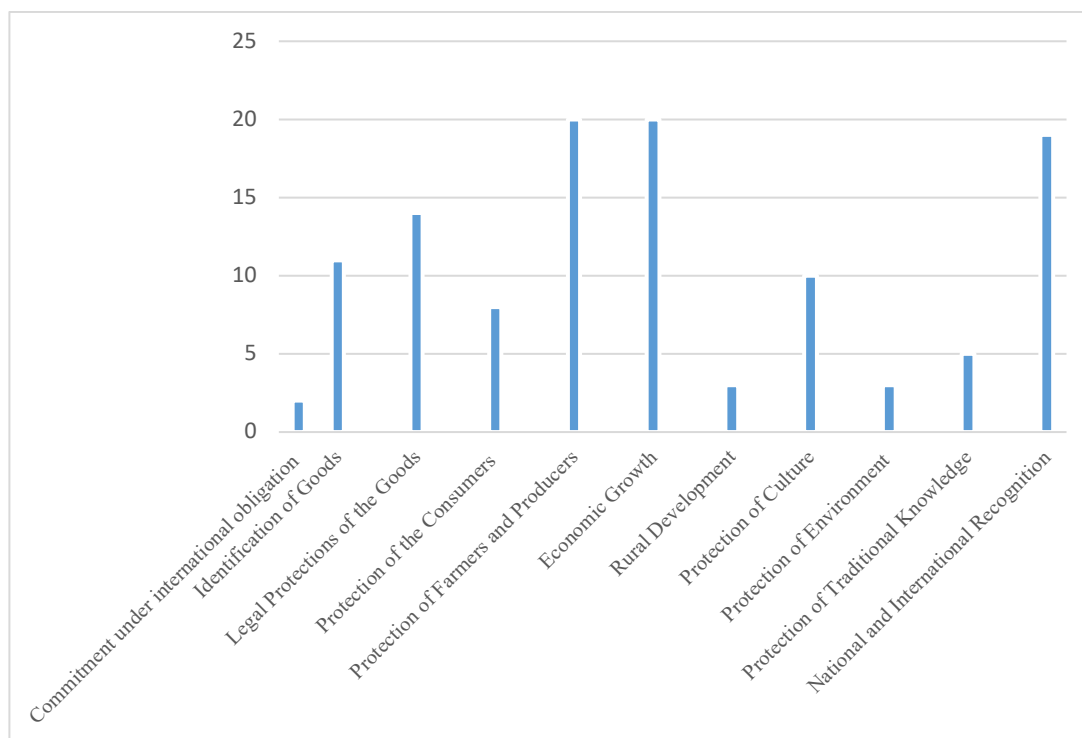
Table 29: Prospects of Implementing Geographical Indications Laws in Nepal.

Themes under Prospects of Implementing GIs Laws	Informants Mentioning It	Frequency
Fulfillments of Commitment under International Obligation	07, 17	2
Identification of Goods	03, 10, 11, 16, 19, 22,29, 30, 31,33, 35	11
Legal Protections of the Goods	01,03, 04, 10, 17, 18, 19, 20,22,23, 31, 32, 38, 39	14
Protection of the Consumers	15,16, 27,28, 36, 38, 43, 44	8
Protection of Farmers and Producers	01, 02, 06, 11, 13, 15, 16, 17, 23, 24,26, 27,31,33, 36, 37, 41, 42, 43, 44	20
Economic Growth	01, 02, 03,04, 05, 07, 12, 13, 14, 17, 20,21, 24, 25, 26, 36, 38, 43, 44, 45	20
Rural Development	04, 38, 40	3
Protection of Culture	05,06,11,13, 17, 21, 28, 31, 37, 41	10
Protection of the Environment	08, 41, 45	3
Protection of Traditional Knowledge	06, 12,17, 37, 39	5
National and International Recognition	01, 02,11, 14, 18, 20,21, 21, 26, 27, 29, 31,33, 34, 38, 40, 41, 43, 45	19

6.2.4 Bar Chart Representations

The bar graph shows the prospects of implementing geographical indications laws in Nepal encapsulated in the points including two respondents opted for the fulfilment of international commitment under international obligation, 11 respondents stated the identification of goods, 14 respondents noted the prospects of the legal protection of the goods, eight respondents mentioned the prospects of implementing GIs laws for the protection of consumers, 20 respondents stated that GIs laws implementation gives the protection of farmers and producers, 20 respondents emphasised the implementation of GIs gives the economic prosperity, three respondents focused about the rural development, 10 respondents emphasised that GIs laws protect culture, three

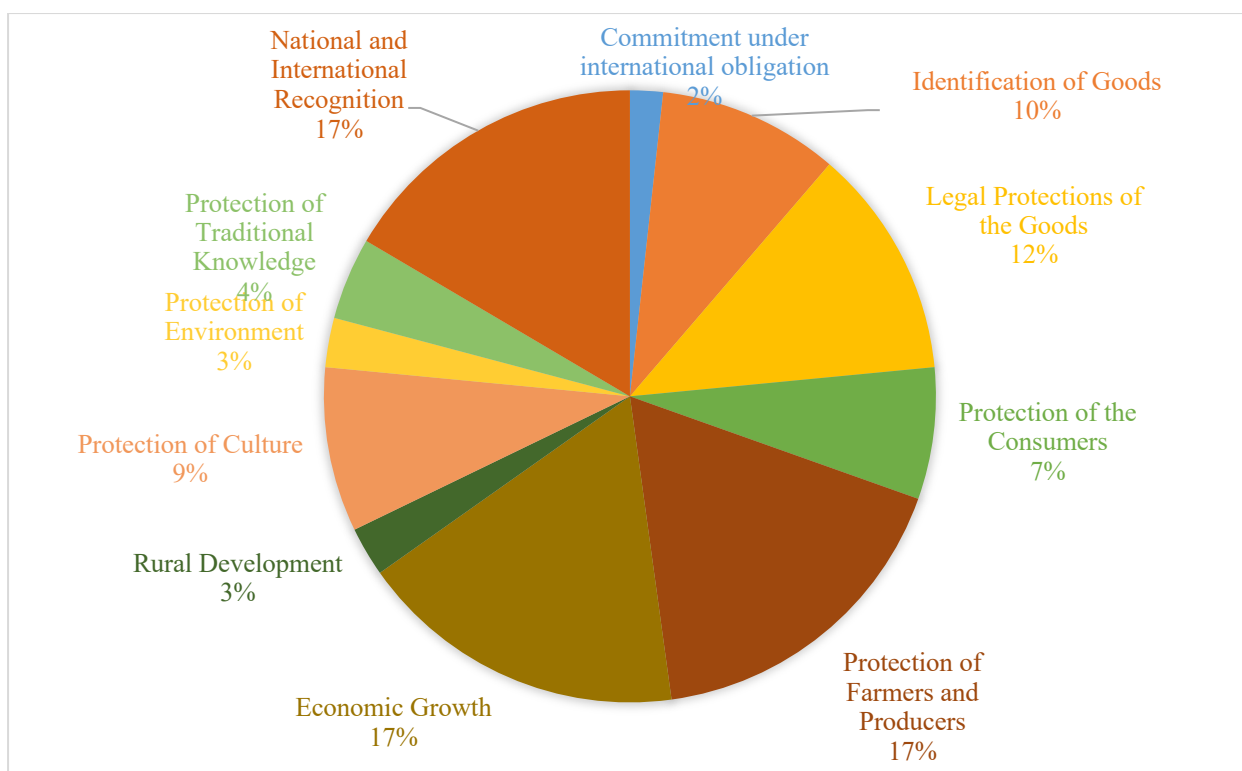
respondents have stated about the protection of the environment, five respondents have explained about protection of traditional knowledge, and 19 respondents described about national and international recognition of the region and Nepal.



Bar Chart 6: Prospects of Implementing Geographical Indications Laws in Nepal.

6.2.5 Pie Chart Representations

The pie chart shows the prospects of implementing geographical indications laws in Nepal encapsulated in the points incorporating two respondents who opted for the fulfilment of international commitment under international obligation (2%), the identification of goods (10%), legal protection of goods (12%), protection of consumers (7%), the protection of farmers and producers (17%), economic growth (17%), rural development (3%), protection of culture (9%), protection of the environment (3%), protection of traditional knowledge (4%), and 19 respondents pointed about national and international recognition of the region and Nepal (17%).



Pie Chart 6: Prospects of Implementing Geographical Indications Laws in Nepal

6.3. Analysis of Prospects of Implementing Geographical Indications Laws in Nepal

The prospects of implementing Geographical indication laws in Nepal are as follows:

6.3.1 Economic Growth

In the present study, twenty key informants out of forty-five stated that economic growth is one of the potential benefits of implementing sui generis GIs laws.

There is also the study that, the sui generis GIs law helps boost the country's economy and promote such goods globally. In 1999, a consumer survey in the EU discovered 40 % of consumers would pay premium of 10 % in case of origin-guaranteed products.⁹⁸⁷

“A UN Conference on Trade and Development Report” revealed that GI-registered agricultural products could fetch a premium of 10–15 %, whereas non-agricultural

⁹⁸⁷ World Trade Organization, World Trade Report (2004), https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report04_e.pdf (last visited Dec. 16, 2024).

products would be 5-10%.⁹⁸⁸ A GI is a tool for revenue.⁹⁸⁹ It gives employment opportunities to the people. Empirical research was carried out in the Bhaktapur of Kathmandu with the producer of the Juju Dhau; it was found that the producer and the retailer of the Juju Dhau were earning well enough.⁹⁹⁰

For the producer group willing to enter the market. GIs provide an opportunity to utilise the specifications to localise control by culturally ensuring the integrity of products throughout the supply chain and by economically accumulating the economic returns within the production region.⁹⁹¹ GI is a potent tool for promoting the economy. It can reduce vulnerability to poverty, the first Millennium Development Goal.⁹⁹² The economic rationale for GI is to correct market failure caused by asymmetric information between the seller and the buyer.⁹⁹³ It is uncertain whether product A's quality is better than product B's. In that case, consumers will be unwilling to pay higher for product A. The reason there will be no functioning market for GIs is that a GI lacks any legal remedy and is considered a public good (anyone can use this regional brand and its reputation as a free rider, even if they have no affiliation with either the corresponding region or its typical goods).⁹⁹⁴

The potential economic benefits are that the GI constitutes an immaterial asset, the product's reputation, which signals to the consumers concerning a specific quality, potentially making a higher price.⁹⁹⁵ Further, through a domino effect, GIs can also

⁹⁸⁸ Ashwini Panday, *Economic Benefits of Geographical Indications* (2019) (Ph.D. dissertation, Banaras Hindu University) (on file with Sodhganga Library), <https://shodhganga.inflibnet.ac.in/handle/10603/383943> (last visited Mar.1, 2025).

⁹⁸⁹ Philip Matthews, *Increasing Revenue in Developing Nations through Intellectual Property Rights: Why a Diversified Approach to Intellectual Property Protection with a Focus on Geographical Indications Is the Best Method*, 7 BUFFALO IP LAW J. 201 (2010), <https://digitalcommons.law.buffalo.edu/buffaloipjournal/vol7/iss2/3> (last visited Nov. 12, 2024).

⁹⁹⁰ Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur 'Juju Dhau' and Greece 'Greek Yogurt'*, 11(1) KSLR 60 (2022).

⁹⁹¹ DWIJEN RANGNEKAR, *GEOGRAPHICAL INDICATIONS AND LOCALIZATION A CASE STUDY OF FENI 60* (The University of Warwick 2009).

⁹⁹² Vandana Singh, *A Study of Law of Geographical Indications as an IPR and Tool for Economic Development*, (2011) (Ph.D. dissertation, University of Delhi) (on file with Sodhganga Library).

⁹⁹³ GIOVANNI BELLETTI ET AL., *THE EFFECTS OF PROTECTING GEOGRAPHICAL WAYS AND MEANS OF THEIR EVALUATION* 53 (2nd ed., Swiss Federal Institute of Intellectual Property 2011).

⁹⁹⁴ *Id.*

⁹⁹⁵ MICHAEL BLAKENEY ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* 105 (Routledge 2017).

have a significant positive impact on other sectors of the economy.⁹⁹⁶ GI also benefits small farmers when reputation already exist. They have benefited from prior reputation. GI could also have a positive impact on the values of the market. It could also benefit small producers needing more financing, marketing, and brand development activities.

GI can be linked with incentives like organic trade certification. Moreover, GI protection could benefit small producers at no cost. Likewise, GI prevents the delocalisation of production. All GI impacts premium price and quality. GI impacts the existing market and other in the form of penetration into new markets. Food Heritage Penja Pepper of Cameroon received the protected GI in 2013 from the African Intellectual Property Organization and other international agricultural organisations, which is now traded at \$24 per kilo.⁹⁹⁷ The system of regionalised ownership is a crucial factor in ensuring that the economic benefits of GI protection are spread along the supply chain, including to the producers who supply the raw materials.⁹⁹⁸

However, economic growth should not always motivate GIs, as there is a chance of excess use of natural resources, which affects product quality and environmental damage in the long run.⁹⁹⁹

Additionally, in the empirical research, twenty key informants focused on the country's economic growth through the implementation of Nepal's *sui generis* GI laws. The informants indicated that the GIs provide recognition and prestige for the country, support poverty alleviation, and allow the government to earn revenue.

⁹⁹⁶ EMILIE VANDECANDELAERE ET AL., STRENGTHENING SUSTAINABLE FOOD SYSTEMS THROUGH GEOGRAPHICAL INDICATIONS: AN ANALYSIS OF ECONOMIC IMPACTS (Food & Agriculture Organization of United Nation 2018).

⁹⁹⁷ Clément Charbonnier, *The Economic Impact of the Geographical Indication Penja Pepper* (2015), https://institut-agro.docressources.fr/doc_num.php?explnum_id=2649 (last visited May 22, 2024).

⁹⁹⁸ Bruce A. Babcock & Roxanne Clemens, *Geographical Indications and Property Rights: Protecting Value-Added Agricultural Products*, MIDWEST AGRIBUSINESS TRADE RESEARCH AND INFORMATION CENTRE (2004).

⁹⁹⁹ Rekha S Chavan, *Legal Protection of Geographical Indications: National and International Perspective* (2013) (Ph.D. dissertation, Karnatak University) (on file with Sodhganga Online Library).

6.3.2 Protection of Farmers and Producers

Twenty out of forty-five key informants indicated that protecting farmers and producers is one of the possible benefits of implementing sui generis GI laws.

To support this, the article by Bal Krishna Joshi and Devendra Gauchan stated the benefits of GI: it supports local producers, improves farmers' income, boosts the local economy, and promotes rural development.¹⁰⁰⁰ The two types of legal protection for farmers/producers or GI holders are preventive and repressive.¹⁰⁰¹ Preventive measures are taken before the violation of GI if anyone files an application for GI from the state protections; these measures help to protect GI from the preventive measures to stop someone from using that GI. Under repressive legal protection, the law enforcement effort that the GI holder carries if the right holder uses without it, then they may enforce the private law which provides termination of GI, compensation claims, and destruction of label used by one who is not authorised to use it. Likewise, in public law, enforcement incorporates the cancellation of the mark or may result in imprisonment.¹⁰⁰² GI increases farmers' professionalism and competitiveness, protects their rights, promotes economic equality, and improves and creates employment opportunities.¹⁰⁰³ GI discriminates between producers, categorising them as in- or out-of-place.¹⁰⁰⁴ The different ways of protecting farmers and producers are given below:

- a. **Premium Price:** One of the prospects of GIs is that consumers are willing to pay a premium price of the GI-capable goods.¹⁰⁰⁵ GI protection ensures that producers receive premium prices for their products due to their geographical origin and

¹⁰⁰⁰ BAL KRISHNA JOSHI & DEVENDRA GAUCHAN, GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020) `

¹⁰⁰¹ Almusawir et al., *Protection of the Economic Rights of Geographical Indication Holders in the Indonesian Trademark and Geographical Indication Law*, 5(3) Sch Int J Law Crime Justice, 128-141 (2022), <https://doi.org/10.36348/sijlcj.2022.v05i03.006> (last visited Mar. 5, 2025).

¹⁰⁰² *Id.*

¹⁰⁰³ Yoan Nursari Simanjuntak, *The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection*, 51 ENVIRONMENTAL POLICY AND LAW 297 (2021), https://repository.ubaya.ac.id/40737/1/Yoan%20Nursari%20Simanjuntak_The%20Review%20of%20Communal%20Rights%20on%20Geographical%20Indications.pdf (last visited Mar. 5, 2025).

¹⁰⁰⁴ Matthew J Rippon, *What is the Geography of Geographical Indications? Place, Production Methods and Protected Food Names* 46 R. GEOGRAPHY SOCIETY 154- 160 (2014).

¹⁰⁰⁵ BAL KRISHNA JOSHI & DEVENDRA GAUCHAN, GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020)

adherence to specific standards. This economic benefit empowers producers with financial and moral rights over their goods. A survey conducted in Serbia on the habits and attitudes of consumers found that 70% of respondents are willing to pay well for GIs.¹⁰⁰⁶ GIs can represent an informative signal for which consumers are willing to pay a premium.¹⁰⁰⁷

- b Employment Opportunity:** Producers also benefit from increased job opportunities within their communities, as the demand for GI products creates positions directly related to production, processing, and marketing. This localised employment contributes to rural development and prevents migration from rural to urban areas. Implementing GI protection can stimulate job creation in rural areas, support existing livelihoods, and create new employment opportunities in the production, processing, and marketing sectors. To improve and create employment opportunities for farmers.¹⁰⁰⁸
- c. Higher Value Distribution:** GI schemes contribute to a higher value distribution to primary producers by ensuring fair compensation throughout the production chain. This equitable distribution of value enhances the economic viability of small-scale enterprises.¹⁰⁰⁹ Moreover, traditional producers foster long-term sustainability in agricultural production. By ensuring fair compensation throughout the production chain, GI schemes contribute to economic equality among farmers, particularly benefiting small-scale and traditional producers.
- d. Market Access and Diversification:** GI recognition enhances market access for producers by differentiating their products and creating a unique selling

¹⁰⁰⁶ Miloš Ćirić et al., *Consumer Attitudes and Habits About Products with Geographical Indication in Serbia*, 70 *Economics of Agriculture* 81 (2023), <https://doi.org/10.59267/ekoPolj230181C> (last visited Mar. 8, 2025).

¹⁰⁰⁷ Gero Laurenz Höhn et al., *Does Terroir Size Matter? Protected Geographical Areas and Prices of European Hams*, 58 *Regional Stud.* 1804, 1804-17 (2023), <https://doi.org/10.1080/00343404.2023.2187365> (last visited Mar. 1, 2025).

¹⁰⁰⁸ Yoan Nursari Simanjuntak, *The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection*, 51, 301 *ENVIRONMENTAL POLICY AND LAW* 297 (2021), https://repository.ubaya.ac.id/40737/1/Yoan%20Nursari%20Simanjuntak_The%20Review%20of%20Communal%20Rights%20on%20Geographical%20Indications.pdf (last visited Mar. 5, 2025).

¹⁰⁰⁹ MICHAEL BLAKENEY ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* 105 (Routledge 2017).

proposition. Additionally, GIs are valuable tools for building resilient value chains by diversifying market opportunities and reducing dependence on a single product or market segment.¹⁰¹⁰ It enables farmers and producers to enforce their rights legally, such as injunctions, damages, or other remedies, against parties misusing their geographical indications. GI also benefits small farmers from the products and their prior reputation.¹⁰¹¹

- e. **Mandates Farmers to Adhere to Standard:** GI protection mandates farmers to adhere to specific production standards, promoting professionalism as they strive to meet criteria and uphold product quality. Recognising geographical indications enhances farmers' goods' reputation, granting them a competitive edge in the market and potentially boosting demand and profitability. Geographical indication enhances regional competitiveness, promotes the agricultural economy and supports sustainable development while revitalising rural areas.¹⁰¹² Research has shown that agricultural enterprises engaged in the Kelkit sugar bean production programme using GI seeds have lower gross output and gross profit per unit area than those not participating.¹⁰¹³

GI protection ensures farmers and local communities maintain control over their intellectual property, prevent unauthorised use of their knowledge, and safeguard their rights. GI guarantees protection to protect products from illegal use of goods.¹⁰¹⁴ GIs are to prevent resource exploitation and misappropriation. A systematic literature review titled “The Benefits and Barriers of Geographical Indications to Producers” has

¹⁰¹⁰ EMILIE VANDECANDELAERE ET AL., STRENGTHENING SUSTAINABLE FOOD SYSTEMS THROUGH GEOGRAPHICAL INDICATIONS: AN ANALYSIS OF ECONOMIC IMPACTS (Food & Agriculture Organization of United Nation 2018).

¹⁰¹¹ MICHAEL BLAKENEY ET AL., EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA 104 (Routledge 2017).

¹⁰¹² Chunyan Li et al., *Do Geographical Indication Products Promote the Growth of the Agricultural Economy? An Empirical Study Based on Meta-Analysis, Sustainability* 15 (19) 14428, <https://doi.org/10.3390/su151914428> (last visited Dec. 1, 2024).

¹⁰¹³ Nilgun Dogan, *Economic Impact of Local Geographical Indication Products on Farmer: A Case of Kelkit Sugar (Dry) Beans*, 10, TFO 1, <https://doi.org/10.1080/23311932.2024.2325083> (last visited Jan. 1, 2025).

¹⁰¹⁴ Sneha Sharma, *An Introduction to Geographical Indications: New Perspectives and Recent Developments*, 5 INTERNATIONAL J. OF LEGAL SCIENCE AND INNOVATION 74 -83(2023).

demonstrated that the advantages of GIs include prices rise, enhanced market access, as well the preservation of cultural identity.¹⁰¹⁵

Hence, the benefits of the premium price of the goods, protection of farmers, which also decreases migration, promotes producers to be professional, guidelines by the community, common branding of goods of all farmers, sales boosts, and employment, the local seller will be a producer, living standards of producers will be good, living standard of farmers will be increased.

6.3.3 National and International Recognition of the Region and Nepal

From the interviews of KII, nineteen key informants out of 45 stated that there would be national and international recognition of the region and the country through GI products. The key informant interviews indicated that tourism would increase with the protection of the GI. Nepal will be branded, foreign investment will be attracted, and the national identity will be represented in the international market. Most importantly, the global market must gain trust in Nepali goods, which will help maintain the reputation of these products, thereby contributing to an increase in comparative and competitive expertise.

GIs give international recognition to the goods. A straightforward example is the Swiss watch or chocolate, which resembles Switzerland. GI distinguishes between producers categorising in- or out-of-place.¹⁰¹⁶ It is the way to promote the region nationally and internationally. GIs are collective rights that protect reputation rather than innovation.¹⁰¹⁷ For example, Darjeeling is so famous that the name is used to identify tea. This reduces internal and external migration.

¹⁰¹⁵ Vitoria Aparecida Cardoso et al., *The Benefits and Barriers of Geographical Indications to Producers: A Review*, 37(6) *R Agri. Food System*. 707-719(2022), https://www.cambridge.org/core/services/aop-cambridge-core/content/view/D7308D92A138D121EDBD2055905C9E11/S174217052200031Xa.pdf/benefits_and_barriers_of_geographical_indications_to_producers_a_review.pdf (last visited Dec. 20, 2024).

¹⁰¹⁶ Matthew J Rippon, *What is the Geography of Geographical Indications? Place, Production Methods and Protected Food Names* 46 R. GEOGRAPHY SOCIETY 154- 160 (2014).

¹⁰¹⁷ Hankie Uluko, et al., *Protecting Geographical Indications in Malawi: Current Situation and Future Prospects*, 17 J. IPR. 226, 228 (2012), https://www.researchgate.net/publication/259829537_Protecting_Geographical_Indications_in_Malawi_Current_Situation_and_Future_Prospects (last visited Mar. 6, 2025).

6.3.4 Legal Protections of the Goods

The legal protection of goods is an essential aspect of GIs. Fourteen out of forty-five key informants stated that the goods would be legally protected if *sui generis* GIs laws were established.

The scholars, Bal Krishna Joshi and Devendra Gauchan, state that GIs provide solid protection for the good and prevent unauthorised use of such goods.¹⁰¹⁸ GIs help identify and protect goods in their locality while promoting indigenous products and know-how.¹⁰¹⁹

Legal protection provides safeguards against infringement. The research and the KII stated that there is infringement concerning goods from Nepal under the conditions of Nepali goods. GIs registration provides legal recourse against unauthorised use or infringement of the protected indication. It enables farmers and producers to enforce their rights legally, such as injunctions, damages, or other remedies, against parties misusing their geographical indications. Today, the consumer wants to know about production practices (organic, conventional, genetically modified).¹⁰²⁰ The consumer also wants to know if there was animal welfare and the production location (local, national, or international origins).¹⁰²¹

6.3.5 Identification of Goods

In this study, eleven key informants out of forty-five stated that identifying the goods is central to the prospects of implementing GI laws in Nepal.

¹⁰¹⁸ BAL KRISHNA JOSHI & DEVENDRA GAUCHAN, GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020).

¹⁰¹⁹ Ayoyemi Lawal-Arowolo, *Geographical Indications and Cultural Artworks in Nigeria: A Cue from Other Jurisdictions*, 22 The Journal of W.I.P. 364-344 (2019), <https://doi.org/10.1111/jwip.12128> (last visited Dec. 10, 2024).

¹⁰²⁰ Zakaria Sorgho & Burno Larue (2014), *Geographical Indication Regulation and intra Trade in the European Union* 45 AGRI. ECONOMICS 1, 5 (2014), <https://doi.org/10.1111/agec.1212> (last visited Mar.1, 2025).

¹⁰²¹ *Id.*

GI's laws help to identify the GI's capable goods.¹⁰²² It is vital to identify the goods. The GI laws help determine Nepal's GI capabilities. Archiving and recording GI-capable goods and ensuring their originality and sustainable use will identify another avenue for them.

6.3.6 Protection of Culture

In the present research, out of forty-five key informants, ten stated that the protection of culture is crucial for implementing GI laws in Nepal.

GIs help to preserve local culture and resources.¹⁰²³ GI has cultural significance. Nepal has diverse flora and fauna that have influenced Nepali culture. Nepal has many ethnic groups with their customs, traditions, and languages, as well as their culture, art, dance and music. GI helps to protect Nepali culture. Research in India in 2020 states that a total GI of 361 out of 209 (57.8%) has been registered for handicrafts, including traditional painting and other artworks.¹⁰²⁴ GI laws also have a culture-protecting function.¹⁰²⁵ Nepal is a party to “UNESCO's Convention for Safeguarding the Intangible Cultural Heritage, 2003,” in 2010 AD. Among its five dimensions of intangible property, knowledge and practices regarding nature and the universe, which are geographical indications, are also intangible cultural heritage. Nepal must protect its GI not only as GI but also as an intangible cultural heritage. It is also a soft power of Nepal and a tool for recognising Nepal in the international market.

*"The thesis posits that the IPR could effectively contribute to protecting the cultural heritage, of which the product serves as a tangible expression."*¹⁰²⁶ Furthermore, the

¹⁰²² Ayoyemi Lawal-Arowolo, *Geographical Indications and Cultural Artworks in Nigeria: A Cue from Other Jurisdictions*, 22 The Journal of W.I.P. 364-344 (2019), <https://doi.org/10.1111/jwip.12128> (last visited Dec. 10, 2024).

¹⁰²³ BAL KRISHNA JOSHI & DEVENDRA GAUCHAN, GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020)

¹⁰²⁴ Akanksha Jumde & Nishant Kumar, *Protection of Traditional Art Forms Under Geographical Indications Law: A Case Study of Madhubani and Sujini Art Forms of Bihar, India*, 16 J.I.P.L.P 647- 665 (2021), <https://doi.org/10.1093/jiplp/jpaa161> (last visited Mar. 1, 2025).

¹⁰²⁵ Paramita Hati (Ray), *Protection of Geographical Indication with Special Reference to India* (2015) (PhD dissertation, The University of Burdwan) (on file with Sodhganga Library).

¹⁰²⁶ Andrea Zappalaglio, *The Why of Geographical Indications: The Transformation of the Link Between the Product and its Place of Origin in Europe*, (2018) (Ph.D. dissertation, University of Oxford) (on file with University of Oxford).

*emergence of the historical aspect confirms that GIs can aid in safeguarding products linked to a geographical region not solely through physical and environmental factors, but also the socio-cultural traditions of a specific locale."*¹⁰²⁷

Nepal possesses GI products that embody indigenous knowledge needing protection. GI can transform its landscape to enhance its social, cultural, and environmental value and organise production to satisfy market demands for superior quality and reliability.¹⁰²⁸

GI is a communal right; therefore, understanding the community's mindset is crucial for the government to devise strategic steps and policies that ensure the successful protection of GI and enhance the community's welfare.¹⁰²⁹ The government also needs communicative and effective ways to mobilise the community. Mobilising related parties, universities, and NGOs to help local communities and governments can accelerate GI protection.¹⁰³⁰

6.3.7 Protection of the Consumers

Consumer protection is a crucial aspect of implementing GI laws in Nepal. In this empirical research, eight out of 45 key informants highlighted consumer protection as an essential consideration in implementing sui generis GI laws in the country. GIs offer quality products, quality assurance, market access, and health benefits. GIs play a role in safeguarding consumers in the following ways:

- a. **Consumer Welfare:** The GI provides quality signalling to support consumer welfare.¹⁰³¹ It is also the consumer's fundamental right to be informed about the

¹⁰²⁷ *Id.*

¹⁰²⁸ Alex Victor Do Rosário et al., *Brazilian Goods and Services Protected by Geographical Indication*, 12 Int'l J. Dev. Rsch. (2022), https://www.journalijdr.com/sites/default/files/issue-pdf/25373_0.pdf (last visited Oct. 22, 2024).

¹⁰²⁹ Yoan Nursari Simanjuntak, *The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection*, 51 GLOBAL ENVIRONMENTAL POLICY AND LAW 297, 301 (2021), https://repository.ubaya.ac.id/40737/1/Yoan%20Nursari%20Simanjuntak_The%20Review%20of%20Communal%20Rights%20on%20Geographical%20Indications.pdf (last visited Mar. 5, 2025).

¹⁰³⁰ *Id.*

¹⁰³¹ BAL KRISHNA JOSHI & DEVENDRA GAUCHAN, GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020)

products and goods they use. GI laws help the consumer get quality products, original products and informed results to get the searched and experienced goods.¹⁰³² Small scale farming farmers could benefit from GIs and the development of niche markets of a reputed GI. Further, GI can be linked to other market incentives like fair-trade certification.¹⁰³³ GIs enhance consumer trust in the authenticity and uniqueness of products and producers, enabling producers to distinguish their products more effectively.¹⁰³⁴

- b. Rising Demand for Authenticity and Tradition:** The search for authenticity and tradition is growing. Since the end of 1970, the increasing living standards in the developed world have heightened the demand for personalised services and products.¹⁰³⁵ There is also a growing demand for genuine, natural, traditional, or trustworthy products.¹⁰³⁶
- c. Consumer Preference for GI Products:** Research found that the demand for Juju Dhau, a GI-tag capable product of Nepal, “is good all year round but high during holidays, festivals, occasions, and Jatra”¹⁰³⁷ A research study of 79 consumers identified the consumer's perception and preference of Juju Dhau. The reason for the consumer's preference was its taste and quality.¹⁰³⁸

After COVID-19, rapid online sales of goods became popular. The sales increased in the case of GI-capable goods. Consumers prefer fresh produce, examining these sensory attributes physically before purchasing the goods. E-commerce limits consumers' rights to those rights; however, research in South Korea showed that the GI's goods were sold more frequently and were ordered

¹⁰³² Paramita Hati (Ray), Protection of Geographical Indication with Special Reference to India (2015) (PhD dissertation, The University of Burdwan) (on file with Sodhganga Library).

¹⁰³³ Roberto Crescenzi et al., *Geographical Indications and Local Development: The Strength of Territorial Embeddedness*, 56 *Reg'l Stud.* 381 (2021), <https://doi.org/10.1080/00343404.2021.1946499> (last visited Mar. 2, 2025).

¹⁰³⁴ *Id.*

¹⁰³⁵ Lousi Augustin Jean, *Introudction: The Globalization of Geographial Indications: The Challenge for Asia*, in *Geographcial Indications and International Agriculutral Trade: The Challenge for Asia* 3 (Louis Augustin Jean et al., eds., 2012).

¹⁰³⁶ *Id.*

¹⁰³⁷ Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur 'Juju Dhau' and Greece 'Greek Yogurt'*, 11(1) *KSLR* 60 (2022).

¹⁰³⁸ *Id.*

often.¹⁰³⁹ Bestor calls Japan's "gastro-diplomacy", i.e., the efforts "to promote, protect, and prove the essence of culinary authenticity, internationally and domestically."¹⁰⁴⁰

- d. **Legal Recognition of Consumer Rights:** The Consumer Protection Act 2075 recognises consumers' right to obtain information from the producer, importer, or seller regarding the quantity, ingredients, or percentages of the substances contained in goods made from or produced with a mixture of two or more components.¹⁰⁴¹ The natural and geographical factors of that region also play a important role in the development of goods. GI guarantees protection to protect goods from illegal use.¹⁰⁴²
- e. **Minimizes Search Cost:**¹⁰⁴³ The GIs convey the message of unique origin-based products and minimise the search cost of authentic goods. The consumers understand and appreciate the importance of the quality of foodstuffs in their diet.¹⁰⁴⁴ It helps consumers differentiate between products coming from a particular region and similar products coming from a different area.¹⁰⁴⁵

6.3.8 Protection of Traditional Knowledge

Five out of forty-five key informants have indicated that the prospects of implementing sui generis GIs laws include the protection of traditional knowledge. The GI-tagged product is usually received through conventional processes and knowledge passed

¹⁰³⁹ Dongmin Lee et al., *The Effects of Extrinsic Cues on Online Sales of Fresh Produce: A Focus on Geographical Indications*, 28 Cahiers Agricultures (2019), https://www.cahiersagricultures.fr/articles/cagri/full_html/2019/01/cagri180204/cagri180204.html (last visited Dec. 5, 2024).

¹⁰⁴⁰ Junko Kimura et al., *The Potential of Geographical Indications (GI) to Enhance Sustainable Development Goals (SDGs) in Japan: Overview and Insights from Japan GI Mishima Potato 13 SUSTAINABILITY 961 (2021)*, <https://doi.org/10.3390/su13020961> (last visited Dec. 12, 2024).

¹⁰⁴¹ Consumer Protection Act, § 2(d) (2018).

¹⁰⁴² Sneha Sharma, *An Introduction to Geographical Indications: New Perspectives and Recent Developments*, 5 Int'l J. OF LEGAL SCIENCE AND INNOVATION 74 -80 (2023).

¹⁰⁴³ DANIELE GIOVANNUCCI ET AL., GUIDE TO GEOGRAPHICAL INDICATIONS: LINKING PRODUCTS AND THEIR ORIGINS 20 (International Trade Centre 2009).

¹⁰⁴⁴ BAL KRISHNA JOSHI & DEVENDRA GAUCHAN, GOOD PRACTICES FOR AGRO BIODIVERSITY MANAGEMENT 35 (Bal Krishna Joshi et al., eds., 2020).

¹⁰⁴⁵ *Id.*

down by a community from generation to generation.¹⁰⁴⁶ Research in Bhaktapur found that the Juju Dhau was traditional knowledge that the producers got from their ancestors.¹⁰⁴⁷ *Sui generis* GI laws protect traditional knowledge from misleading and deceptive trading practices and enable the community to benefit economically. GI's link with tradition can positively impact the preservation of traditional cultural expressions and knowledge.¹⁰⁴⁸ If the corporate giants come to label the product as their own, then the deprived community can claim the ownership on product and get benefit out of it because GIs is all their traditional knowledge.¹⁰⁴⁹

GI protection facilitates the preservation as well transfer of traditional knowledge and practices from generation to generation.¹⁰⁵⁰ This ensures the continuity of valuable cultural heritage associated with the production of GI products. The importance of maintaining farmers' rights to save and reuse seeds for their use, which the Food and Food Sovereignty Act has now included under section 12.¹⁰⁵¹ The constitution of Nepal, in the right to social justice, guarantees that every farmer should have the right to have access to lands for agro activities, select and protect local seeds and agro species which have been used and pursued traditionally, by the law.¹⁰⁵² Similarly, it ensures that “*Dalit* communities can use, protect, and develop their traditional occupation, knowledge, skill, and technology.”¹⁰⁵³ “The State shall prioritise the Dalit community in modern business related to their traditional occupation and provide the skills and resources required.”¹⁰⁵⁴

Several studies attest to the potential economic benefits of GI registration. A consumer survey undertaken in the European Union in 1999 found that 40 % of consumers would pay a premium of 10 % for origin-guaranteed products (WTO, 2004). Even though the

¹⁰⁴⁶ World Intellectual Property Organization, Geographical Indications, <https://www.wipo.int/en/web/geographical-indications> (last visited Mar. 2, 2025).

¹⁰⁴⁷ Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur 'Juju Dhau' and Greece 'Greek Yogurt'*, 11(1) KSLR 60 (2022).

¹⁰⁴⁸ Sneha Sharma, *An Introduction to Geographical Indications: New Perspectives and Recent Developments*, 5 Int'l J. OF LEGAL SCIENCE AND INNOVATION 74 -80 (2023).

¹⁰⁴⁹ NIHARIKA SAHOO BHATTACHARYA, GEOGRAPHICAL INDICATION PROTECTION IN INDIA THE EVOLVING PARADIGM 6 (Springer 2022).

¹⁰⁵⁰ Laxmi Sapkota, *Significance of Geographical Indications Laws in Nepal: A Comparative Study of Bhaktapur 'Juju Dhau' and Greece 'Greek Yogurt'*, 11(1) KSLR 60 (2022).

¹⁰⁵¹ The Right to Food and Food Sovereignty Act, § 3 (O) (2018).

¹⁰⁵² CONST. OF NEPAL, art 42 (4).

¹⁰⁵³ *Id.* at art 40(4).

¹⁰⁵⁴ *Id.*

GI concept is yet to mature in India, a “United Nations Conference on Trade and Development (UNCTAD)” study has revealed that GI-registered agricultural products can fetch a price premium of 10–15 %, whereas for non-agricultural products, it would be 5-10%.¹⁰⁵⁵

6.3.9 Rural Development

GI causes rural development dynamics.¹⁰⁵⁶ The GI products make a reasonable brand price and provide to local employment, which ultimately helps promote rural development. Geographical indications may add value to a region through jobs and increasing income. GI may be able to help create a "regional brand" in this regard.¹⁰⁵⁷ GI laws enhance rural development and benefit the farmers and local producers. It positively impacts the price of the goods as consumers are willing to pay for better quality. It even reduces unfair trade practices and preserves local culture and resources. Therefore, GIs can be used as a marketing tool for local products that bear unique qualities attributable to their place of origin.¹⁰⁵⁸

GI helps to create market value for the products and has a positive economic impact on rural areas where local farmers, manufacturers, and other stakeholders will have greater involvement in the process and environmental concerns.¹⁰⁵⁹ GIs can be practical instruments for promoting locally based development.¹⁰⁶⁰

¹⁰⁵⁵ Ashwini Panday, *Economic Benefits of Geographical Indications* (2019) (Ph.D. dissertation, Banaras Hindu University) (on file with Sodhganga Online Library), <https://shodhganga.inflibnet.ac.in/handle/10603/383943> (last visited Mar. 1, 2025).

¹⁰⁵⁶ Cerkia Bramley, *A Review of the Socio-Economic Impact of Geographical Indication: Considerations for the Developing World*, WIPO World Symposium on Geographical Indications, June 22-24, 2011, Lima, Peru, (2011) WIPO, https://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_lim_11/wipo_geo_lim_11_9.pdf (last visited Mar. 7, 2025).

¹⁰⁵⁷ *Geographical Indications: An Introduction*, World Intellectual Property Organization, https://www.wipo.int/edocs/pubdocs/en/geographical/952/wipo_pub_952.pdf (last visited Dec. 1, 2024).

¹⁰⁵⁸ Bal Krishna Joshi et al., *Geographical Indication: A Tool for Supporting On-Farm Conservation of Crop Landraces and for Rural Development*, 6(1) J. NEPAL AGRIC. RES. COUNCIL (2020), <https://cgspace.cgiar.org/bitstream/handle/10568/109652/geographical.pdf> (last visited Mar. 5, 2025).

¹⁰⁵⁹ Pratyush Nath Upreti, *Geographical Indications in Nepal: In Search of Identity*, RESEARCH GATE (2019), https://www.researchgate.net/publication/333780742_Geographical_indications_in_Nepal_in_search_of_identity (last visited Mar. 7, 2025).

¹⁰⁶⁰ Sneha Sharma, *An Introduction to Geographical Indications: New Perspectives and Recent Developments*, 5 Int'l J. OF LEGAL SCIENCE AND INNOVATION 74 -80 (2023).

The National Planning Commission has stated that production and productivity must be increased for rural development, and a connection between local products and the market should be established.¹⁰⁶¹ One study suggests that GIs provide more significant economic benefits than standard products and promote the growth of the agricultural economy by effectively enhancing agricultural product trade and improving prices for agricultural products.¹⁰⁶²

Research found that while 41.41% of consumers had heard of the concept of GI, 23.54% indicated they possessed sufficient knowledge on the subject. Conversely, 6.79% of consumers reported paying more attention to GI labels on their products than other consumers. Among those familiar with the GI concept, 18.10% perceive the GI label as a quality indicator. In contrast, 24.22% of consumers indicated their willingness to pay a premium for GI-registered products. Consequently, it is essential to provide more information about GI in Mersin, where significant development has occurred, particularly following the law's enactment in 2016. This system will serve as a crucial local development tool if the shortcomings in this area are addressed.¹⁰⁶³

6.3.10 Protection of the Environment

Three key informants stated that the implementation of sui generis GIs laws protects the environment.

GIs help to protect the environment and aid in obtaining organic food, which has health benefits. The sustainability aspect, biodiversity protection, and ecosystem safeguarding are also the prospects of GIs.

¹⁰⁶¹ National Planning Commission, Government of Nepal, The Fifteenth Plan (Fiscal Year 2019/20-2023/24), https://www.npc.gov.np/images/category/15th_plan_English_Version.pdf (last visited Mar.1, 2025).

¹⁰⁶² Chunyan Li et al., Do Geographical Indication Products Promote the Growth of the Agricultural Economy? An Empirical Study Based on Meta-Analysis 15 SUSTAINABILITY 14428 (2023), <https://doi.org/10.3390/su151914428> (last visited Mar.1, 2025).

¹⁰⁶³ Mustafa Kan & Aynur Belveren, *Geographical Indication and Quality Perception: The Case of Mersin Province, Türkiye* 10 TURKISH J. AGRI: FOOD SCIENCE AND TECHNOLOGY 1756, 1758 (2022), <https://doi.org/10.24925/turjaf.v10i9.1756-1768.5456> (last visited Mar. 2, 2025).

GI protects biodiversity.¹⁰⁶⁴ It helps biodiversity preservation by favouring locally cultivated flora or fauna.¹⁰⁶⁵ GI aids in conserving biological diversity during the production of goods and promotes stewardship over the depletion of the natural resources from which these are derived.¹⁰⁶⁶ GI items regularly have significant Spin-off effects in the tourism industry and gastronomy.¹⁰⁶⁷

A research paper concludes that the legal protection of GI also protects the geographical environment where the product is generated initially and provides economic benefits to the right holder.¹⁰⁶⁸

6.3.11 Commitment under International Obligation

Nepal has committed under international obligations as per the Paris Convention and the TRIPS agreement; therefore, it must fulfil its responsibility by ensuring its laws are compatible with GIs law. In the KII, two respondents stated that the prospects of implementing GI laws are to meet international obligations.

GIs are also extensively used in the international aid and development sector as multifaceted instruments that address the various dimensions of sustainable development (economic, social, and environmental), particularly in rural areas.¹⁰⁶⁹ GI initiatives align with sustainable development objectives by promoting environmentally responsible practices, social inclusivity, and economic prosperity. They contribute to achieving SDGs related to poverty alleviation, food security, gender

¹⁰⁶⁴ Claire Bernard-Mongin et al., *Geographical Indication Building Process for Sharr Cheese (Kosovo): "Inside Insights" on Sustainability* 13 SUSTAINABILITY 5696 (2021), <https://doi.org/10.3390/su13105696> (last visited Mar. 1, 2025).

¹⁰⁶⁵ *Id.*

¹⁰⁶⁶ IRENE CALBOLI & NG-LOY WEE LOON, GEOGRAPHICAL INDICATIONS AT THE CROSSROADS OF TRADE AND DEVELOPMENT IN ASIA 88 (Rosemary J. Coombe et al., eds. 2017).

¹⁰⁶⁷ Abdul Hakim Noyon & Dewan Alif Ovi, *A Legal Appraisal of The Protection and Opportunities of Geographical Indication (GI) in Bangladesh* 1 UAP Law Review 57-72 (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4323661 (last visited Jan. 1, 2025).

¹⁰⁶⁸ Faradila Yulistari Sitepu, *The Potential of Geographical Indications and Its Legal Protection*, 52 E3S Web Conference (2018), https://www.e3s-conferences.org/articles/e3sconf/abs/2018/27/e3sconf_nrm2018_00017/e3sconf_nrm2018_00017.html (last visited Dec. 1, 2024).

¹⁰⁶⁹ Claire Bernard-Mongin et al., *Geographical Indication Building Process for Sharr Cheese (Kosovo): "Inside Insights" on Sustainability* 13 SUSTAINABILITY 5696 (2021), <https://doi.org/10.3390/su13105696> (last visited Mar. 1, 2025).

equality, and environmental sustainability, thereby advancing the global agenda for sustainable development.

Daniele Giovannucci et al. state that the success factors influencing GI have four components. The first component is strong organisational and institutional structures to sustain, market, and monitor GI. The second component is the equitable participation of producers in a GI region.¹⁰⁷⁰ The third component is strong market partners committed to promoting and commercialising GI over the long term. The fourth component is adequate legal protection, including a strong domestic GI system.¹⁰⁷¹

6.4. Problems of Implementing Geographical Indications Law in Nepal

The analysis focuses on 10 critical points encapsulating the problems of implementing the GIs law in Nepal. The 45 key informants have shared their views on these problems. Their opinions regarding GIs have been quantified, and the following table presents the statements made by the key informants. The responses to question number 2.2.9, concerning the problems of implementing GIs law in Nepal, are provided below:

6.4.1 Question Description

Respondents were asked, “What are the problems with implementing the geographical indications law in Nepal?”

6.4.2 Summary of the Responses

Respondent provided diverse responses, reflecting their perspectives and experiences. A summary of the reactions to the problems of implementing the geographical indications law in Nepal is given in qualitative form. However, they have been quantified, and the respondents have provided answers covering one, two or more themes of the problems of implementing geographical indications. 13 respondents

¹⁰⁷⁰ DANIELE GIOVANNUCCI ET AL., GUIDE TO GEOGRAPHICAL INDICATIONS: LINKING PRODUCTS AND THEIR ORIGINS 118 (International Trade Centre 2009).

¹⁰⁷¹ *Id.* at 119.

(code 02, 04, 05, 06, 12, 16, 19, 20, 21, 30, 34, 38, 41) who mentioned about the legal challenges as the problems of implementing GIs laws in Nepal, three respondents (code 04,05, 31) stating the financial difficulties, four respondents (code 15, 17, 22, 26) noted the supply chain challenges, five respondents (code 01, 06, 28, 29, 37) emphasised the limitation on laws, two respondents (code 23, 40) emphasised that there would be technological challenges, three respondents (code 06, 24, 42) described about the market challenges, two respondents (code 31, 36) indicated about quality control, two respondents (code 14, 18) focused about the difficulties of undocumented and unrecorded traditional knowledge, six respondents (code 01, 25, 31, 44, 45, 11) have described about implementation challenges and organisational challenges; eight respondents mentioned that there is only benefits of implementing GIs no problems of implementing GIs laws in Nepal, two respondents choose collective marks(code 09), certification marks (code 27). Here , the codes have stated their views regarding two themes.

6.4.3 Tabular Representation

The responses to the problems of implementing GI laws in Nepal are given in the table below:

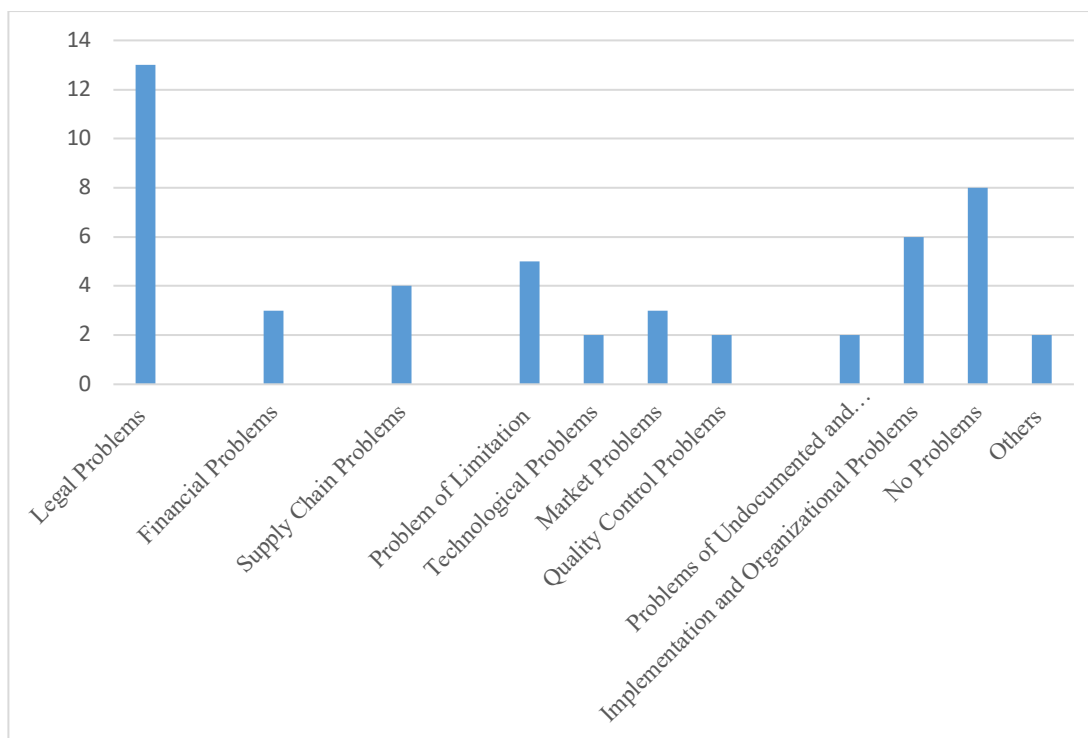
13 informants (code 02, 04, 05, 06, 12, 16, 19, 20, 21, 30, 34, 38, 41) who stated about the legal challenges as the problems of implementing GIs laws in Nepal, three respondents (code 04,05, 31) stating the financial difficulties, four respondents (code 15, 17, 22, 26) noted the supply chain challenges, five respondents (code 01, 06, 28, 29, 37) emphasised the limitation on laws, two respondents (code 23, 40) stated that there would be technological challenges, three respondents (code 06, 24, 42) stated about the market challenges, two respondents (code 31, 36) indicated about quality control, two respondents (code 14, 18) stated about the difficulties of undocumented and unrecorded traditional knowledge, six respondents (code 01, 25, 31, 44, 45, 11) have stated about implementation challenges and organisational challenges; eight respondents stated that there is only benefits of implementing GIs no problems of implementing GIs laws in Nepal, two respondents choose collective marks(code 09), certification marks (code 27).

Table 30: Problems of Implementing Geographical Indications Laws in Nepal.

Themes	Informants Mentioning It	Frequency
Legal Problems	02, 04, 05, 06, 12, 16, 19, 20, 21, 30, 34, 38, 41	13
Financial Problems	04,05, 31	3
Supply Chain Problems	15, 17, 22, 26	4
Problem of Limitation	01, 06, 28, 29, 37	5
Technological Problems	23, 40	2
Market Problems	06, 24, 42	3
Quality Control Problems	31, 36	2
Problems of Undocumented and Unrecorded Traditional Knowledge	14, 18	2
Implementation and Organisational Problems	01, 25, 31, 44, 45, 11	6
No Problems	03, 10, 13, 32, 33, 35, 39, 43	8
Others	09 has focused on collective marks, 27 has talked about certification marks, and no problem mentioned	2

6.4.4 Bar Chart Representation

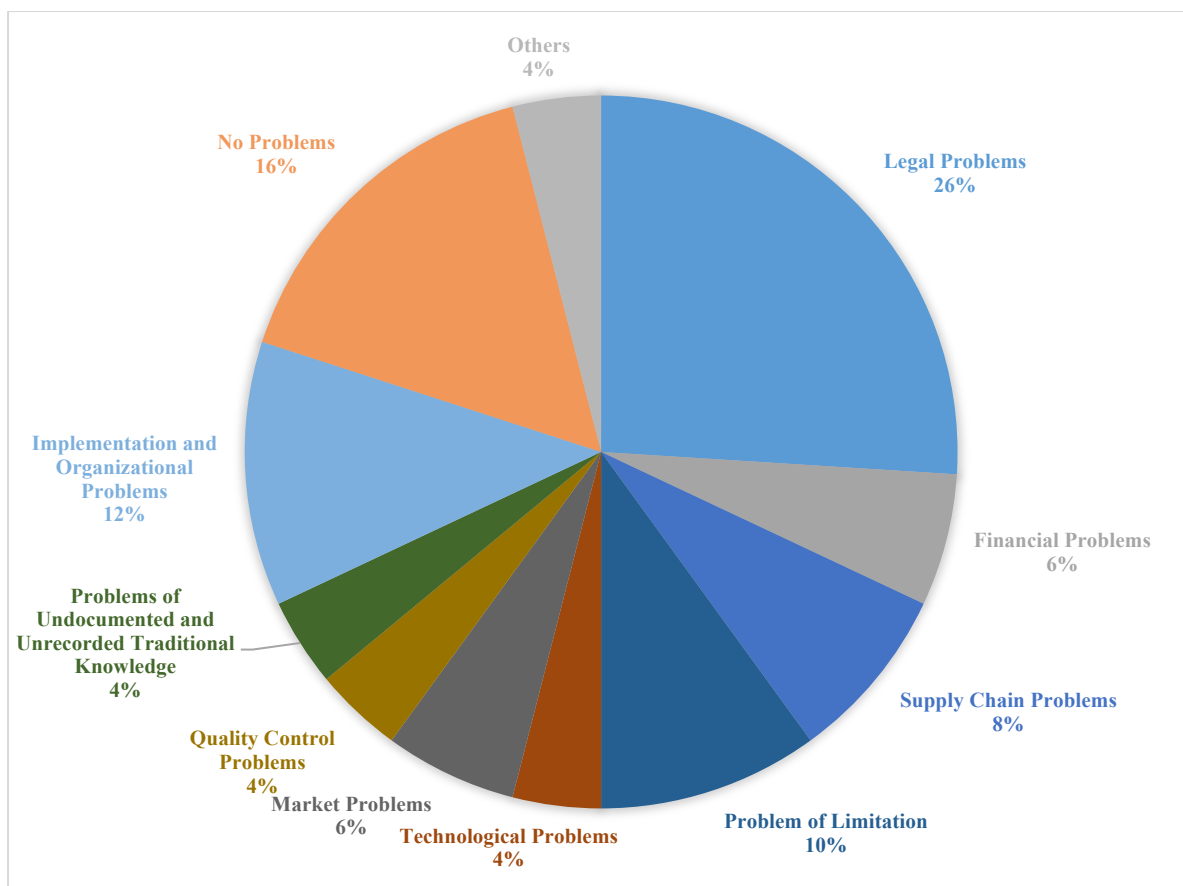
Thirteen respondents stated the legal challenges as the problems of implementing GIs laws in Nepal; three respondents stated the financial difficulties; four respondents noted the supply chain challenges; five respondents emphasised the limitation on laws; two respondents stated that there would be technological challenges; three respondents stated about the market challenges, two respondents indicated about quality control, two respondents stated about the difficulties of undocumented and unrecorded traditional knowledge, six respondents have stated about implementation challenges and organisational challenges; eight respondents stated that there are only benefits of implementing GIs no problems of implementing GIs laws in Nepal, two respondents choose collective marks, certification marks.



Bar Chart 7: Problems of Implementing Geographical Indications Laws in Nepal.

6.4.5 Pie Chart Representation

26% of respondents stated the legal problems as the problems of implementing GIs laws in Nepal, 6% of respondents noted the financial problems, 8% of respondents stated the supply chain problems, 10% of respondents emphasised the problem of limitation, 4% of respondents stated that there would be technological problems, 6% of respondents stated about the market problems, 4% of respondents indicated about the problem of quality control, 4% of respondents stated about the problems of undocumented and unrecorded traditional knowledge, 12% of respondents have suggested about implementation and organisational problems, 16% of respondents stated that there is only benefits of implementing GIs no problems of implementing GIs laws in Nepal, 4% of respondents choose collective marks, certification marks.



Pie Chart 7: Problems of Implementing Geographical Indications Laws in Nepal.

6.5. Analysis of Problems of Implementing Geographical Indications Law in Nepal

Sui generis GI laws present different problems. Protection does not stay the same if GI-capable goods are consumed domestically because internal consumption does not help earn enough revenue.¹⁰⁷² GI registration does not ensure a fair distribution of value to producers or a positive impact on the effects of environmental and social factors.¹⁰⁷³ It is also noted that registration did not yield any additional economic benefits to the producers.¹⁰⁷⁴ The problems of implementing sui generis GIs laws are discussed below:

¹⁰⁷² Surendra Raj Acharya, *Geographical Indication: How can GI Application Prosper Nepal*, 1(1) LBEF JOURNAL 38, 43 (2019), <https://www.lbef.org/journal/1-1/download/1-1-38-42.pdf> (last visited Jan. 1, 2025).

¹⁰⁷³ GIOVANNI BELLETTI ET AL., *THE EFFECTS OF PROTECTING GEOGRAPHICAL WAYS AND MEANS OF THEIR EVALUATION* 52-53 (2d ed., Swiss Federal Institute of Intellectual Property 2011).

¹⁰⁷⁴ Winson Thomas, *Economics of Geographical Indications and Its Implications for Producers a Study concerning Kerala* (2018) (PhD dissertation, Mahatma Gandhi University) (on file with Sodhganga), <https://shodhganga.inflibnet.ac.in/handle/10603/6> (last visited Jan. 1, 2025).

6.5.1 Legal Problem¹⁰⁷⁵

Thirteen key informants stated that one of the problems of implementing sui generis GIs laws is the legal problem. The legal issues of the following should be minutely observed:

- a. The first issue of ownership, who shall be the owner of the GI-capable goods.
- b. The geographical location and the laws concerning (where) origin of the products. For example, in India, Baluchari Sari originated in Baluchar village of Murshidabad. However, the village was taken by a river and no longer exists. The weaving is revived in the Bankura district, 200 km from the original Murshidabad.¹⁰⁷⁶
- c. Who's that means the community is also required. For example, in India, Banarasi Sari is woven in the same district's urban and rural areas.¹⁰⁷⁷
- d. Legal Procedure to register the GIs.
- e. Conflict with Prior Marks and GI might collide with the existing collective marks (Laws should be made that should not collide with existing laws), GIs might conflict with the existing collective marks. That use of the GI would result in perplexity with the trademark.¹⁰⁷⁸
- f. The generic character of goods causes legal problems. One of the biggest challenges is that the GI may be denied protection if the competent authority believes that the sign is the common name for the product it represents.¹⁰⁷⁹ For example, the US and other foreign companies have registered trademarks for individual brand names for products like Champagne, feta cheese, and bologna.

¹⁰⁷⁵ WILLIAM VAN CAENEKEN & JEN CLEARY, THE IMPORTANCE OF PLACE: GEOGRAPHICAL INDICATIONS AS A TOOL FOR LOCAL AND REGIONAL DEVELOPMENT 180 (Springer Int'l Publishing 2017).

¹⁰⁷⁶ Nitya Nanda, Indrani Barpujari & Nidhi Srivastava, *The Protection of Geographical Indications in India: Issues and Challenges*, Briefing Paper, The Energy and Resources Institute (Mar. 2013), https://yucita.org/file_sub_301_Diger-The-Protection-of-Geographical-Indications-in-India:-Issues-and-Challenges.pdf (last visited Jun 2, 2025).

¹⁰⁷⁷ *Id.*

¹⁰⁷⁸ World Intellectual Property Organization, Geographical Indications, <https://www.wipo.int/en/web/geographical-indications> (last visited Mar. 2, 2025).

¹⁰⁷⁹ *Id.*

These generic names are under US law and may be produced anywhere in the US or imported from any country.¹⁰⁸⁰

- g. The problems of homonymous GIs. Homonymous GIs share the exact spelling or pronunciation but refer to products from different locations, often in other countries.¹⁰⁸¹
- h. If implementation is weak, there might be problems with the given and people. Due to encroachment, another country might exploit, and we might not be able to go to the international court if the cases are, aka bare khursani is available everywhere whose rights might be a problem, it's already too late.
- i. If done randomly, the actual GIs may not get recognised, but in the long run, it will be beneficial. The territory is neither highlighted nor identified. If genuine GIs do not arrive, there will be a problem of monopoly misuse.
- j. Sometimes the rights are individual, but when it comes to the scope of the GIs, it may affect individual rights. If there are delays in the laws, we might lose our rights.

Controlling laws are required. Even though actions were not taken on time with retrospective effects, encroached GIs should be brought back, and protection should be provided.

6.5.2 Implementation and Organisational Problems

Six out of 45 key informants stated that there are implementation problems. The GIs also have a region in which there might be an international class of jurisdiction; for example, Basmati is found in the Nepal belt. In the case of conflict regarding GIs, there are no private international laws to address it. The concurrent rights of federal and local authorities present another operational challenge. Potential conflicts over ownership within communities also pose implementation challenges. Enforcement is difficult; information, communication, and education are required; otherwise, people will not trust.

¹⁰⁸⁰ Bruce A. Babcock & Roxanne Clemens, *Geographical Indications and Property Rights: Protecting Value-Added Agricultural Products*, MIDWEST AGRIBUSINESS TRADE RESEARCH AND INFO. C., (2004).

¹⁰⁸¹ World Intellectual Property Organization, Geographical Indications, <https://www.wipo.int/en/web/geographical-indications> (last visited Mar. 2, 2025).

A weak institutional framework leads to failure.¹⁰⁸² The strong institution is increasing in cost; the government should establish an office for inspections, and suggestions and infrastructure should be provided by the government.

Poor implementation can lead to conflicts with the government and stakeholders. The high initial registration and enforcement costs pose barriers to entry. The complex legal procedures for international recognition create challenges. The operational difficulties arise due to the concurrent rights of federal and local authorities. A lack of controlling laws could lead to misuse and ineffective governance. The absence of specific PIL (Public Interest Litigation) laws creates hurdles in international disputes.

Geographical names are also part of a broader linguistic market. Much like other trademarks, when geographical names attain significant notoriety and a reputable standing among consumers, they are more likely to be subjected to private appropriation through usurpation, confiscation, improper use, or trademark registration.¹⁰⁸³

Problems arise when multiple jurisdictions are overlapped on the goods.¹⁰⁸⁴ The problems also include how digital trade affects GI regulations, particularly given ongoing national differences in protection and definitions of generic terms.¹⁰⁸⁵

6.5.3 Problem of Limitation

Five key informants state that there might be problems of limitations. That means there might be limitations on the activities people can engage in freely, which may be

¹⁰⁸² WILLIAM VAN CAENEKEN & JEN CLEARY, THE IMPORTANCE OF PLACE: GEOGRAPHICAL INDICATIONS AS A TOOL FOR LOCAL AND REGIONAL DEVELOPMENT 180 (Springer Int'l Publishing 2017).

¹⁰⁸³ Armelle Mazé, Geographical Indications as Global Knowledge Commons: Ostrom's Law on Common Intellectual Property and Collective Action 19 *Journal of Institutional Economics* 494–510 (2023), <https://www.cambridge.org/core/journals/journal-of-institutional-economics/article/geographical-indications-as-global-knowledge-commons-ostroms-law-on-common-intellectual-property-and-collective-action/1CA00851B2DF144BE4CE4790E2F9F5BC> (last visited Dec. 1, 2024).

¹⁰⁸⁴ Irene Calboli, *Geographical Indications: New Perspectives and Recent Developments*, 16 *J.I.P.L.P.* 289-290 (2021), <https://doi.org/10.1093/jiplp/jpab046> (last visited Dec. 2, 2024).

¹⁰⁸⁵ *Id.*

restricted, leading to potential issues. For instance, the producers manufacture cooking oil in Khokana and source raw materials from outside, which may not be allowed under existing laws. Laws impose obligations and restrictions that could pose challenges.

Also, geographical limitations might result in exclusion, and a definite territory should be defined. As territories are not always clearly identified, failure to highlight territories might result in exclusion or underrepresentation.

6.5.4 Supply Chain Problems

Four informants out of the 45 key informants expressed concerns regarding the supply chain problems.

Production must be high, which might not be practical for small investors and producers. Without competition, GI laws will not benefit us; we need to develop strength. A producer within a community holds a monopoly. Quality is essential, and it may be challenging to maintain.

6.5.5 Financial Problems

Three key informants out of the 45 stated that financial problems arise from implementing the sui generis GIs laws. The cost burden presents another significant problem. Encroachment may make it impossible for us to compete internationally. Investment is required for GI-capable goods, and less production is not viable.

Maintaining and promoting GIs involves significant costs in developing countries, raising concerns about whether these nations can justify investing their limited resources. This is particularly relevant when considering the marketability of GI products, the necessity for GIs to function as collective property rights that support disadvantaged producers, and their capacity to foster community development and enhance regional economic activities through external support economies.¹⁰⁸⁶ Further, the cost of verifying the product's origin, monitoring compliance, and enforcing

¹⁰⁸⁶ Vandana Singh, A Study of Law of Geographical Indications as an IPR and Tool for Economic Development, (2011) (Ph.D. dissertation, University of Delhi) (on file with Sodhganga Library).

protection is essential for the small-quantity producer. Also, it needs an application, search, advertisement, and publication fee.¹⁰⁸⁷

6.5.6 Market Problems

Three out of the 45 key informants stated the market problems. If goods are not produced commercially, volume constraints exist; other products may struggle to find a market. It's costly; Nepal is a price-sensitive market, so awareness is necessary. There is a market challenge if GIs cannot operate. Monopoly by producers in specific communities could harm fair market practices.

6.5.7 Technological Problem

Two informants out of 45 stated that there would be technological problems in implementing the *sui generis* GIs laws.

There are constraints of new technology in our context. As we are indeed in the era of science and technology, a consistent and authentic way of doing things may not be relevant. After 50 years, a lack of flexibility in modifications could undermine the value of GIs we possess today. The technical guide must be followed.

6.5.8 Quality Control Problem

Two out of 45 key informants state that quality control is a problem.

GI-capable goods might be perishable and challenging to transport.¹⁰⁸⁸ Quality control¹⁰⁸⁹ is challenging. Upholding quality standards can be challenging. A collective standard should be met; otherwise, one producer's failure may lead to all failure. Maintaining quality standards could be difficult without consistent monitoring. Technical guides and standards

¹⁰⁸⁷ MICHAEL BLAKENEY ET AL., EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION: CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA 108 (Routledge 2017).

¹⁰⁸⁸ MINGXIG LI ET AL., CASE BOOK OF CHINESE BUSINESS MANAGEMENT 25 (Mingyue Fan et al. eds., Springer 2022).

¹⁰⁸⁹ WILLIAM VAN CAENEGEN & JEN CLEARY, THE IMPORTANCE OF PLACE: GEOGRAPHICAL INDICATIONS AS A TOOL FOR LOCAL AND REGIONAL DEVELOPMENT 179 (Springer Int'l Publishing 2017).

must be enforced strictly for consistent quality. Long-term adherence to rigid methods might diminish relevance in the era of science and technology.

6.5.9 Problem of Undocumented and Unrecorded Traditional Knowledge

Two out of 45 key informants state the problem of undocumented and unrecorded traditional knowledge. The GIs in Nepal are undocumented, which may result in misleading laws regarding the true origin of the products. Additionally, there could be conflicts of traditional knowledge among various communities.

The community can only utilise such goods effectively, allowing its members to register for the CM (immediate benefit). The state's ownership of culturally sensitive GIs may lead to conflicts with indigenous peoples.¹⁰⁹⁰ GI is the wrong vehicle to protect most traditional knowledge, particularly innovative ones.¹⁰⁹¹

Further disadvantages and conditions are associated with GI protection and its effectiveness, including application, search, advertisement, and publication fees. More importantly, GI protection can have adverse effects, such as compassionate ownership, which may influence its impact as stated above there might be trouble while dealing with the culture sensitive goods for providing GI tag.¹⁰⁹²

Migration and foreign employment may result in a lack of successors to uphold or perpetuate the culture.¹⁰⁹³ GI-capable goods might be perishable and challenging to transport.¹⁰⁹⁴ If GI products are produced on a small scale, they have high transportation costs and an inadequate capital chain of GI product managers.¹⁰⁹⁵

¹⁰⁹⁰ MICHAEL BLAKENEY ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION: CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* 108 (Routledge 2017).

¹⁰⁹¹ Susy Frankel, *The Mismatch of Geographical Indications and Innovative Traditional Knowledge* 1 (6) VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS No. 35 (2011).

¹⁰⁹² MICHAEL BLAKENEY ET AL., *EXTENDING THE PROTECTION OF GEOGRAPHICAL INDICATION: CASE STUDIES OF AGRICULTURAL PRODUCTS IN AFRICA* 108 (Routledge 2017).

¹⁰⁹³ Sayantani Datta et al., *Enhancing Geographical Indications Protection in India for Community Relevance*, 2WORLD IP 420-435 (2021), <https://doi.org/10.1111/jwip.12202> (last visited Dec.1, 2024).

¹⁰⁹⁴ MINGXIG LI ET AL., *CASE BOOK OF CHINESE BUSINESS MANAGEMENT* 25 (Mingyue Fan et al. eds., Springer 2022).

¹⁰⁹⁵ *Id.* at 26.

The first includes GI brand awareness, GI product production, marketing information, and the lack of secure protection in the network environment. The second contains insufficient investment in talent and technology. The overall modernisation level of GI products needs improvement. Moreover, there is a need for adequate supervision by relevant government departments, standardisation, and improvement of Xinjiang GI products. In addition, promoting the Xinjiang GI brand is ineffective, leading to the poor brand effect of Xinjiang GI products.¹⁰⁹⁶

The further challenges are discussed below:

- a. The communal entitlement is questioned if the local community resists protecting GI through the sui generis GI laws. Therefore, the government should also mobilise communities, such as universities and NGOs, to assist local communities and governments.¹⁰⁹⁷

The challenge must be to design and implement a comprehensive geographical indication scheme that could constitute the basis for sustainable development.¹⁰⁹⁸

Here the researcher also agrees as key informants stated their points which has been materialised in theme.

6.6. Way out to the Problems of Implementing Geographical Indications Laws in Nepal

There are many ways of solving the problems like partnership of the public and private sectors is the only way forward locally and regionally for the GIs to impact the global

¹⁰⁹⁶ *Id.* at 25.

¹⁰⁹⁷ Yoan Nursari Simanjuntak, *The Review of Communal Rights on Geographical Indications: Communal Standpoint as Constraints to Legal Protection*, 51 ENVIRONMENTAL POLICY AND LAW 297 (2021), https://repository.ubaya.ac.id/40737/1/Yoan%20Nursari%20Simanjuntak_The%20Review%20of%20Communal%20Rights%20on%20Geographical%20Indications.pdf (last visited Mar. 5, 2025).

¹⁰⁹⁸ Sneha Sharma, *An Introduction to Geographical Indications: New Perspectives and Recent Developments*, 5 INT'L J. OF LEGAL SCIENCE AND INNOVATION 74-80 (2023).

marketplace¹⁰⁹⁹ other ways could be like only the involvement of the government for the taking the goods in the international market.

The existence of inefficient institutions, organisational problems, power asymmetry, and value appropriation by the supply chain's¹¹⁰⁰ for which four components are required to influence GI: strong organisational and institutional structures to sustain the market and monitor GI; equitable participation of producers and enterprises in a GI region; strong market partners committed to promoting and commercialising over the long term; and adequate legal protection, including a solid domestic GI system.¹¹⁰¹

There are problems not only in the registration phase; issues arise during the post-registration phase. Standard maintenance, quality monitoring, brand promotion, trust-building, market creation, and infringement checks are also essential to consider.¹¹⁰²

It is imperative to diligently oversee the cultivation of GI, ensuring that farmers faithfully adhere to these sacred codes.¹¹⁰³ The farmer's capacity building is significant for sustainability.¹¹⁰⁴ Fair trade for the local workforce.¹¹⁰⁵ The government must introduce a scheme for promoting, supplying, and selling the product so that the produce of a community will not unjustly enrich a few individuals.¹¹⁰⁶ The institutions involved in local governance should be empowered to support and enforce the

¹⁰⁹⁹ Enrico Bonadio et al., *Protection of Community Knowledge Adaptation Technologies Through Intellectual Property Rights: An Analysis*, 45 EUROPEAN IP. REVIEW 282- 291 (2023).

¹¹⁰⁰ Vitoria Aparecida Cardoso et al., *The Benefits and Barriers of Geographical Indications to Producers: A Review* 37 RENEWABLE AGRI. AND FOOD SYSTEMS (2022), https://www.cambridge.org/core/services/aop-cambridge-core/content/view/D7308D92A138D121EDBD2055905C9E11/S174217052200031Xa.pdf/benefits_and_barriers_of_geographical_indications_to_producers_a_review.pdf (last visited Mar. 2, 2025).

¹¹⁰¹ DANIELE GIOVANNUCCI ET AL., GUIDE TO GEOGRAPHICAL INDICATIONS: LINKING PRODUCTS AND THEIR ORIGINS 118-119 (International Trade Centre 2009).

¹¹⁰² NIDHI BUCH & HETVI TRIVEDI, GEOGRAPHICAL INDICATIONS OF INDIAN HANDLOOMS: BETWEEN LEGAL RIGHT AND REAL RIGHT 148 (Routledge 2022).

¹¹⁰³ Aalthady Maloor Radhika et al., *Geographical Indications as a Strategy for Market Enhancement- Lessons from Rice GIs in Kerala*, 24 (3-4) J. WORLD INT'L PROPERTY 221-236 (2021).

¹¹⁰⁴ S.M Dhungana et al., *Growth Instability Index and Decomposition Effect on Production of Large Cardamom in Nepal*, 13 AGRI & FOOD SECUTIRY (2024), <https://agricultureandfoodsecurity.biomedcentral.com/articles/10.1186/s40066-023-00456-y> (last visited Dec. 1, 2024).

¹¹⁰⁵ Althaf Marsoof & Li Ting Tan, *A CSR/fair Trade Inspired Policy for Fairer Geographical Indications*, 24 J. WIP 253-273 (2021).

¹¹⁰⁶ Janani Sridharan, *GI Protection: The Need for Amelioration*, 2 INT'L J. LEGAL SCIENCE AND INNOVATION 23-28 (2020).

sustainable framework for GIs.¹¹⁰⁷ Government can financially support traditional things.¹¹⁰⁸ Code 25 says that there might be a problem now but this cannot be a problem in long run.

The GI laws would be incomplete without incorporating the provisions of promotions and sustainability of the GIs. For the promotions of the GIs, the legal frameworks should be established to manage GI documentation, archiving, and branding, as well as to implement simpler procedures for GI recognition and registration. There are the roles of the three levels of government, namely local, provincial, and federal, in GI promotion, and there should be active community participation in GI management and promotion. The government should monitor GI standards and their compliance, ensuring the sustainability of legal protection for GI products. There should be the establishment of a precise, accessible mechanism for resolving GI-related disputes. GIs should be included in the industrial activities. The state should own the GIs and increase awareness within the community. Legal protection should be ensured, and the procedure should be simple for implementation. There should be encouragement for IP and GIs sensitisation. The essence of GI quality should not be tarnished at multiple stages along the supply chain.

Economic diplomacy is necessary to highlight and protect GIs abroad. To achieve this, collaboration with the Nepali Diaspora should be established to promote GIs abroad. There could be an embassy of diaspora in the international market, where embassy collaboration could be done. The government could provide the gift of GI benefits. There should be partnerships with research institutions such as NARC for GIS-related scientific research and the development of knowledge exchanges on GIs with other countries. GIs should be included in international negotiations, which helps facilitate easier export channels for GIS products. Nepal should develop a global brand for Nepali GIs. This includes exploring niche markets for GI products through both online and

¹¹⁰⁷ Sayantani Datta et al., *Comparative Perspectives on the Protection of Food Geographical Indications in Asian Countries*, 19 Asian JCL, 89, 106 (2024), <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/comparative-perspectives-on-the-protection-of-food-geographical-indications-in-asian-countries/E57887033A4E1CE52BB40030571DA6B6> (last visited Mar. 4, 2024).

¹¹⁰⁸ U Priyanka & V Vimala, *Impact of National Handloom Development Programmed (NHDP) – Adoration to GI Tagged Kuthampully Sarees*, 26 JOURNAL OF INTELLECTUAL PROPERTY RIGHTS 74-79 (2021), <https://nopr.niscpr.res.in/handle/123456789/58371> (last visited Jan. 1, 2025).

offline platforms. Implementing capacity-building programs for producers that align with export standards is essential.

Government subsidies, grants, and tax incentives should be available for GI producers. Additionally, startup loans and financial assistance should be available for businesses related to GIs.

GI goods can be promoted by using digital platforms for marketing and brand building. Visibility on social media and blogging platforms is essential for promoting products. GI products should be supported on online marketplaces to reach a global audience.

Nepal can promote GI goods by organising national and international trade fairs and participating in international exhibitions to create visibility for Nepali GIs. Nepal can celebrate GI products through festivals and competitions to showcase the uniqueness of Nepali goods. It can also create GI year calendars and mark special days to increase visibility. For example, orange is the national fruit of Nepal. In this way, different foods could be promoted. The Nepal government should collaborate to promote GIs as part of Nepal's cultural heritage. It can encourage GI products in tourist hotspots and souvenir shops. Nepal can promote its GIs by showcasing GIs at tourism events, fairs and exhibitions, integrating GIs into tourism packages, and encouraging visitors to purchase and promote local products. Tourist attractions and local products: Nepal can promote GI products at airports, travel zones, and tourist hotspots to showcase these items. It can establish partnerships with travel agencies to emphasise GI products as an integral part of Nepal's heritage and tourist experience.

Collaborations must be encouraged among government bodies, NGOs, and international organisations. Universities and academic institutions must also be involved in research and policy development. There should be assurance that the government provides adequate legal, technical, and promotional support for GIs. This can also be achieved by strengthening institutional mechanisms to support GIs at the community level. Participatory decision-making processes for promoting GIs should empower local communities. Local producers should also be assured they have a voice in managing and marketing GI products. Farmers and producers should receive skill development programmes to increase productivity and quality. Also, farmers and

producers should be trained in modern agricultural practices, product packaging, and branding technique

For the sustainability of GIs, there must be awareness of them, which can be achieved through various media, such as social media or by incorporating them into the curriculum. Local governments should own and take responsibility for GIs. A legal framework should be established for listing, protecting, and conserving GIs. Strict laws and their implementation are necessary to prevent the misuse of GIs. Additionally, GIs should be regularly assessed, including within export policies. The government should support the promotion and protection of GIs, and, most importantly, the book of specifications should clearly define GIs and all details regarding them. Several actions can be taken to ensure the sustainability of GI goods, including enhancing their competitive strength through market development. Maintaining quality and providing a consistent supply are also essential. GI goods should be marketed at both national and international levels. One respondent mentioned that unique, juicy lemons are found in this area, though they are not produced in large quantities. Their availability is confined to that village.

Another critical point is that GIs should be established as part of the economic value chain. The government should provide financial support without collateral, including subsidies, tax incentives, and technology transfer. There should be encouragement for eco-friendly production methods. Additionally, there should be a precise information flow and effective marketing awareness.

Strict adherence to quality standards and hygiene maintenance is essential for promoting GI goods. The standardisation of products opens new markets. Organic farming and sustainable agricultural practices should be encouraged. Legal protection and continuity insurance must also be provided following GI registration. Additionally, encouraging both qualitative and quantitative production is necessary to meet consumer demand. One of the key informants stated that when he was in the Department of Industry, he had given a wooden carved handicraft (called *deshemoru jhyal*) as a gift to one of the delegates. When he visited, he found that the colour had faded and the wood was damaged.

6.7. Conclusion

This chapter discusses the prospects and problems of implementing GI laws for goods in Nepal. According to the responses from key informants, the prospects of implementing sui generis GIs include economic growth, the protection of farmers and producers, national and international recognition of the regions of Nepal and Nepal, legal protections for the goods, identification of goods, preservation of culture, consumer protection, safeguarding of traditional knowledge, rural development, environmental protection, and fulfilments of commitments under international obligations.

The problems related to implementing sui generis GI laws for goods in Nepal encompass legal problems, implementation and organisational issues, limitations, supply chain problems, financial difficulties, market concerns, technological hurdles, quality control problems, and the problem of undocumented and unrecorded traditional knowledge.

Hence, the researcher also opines that there are more prospects than the problems for the implementations of sui generis GIs law in Nepal especially, there is the prospects for the economic development.

CHAPTER VII

7. FINDINGS, CONCLUSION AND SUGGESTIONS

7.1. Findings

The research is carried out with the objectives to analyse the existing legal provision of GI in Nepal and to compare the compatibility of Nepal's provisions on GIs with that of the TRIPS agreement, to find out the ways GI goods are protected in the SAARC countries, to explore the legal mechanism required to preserve Nepal's geographical indications goods, to identify the prospects and problems of implementing the geographical indications law in Nepal. The findings of the thesis are given below:

Finding Research Problem Number 1

The finding in research problem number one is that the analysis of the existing legal provisions of Nepal and their compatibility with those of the TRIPS Agreement is as stated below:

The national legal framework on GIs of goods in Nepal begins with the constitutional provisions in the explanation clause of Article 25, which states that property includes IP. Schedule 5 has given a list of federal powers, of which number 24 states that the Federal government has the power over IP (including patents, designs, trademarks, and copyrights); the GIs are not recognised anywhere in the constitution of Nepal. The Muluki Civil Code, 2074, defines IP as movable property; any property derived from IP is considered the private property of the person who owns the IP. Furthermore, the code does not recognise GIs.

Different acts have recognised GIs as IP, such as the Export and Import (Control) Act, 2013 BS, and the Industrial Enterprises Act, 2076 BS, which includes GIs as IP. However, the “Patent, Design and Trademark Act, 2022 BS,” Nepal Standard (Certification Mark) Act, 2037 BS, “Competition Promotion and Market Protection Act, 2063 BS,” Customs Act, 2064 BS, Local Governance Operation Act, 2074 BS, “The Consumer Protection Act, 2075 BS,” “The Right to Food and Food Sovereignty Act, 2075 BS,” have recognised IP but not GIs.

Collective Mark Registration-Related Directive 2067 BS registers the collective marks in Nepal. There are 11 collective marks registered in Nepal under this act, including Changrya Pashmina (class 24), Changrya Pashmina (class 25), Sindhuka (class 29), Sindhuka (class 30), Sindhuka (class 35), Everest Big Cardamom, Himalayan Nepalese Carpet, Swadeshi (Lebal), Swadeshi (Lebal), Swadeshi (Lebal), and Juju Dhau.

The Budget Speech for Fiscal Year 2081/82 BS does not explicitly mention GIs. The Trade Policy 2072 BS states that encouragement, support, and coordination are necessary to register GIs of exportable goods. Likewise, the National Intellectual Property Policy 2073 BS aims to develop a new legal framework for GIs and has outlined the GI policy. The Sixteenth Plan (Fiscal Year 2019/20-2023/2024) asserts that a self-regulating mechanism with legal and institutional powers safeguards intellectual property rights, ultimately leading to increased GIs. The Nepal Trade Integration Strategy (NTIS) 2079/80 BS (2023 BS) – 2084/85 BS (2028 AD) prioritises sectors with export potential, including agro-based products, the forestry sector, craft and manufacturing products, small and cottage industries, and services.

Regional legal frameworks concerning GIs exist, including those of the EU, the Andean Community, the ASEAN, Mercosur, and the SAARC; others include NAFTA and the Bangui Agreement from West Africa. The EU is gaining popularity for its *sui generis* approach to GI protection. The types of GIs under the EU are PDO, PGI, Traditional Speciality Guaranteed, and “Geographical Indication of Spirit Drinks and Aromatised Wines”. There are various international legal frameworks concerning GIs, including the Paris Convention; the Madrid Agreement; the Lisbon Agreement; the Versailles Peace Treaty, 1919 AD; the Stresa Convention, 1951 AD; the Lisbon Agreement; Attempts to Revise the Multilateral System of Protection after 1958; and the Draft Treaty on the Protection of Geographical Indications (1975) and TRIPS, 1995. The TRIPS established the World Trade Organisation as the first multilateral agreement to include the term geographical indications. Articles 22, 23, and 24 are dedicated to GI. Nepal is party to the Paris Convention and the TRIPS agreement.

Regarding judicial decisions on GIs in Nepal, there are cases decided by the High Court Patan, from 2060 BS to 2080 BS (2003 AD to 2024 AD), including “Tea Board of India v. Modern Tea Industries Pvt. Ltd,” Nepal, Advocate Anju Uprety Dhakal, on behalf of

the Scotch Association v. Dhanusha Distillery Pvt. Ltd and Others and Scotch Whiskey Association v. Highland Distillery Pvt. Ltd. Similarly, the Supreme Court has not revised the case of Advocate Anju Uprety Dhakal, representing The Scotch Whisky Association of Scotland UK against the Department of Industry, Tripureshwor and Others.

Basmati rice was granted the GI tag in India in 2010. Furthermore, in 2018, India applied for a GI tag for Basmati rice in the EU. On 9 December 2020, Nepal opposed and submitted a letter to the EU. However, it did not receive a response as Nepal does not have laws to protect its goods under GI regulations.

The Annual Foreign Trade Statistics Book 2079-80 indicates that the significant export destinations of Nepal are China, India, the United States, and Germany. The major commodities exported to China in FY 2079/80 include carpets, other textile floor coverings, medicinal plants, and handicraft paintings, also considered potential GI-capable goods of Nepal. Similarly, primary Nepali goods exported to the United States in fiscal year (FY) 2079/80 are woollen carpets, readymade garments, pashmina and handmade paper. Handmade paper, garments, carpets, and pashmina shawls are the primary exported goods to the UAE. The primary impact is on Nepal's carpet and apparel exports to the EU, the UK, and Canada. Likewise, Japan produces its currency, the Yen, from 'Lokta' paper imported from Nepal. Nepal has secured the 109th position in the GII, with the 110th position in innovation inputs and the 102nd position in innovation output in the Global Innovation Index.

Nepal has registered the Industrial Property Bill, 2082 BS, in the HoR on 2082/02/26, which includes provisions for GI, its definition, registration, substantive and procedural provisions, and the registration of GI. The significant provisions of the existing provisions in the bill are as follows:

In cases of the preamble, it states about amending and consolidating the laws relating to industrial property *to protect human-made* creations and innovations, promote the country's interests, safeguard the legal and economic rights of industrial property owners, and facilitate the registration, regulation, promotion, and record-keeping of such property, but missed the nature made goods. Section 52(3) states that

Governmental and non-governmental organisations can give an application in case of geographical specification. It is found that the clarification that the government should include local and federal. Section 52 states that GI encompasses agricultural products, foodstuffs, beverages, natural goods, handicrafts, and industrial products. However, this provision missed manufactured goods. According to Section 53, if any GI is registered, it cannot be registered as a trademark.

Provided that before the enactment of this act, if any goods that match the definition of GI are registered as the GI, then both get the protection until the expiry of the trademark. Whether expiry includes the renewal period or not is subject to interpretation, which is lacking in these provisions. There are no provisions in the bill addressing the issue of prohibiting misleading GIs.

Section 54 mentions that “the GI tag goods shall not be protected under the conditions...”. However, the provision is intended to state the GI goods before getting the GI tag. Therefore, instead of the phrase 'GI tag goods,' it could be amended to 'GI goods.' Geographically indicated *goods or services from* different geographical territories or countries that have the exact spelling and pronunciation are called homonymous GIs and are mentioned in Section 55. The word 'service' shall be avoided because GI refers only to the context of Nepal, as per the Bill. Further, Section 59 states that there shall be a substantive examination of the GI before the registration of the GI. As per Section 62, there shall be a national logo of GI to identify goods and services registered as GI. Again, the services do not fall under the Bill. In the same section, there is no provision for the product-specific GI logo to identify GI goods. Section 63 states that the GI owner cannot give others the right to use or transfer it. But the provision that the owner cannot sell, mortgage, pledge or give to any other person is missing.

Additionally, section 2(f) defines industrial property as “... traditional knowledge, geographical indication ...”. And section 77, in clarification, defines intellectual property as industrial property “...traditional and indigenous knowledge...”. The provisions are not uniform. Sections 79 and 80 provide for a fine for anyone who misuses the logo or infringes the GIs of others. The penalty for the person shall be 10,00,000 to 15,00,000, and a double fine in case of repetition. But there is a lack of criminal penalties. The provisions of the IP office and its jurisdictions regarding quasi-judicial work are stated, but for settlement, at least a tribunal should be present to ensure

that cases are not overlooked. GI is classified as a civil case, but the provisions of the Penal Code render it eligible as a criminal case.

When comparing Nepal's provisions on GIs with the TRIPS agreement, it is found that Nepal's provisions are incompatible with those of the TRIPS Agreement in terms of existing laws on GIs. The PDTA 2022 does not address GIs or collective marks. Meanwhile, the Collective Marks Registration Directive 2067 includes provisions for collective trademarks, which do not align with the spirit of GIs as mentioned by TRIPS.

The National Intellectual Property Policy, 2074 BS, has stated regarding the GIs policy. Furthermore, the Government of Nepal has introduced a bill titled “A Bill Made to Amend and Consolidate the Laws Related to Industrial Property (Industrial Property Bill, 2082)” in the parliament. The bill has incorporated GI. It has defined GI. And incorporated the provision of the registration of the GI, provision of the rights of the GI owner, and special provision relating to GI, the protection of GI, and punishment for the infringement of GI, in comparing the GI provisions of the bill with the TRIPS provisions. It is found that Article 22 of the TRIPS has provisions for the GI of goods. If the compatibility of the TRIPS provisions and the Bill provision is compared, then it can be found that articles 22(1), 22(2), 22(4) of the TRIPS are compatible with the Bill. Still, article 22(3) of the TRIPS is not compatible with the Bill. The bill lacks the provisions of the TRIPS, that is, if the use of GI is actual but misleads the public about origin, then it must be prohibited.

It has been found that Nepal has failed to adopt the laws of GI up to now due to various stakeholder dynamics, including the lack of political stability and a lack of political will, which are two key facets of creating a new law. Suppose the causal link between these two facets, specifically the adoption of GI legislation, is analysed. In that case, despite the adoption of an IP Policy mentioning GIs in 2074, there is still a gap of more than eight years in formulating GI-specific laws.

Connecting the stakeholder dynamic to the adoption of laws, a lack of awareness is one of the primary reasons for the absence of such legislation. This lack of awareness pertains to the benefits of registering GIs, including market access, branding of goods, premium pricing, profit generation, rural development, and cultural promotion. Since

stakeholders do not recognise the significance of these benefits, they cannot advocate for creating the necessary laws.

Apart from the political angle, one can draw a causal link between the judiciary's role and the creation of law. Analysing the precedence of the Nepali judiciary (cumulatively examining the High Court and the Supreme Court), the issues of IPR were confined to trademarks when they could have been linked to GI. The judiciary missed the opportunity to elaborate upon GI and inspire the legislature to draft a law.

Coming to a quasi-judiciary body that is a department of Industries, which has been empowered under PDTA to give orders in case of disputes of IP, could play significant role creation of GIs laws if we take the example of PDTA Act analysed in present study, collective mark is nowhere stated in the statute however with the passing of the Collective Mark Registration Related Directive the collective marks is registering. The department did not emphasise the need for GI legislations in the disputes brought before it or through the legislative power exercised in the collective market. Additionally, Nepal did not fear threats after not receiving a share of ownership of Basmati Rice. TRIPS extended the date by which Nepal's laws had to be made compatible with it; therefore, it took a considerable amount of time to promulgate statutes.

Finding Research Problem Number 2

The finding for research problem two, which aims to determine how GI goods are protected in the SAARC countries, reveals that four out of the eight SAARC countries protect their GIs through *sui generis* GI laws. Bangladesh, Pakistan, India, and Sri Lanka are protected through their laws. Nepal has the proposed Industrial Property Bill, 2082 BS, which has provisions for GIs.

The standard provisions concerning GI registration and protection in these countries, along with the bill provisions on the GIs, are as follows: Bangladesh, India, and Pakistan have enacted GI laws, whereas Sri Lanka includes a section on geographical indications in its Intellectual Property Act of 2003. Similarly, the Bill of Nepal also has provisions for GIs in industrial property. The GI acts and provisions aim to register and protect GI-capable goods. The definitions provided in all four countries align with those

specified in the TRIPS agreement. In addition to the meaning given in the bill, it also aligns with the TRIPS. GI-capable goods encompass natural or agricultural products, handicrafts, industrial products, and various foodstuffs in all countries, as well as in the Industrial Bill of Nepal.

Furthermore, Pakistan specifies that horticulture includes natural, raw, or manufactured goods and beverages, whether processed, semi-processed, or semi-finished. Sri Lanka incorporates goods, “any manufactured or naturally available agricultural products, food, wines, spirits, or items of handicraft or industry”. Bangladesh and India include various goods but exclude beverages, while Pakistan uses the term 'beverages', and Sri Lanka specifically mentions 'wines' and 'spirits'. Similarly, the Industrial Bill mentions the beverage under the domain of the GIs. The definitions of generic names or indications are provided. The substantive details concerning application, registration, grounds for refusal of GI registration, and provisions for assignment, transfer, mortgage, pledge, licensing, or other agreements are included along with the definitions. Provisions regarding the registration of homonymous geographical indications are also included. Regulations for the renewal of GIs and prohibitions on registering trademarks as GIs are outlined; however, in Sri Lanka, anyone registering a GI as a certification mark may also register that mark as a GI if they wish. It is not necessary to renew the GI in Nepal as per the Bill. No legal actions have been taken in India or Pakistan against infringing unregistered GIs. However, actions can be pursued against unregistered GIs under unfair competition laws. Foreign GIs are registered in all four countries, and provisions for quality control are specified.

The following results also indicate that India, Bangladesh, Pakistan, and Sri Lanka have successfully adopted the geographical indications law. According to the data recorded in WIPO, India has 530 GIs, Bangladesh has 34, Sri Lanka possesses 18, and Pakistan accounts for 10. Additionally, in the Global Innovation Index, India ranks 39th, Bangladesh is at position 106, Pakistan is ranked 91st, and Sri Lanka is placed 89th. Meanwhile, Afghanistan, Bhutan, and the Maldives have yet to be ranked. Furthermore, in “WIPO's Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications,” India is the only SAARC member in the database, indicating that India is progressing in its scores.

Additionally, basmati was registered as a patent in America. Due to the *sui generis* GI laws, India successfully claimed its GIs. Nepal could register its GIs and make its stand in international trade. Further, the goods could be protected, some could be promoted, and some may be identified.

Finding Research Problem Number 3

For the research problem three findings, which aims to explore the legal mechanisms required to protect the GI's good of Nepal, both doctrinal and empirical methods have been incorporated. A total of 45 key informants were interviewed to gather their opinions on the legal measures necessary to protect GI-capable goods in Nepal. The key informants are essential authorities to learn from about the expert on geographical indications. The key informants incorporated are parliamentarians, professionals with expertise, government officials, a representative from the Ministry of the Department, a representative from the Department of Law Ministry, representatives from the Department of Industry, retired government officials, former government officers, academic scholars and experts from various universities, experts who have completed PhDs in the field of Intellectual Property from the Faculty of Law, TU, authors of intellectual property law books, organisations working on intellectual property, researchers who have written theses on geographical indications, policymakers, lawyers who have worked on GIs and collective marks, politicians, and individuals who have authored articles on GIs in various newspapers and journal.

The key informants are selected from the purposive sampling. These informants are coded with the number 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45. Forty-four informants participated in in-person interviews; one was conducted via Messenger, and questions were emailed to them.

This chapter addresses identification (GIs capable goods, categories of GIs capable goods), the situations of GIs capable goods, the protection of GIs capable goods, and the preferred methods for the protection of GIs capable goods in Nepal. In the identification and protection of the GI's goods. It is found that there are 157 GI-capable goods in Nepal. The respondents are from Koshi, Madhesh, Bagmati, Gandaki, and

Lumbini provinces, with none from Karnali and Sudurpachhim provinces. There is no exact government research on GIs-capable goods; however, based on doctrinal studies and information provided by the key informant, there are 98 GIs-capable goods in Nepal. Key informants suggested that listing the KII-capable goods in Nepal, based on geographical boundaries rather than political boundaries, should be identified. For that, collaboration between the three tiers of government should be established.

All the key informants stated that agricultural goods, natural goods, handicrafts, manufactured goods, and industrial goods should be included in the categories of geographically indicated capable goods. Thirteen respondents agreed to keep services in the categories of GIs, while twenty-eight did not agree to include these services. Additionally, services are not considered GIs in the SAARC countries with *sui generis* GI laws, namely Bangladesh, India, Pakistan, and Sri Lanka.

In response to the question regarding GI-capable goods in Nepal, three respondents stated that the goods are in good condition. Thirteen respondents indicated that the GI-capable goods are 'about to go extinct'. One respondent asserted that the goods were on the brink of extinction. Similarly, seven respondents reported that the goods are in various conditions, while three respondents noted that the goods fall into both categories: those that are on the verge of extinction and those that are already extinct. The respondents' primary concern was their lack of knowledge about the GI-capable goods in Nepal, and they suggested that the central government provide a list of GI-capable goods, along with updates on their status. The local level could then prioritise such items within that territory.

Concerning the protection of GIs-capable goods in Nepal, the options include drafting legislation, self-protection, don't know, and others. All 45 respondents unanimously agreed that the best method to protect GI-capable goods is "by drafting a law."

Key informants were asked to choose their preferred protection method from the following options: *sui generis* GIs law, collective marks and certification marks, laws focusing on business, and others. Forty-three informants stated that *sui generis* GI laws protect GI-capable goods in Nepal. All the informants agreed that laws should be drafted to protect Nepal's goods. Similarly, 96% of respondents stated that *the sui*

generis GIs law is necessary for the protection of the GIs capable goods in Nepal. Consequently, the thesis finds that identifying goods with GI capability is very important. Various categories of goods should be included, including agricultural goods, natural goods, handicrafts, manufactured goods, and industrial goods, but services should not be included in the categories of GIs. Drafting laws is the preferred method of protection. The *sui generis* GI system is the most effective way to protect GI-capable goods.

Finding Research Problem Number 4

The findings of research problem number four, concerning the identification of prospects and problems associated with implementing the GI laws in Nepal, as reported by 45 key informants, are presented in two sections: prospects and problems.

In the prospects of implementing *sui generis* GIs, 20 key informants stated the implementation of GIs gives economic prosperity, 20 said that GIs laws implementation gives the protection of farmers and producers, 19 mentioned about national and international recognition of the region and Nepal, 14 noted the prospects of the legal protection of the goods, 10 stressed that GIs laws protect culture, eight indicated the prospects of implementing GIs laws for the protection of consumers, five have stated about the protection of traditional knowledge, three responded the rural development. Three have said about the protection of the environment as the prospects of implementing *sui generis* GIs laws in Nepal.

In the problems of implementing *sui generis* geographical indications law in Nepal. 13 informants stated the legal challenges as the problems of implementing GI laws in Nepal; six specified implementation and organisational problems of *sui generis* GI laws; five emphasised the problems of limitation on laws; four informants noted the supply chain problems; three stated the financial problems; three informants stated the market problems; two mentioned that there would be technological problems; two indicated about quality control problems, other two informants stated about the problems of undocumented and unrecorded traditional knowledge; eight informants mentioned that there are only benefits of implementing GIs but no problems of

implementing GIs laws in Nepal. At the same time, two informants out of 45 key informants opted for the certification and collective marks protections of GIs in Nepal.

7.2. Conclusion

IP encompasses the results of human creativity and innovation. It covers two aspects: Industrial property and literary property. The industrial property incorporates designs, patents, trade secrets, trademarks, layout protection, integrated circuits, and GIs.

GIs is the name that has been obtained with a long history to begin with. The Paris Convention employs the terms “indication of source and appellations of origin.” Madrid uses the term indication of the source. The Lisbon Agreement defines the term 'appellation of origin'. TRIPS, for the first time, used the term GIs. “GIs refer to products that originate in a particular territory or region and possess specific qualities, reputations, and characteristics due to that territory or area.” GIs identify a source and signify the quality of goods through the GI tag. TRIPS provides two types of protection: general protection for goods and special protection for wines and spirits. GIs are generally used for foodstuffs, agricultural products, wine and spirit drinks, handicrafts, manufactured goods and industrial products.

The role of GIs in protecting the interests of the local market involves safeguarding against the illicit use of products, preventing unjust enrichment, and conferring collective rights. Additionally, communal ownership and absolute protections through registered GIs underline their significance.

There are numerous theories concerning GIs, including communitarianism, reward, restoration, information, originality, labour rights, Shapiro's reputation, club goods, unjust enrichment, personhood, distributive justice, ecological, spiritual, economic, natural monopoly, utilitarian, qualitative, and terroir theories. Consequently, the theories of *Utpati Mool* (originality), quality, community, and territoriality, or geological sign, are of great significance.

Among the key characteristics of GIs are several notable features, including that it signifies, it is used to identify goods, a GI identifies goods and services, it should originate from a specific location, and it should possess quality (specific or otherwise) or reputation, among other attributes. GIs carry out functions, explicitly identifying the origin of goods, suggesting qualities, reputations, and other characteristics of products, promoting items from various regions, undertaking advertising functions, and recognising the community.

There are four ways to protect GIs: 1. Get protection in the local jurisdiction. 2. Use a bilateral agreement between countries. 3. Register through WIPO's Lisbon system. 4. Use the Madrid system to register marks internationally. The TRIPS agreement does not mandate specific protection methods but requires countries to protect their GIs. Under statutory measures, GIs may be safeguarded through *sui generis* legislation, trademarks (including certification marks and collective marks), and laws that focus on business practices.

Sui generis is a Latin phrase that means “*of its kind*.” A country can protect its GIs through its laws. This approach treats GIs as a type of IP, whereas the protection of GIs under trademarks views them as a subset of trademarks. GIs and trademarks denote distinct symbols that function as indicators of origin. GIs, certification marks, and collective marks distinguish products with various functionalities. The GI identifies goods by geographical origin, while collective and certification marks differentiate products based on the association or certification body that owns the marks. Collective marks distinguish the goods or services of association members from those of non-members.

In contrast, a certification mark differentiates certified goods or services from non-certified ones and may only be used by authorised parties other than the owner. GIs can also be protected through specific laws focusing on business practices related to unfair competition, consumer protection, or product labelling. Although these laws do not confer individual industrial property rights over the GI, they provide indirect protection by prohibiting specific actions that may involve the unauthorised use of GIs.

Some say GIs triumph over CM, others say vice versa, and some scholars claim that trademarks and GIs are neither "equal" nor "identical" or interchangeable. Coexistence is possible through legislation that adopts a harmonious approach to protect both. In the event of a conflict between GIs and TMs, which may arise from disputes between registered TMs and GIs, between unregistered TMs and GIs, or between well-known TMs and GIs, two principles govern the relationship if a conflict does occur. The principle of 'First in Time, First in Right' refers to the joined principles of priority and exclusivity. It connotes that "the sign protected first, whether a trademark or a GI, shall take precedence (principle of priority) and prevent the use of any conflicting subsequent sign (principle of exclusivity)." Additionally, a coexistence principle permits the use of GIs and trademarks to some extent, even though using one or both might then infringe the rights provided by the other.

Protecting GIs through *sui generis* and trademark laws is regarded as a North-South debate involving the Old World (Europe) and the New World (Australia, Argentina, Chile, Canada, the United States, and New Zealand). The North safeguards its GIs through *sui generis* laws, while the South relies on trademark laws, mainly collective or certification mark protection. Countries from both the Old and New Worlds are divided on this matter. One faction advocates for absolute protection, representing a higher level of safeguarding for all GIs. Conversely, the other faction favours GI protection limited to consumer confusion, drawing an analogy to trademark protection. There are fundamental differences in how GIs are protected through collective marks and *sui generis* GIs, particularly in terms of the level of security, origin, and ownership of rights. This disparity has led to the TRIPS agreement not detailing the protection methods. The debate has transcended their respective territories, requiring a third country to align its laws with those of these two groups for Free Trade Agreements, such as the one between the US and the Republic of Korea (KORUS) and the other between the EU and the Republic of Korea (KUREU), which exemplifies this. In this context, it is crucial to examine Nepal's laws regarding the protection of GIs.

There is significance in analysing the legal provision of GIs and the prospects and problems of implementation. Nepal has an abundance of goods with GI capability. It has recognised the term "GI" in its national laws and policies. Some universities offer the IP course but have not included GI. GI issues are currently in court.

Furthermore, the National Agriculture Research Centre has filed a case regarding shared GIs in the European Union. International law stipulates that before applying for product registration in the global market, the product must be protected under the geographical indication laws of the respective country. Nepal is a party to international laws and has committed to drafting statutes on GIs. It is graduating from LDC status to that of a developing country. The “Ministry of Industry, Commerce and Supplies” and the National Gene Bank are undertaking the necessary documentation to assign GI tags to certain goods. Yet, Nepal holds a low position on the Global Innovation Index, currently ranking 109th, indicating that the country needs to establish comprehensive intellectual property laws, including GIs.

Under the broader topic “legal protection of GI in Nepal and its prospects and problems”, the thesis concludes that Nepal's geographical indication provisions are incompatible with those of the Trade-Related Aspects of Intellectual Property Rights agreement. The Constitution has incorporated IP as property. The Muluki Civil Code, 2074, defines IP as movable property; any property derived from IP is considered the private property of the person who owns the IP. Different acts have recognised GIs as intellectual property, such as the Export and Import (Control) Act, 2013 BS, and the Industrial Enterprises Act, 2076 BS, which includes GIs as IP. However, the Patent, Design and Trademark Act, 2022 BS, Nepal Standard (Certification Mark) Act, 2037 BS, Competition Promotion and Market Protection Act, 2063 BS, Customs Act, 2064 BS, Local Governance Operation Act, 2074 BS, The Consumer Protection Act, 2075 BS, The Right to Food and Food Sovereignty Act, 2075 BS, have recognised IP but not GIs.

The Collective Mark Registration-Related Directive 2067 BS registers collective marks in Nepal. There are 17 collective trademarks registered in Nepal under this directive. The directive could not always register a type of IP. It needs the act. Similarly, the Supreme Court has not revised the case of Advocate Anju Uprety Dhakal, representing The Scotch Whisky Association of Scotland, UK, against the Department of Industry, Tripureshwor and Others. Nepal's position in the Global Innovation Index is unsatisfactory. Nepal has secured the 109th position in the GII, with the 110th position in innovation inputs and the 102nd position in innovation output.

The Industrial Property Bill, 2082, is in the House of Representatives. This House will exist up to 2084 BS, which has almost five sessions remaining. Two sessions remain for the bill's discussion, while the other three sessions will focus more on the budget aspect. If this bill completes the process in both sessions, it could only be transformed into an "Act" upon reaching the national assembly. If the bill could not be discussed within this period, the House would be dissolved for another election in 2084 B.S., and all the existing bills would remain inactive. Some bills have not become an Act and are still in the NA, including the Commission for Investigating the Abuse of Authority (3rd amendment) in the National Assembly since 2076/ 10/06. The procedure that remains to be a bill for authentication is as follows: Firstly, it is distributed to the members of the HoR. The next step will be the presentation of the bill in the HoR. Further, there shall be a general discussion of the bill. Likewise, there is the "Industry, Commerce, Labour and Consumer Welfare Committee." The bill will be discussed in this committee. The committee shall submit the report. Next, the House will pass the bill. The National Assembly might pass or return it. The bill shall be authenticated if it is re-passed by the NA.

The conclusion is that having a bill is a step towards framing the laws, provided no disturbances occur during its journey. There are many positive aspects of the Bill. There is a consolidated form of the industrial property in the bill. No renewal or limitation of the GI is mentioned, which is a very wonderful part of the bill. However, some points should be taken into consideration while materialising the bill into an Act. They are as follows:

The preamble states that it is expedient to amend and consolidate laws relating to industrial property *to protect human-made* creations and innovations, promote the country's interests, safeguard the legal and economic rights of industrial property owners, and facilitate the registration, regulation, promotion, and record-keeping of such property. But the missing point is that geographical indications in the premises of the industrial property cover human-made creations and natural goods. The preamble does not include the term "natural goods." Thus, the preamble should incorporate the term.

Section 2(f) industrial property includes patents, functional designs, integrated circuit layout designs, industrial designs, trade secrets, traditional knowledge, service marks, well-known marks, and geographical indications. Similarly, Section 2(u) geographical indications mean goods produced in a specific geographical location or area; such goods have quality, reputation or other characteristics because of being in such location or area. This also includes the combination of symbols, maps, geographical names, or a combination of these elements. Bill has defined GI in the broader perspective as given in the TRIPS.

In Section 52, which is an application for the registration of the GI, the GI includes agricultural products, foodstuffs, beverages, natural goods, handicrafts, and industrial products; however, this provision omits manufactured goods. All industrial goods fall under the category of manufactured goods; however, not all manufactured goods are industrial products. Industrial products are a modern production method, but manufactured goods are traditional. Modern knives made in factories falling within the criteria of geographical indications can be industrial products, but Bhaktapur's pottery is a manufactured good.

Section 53 of the bill provides that if any GI is registered, it cannot be registered as a trademark. Provided that before the enactment of this act, if any goods that match the definition of GI are registered as GIs, then both get protection until the trademark is limited. After the time limit was reached without obtaining approval for the renewal, the GI could be registered. If it exists, then that shall be misleading to the people.

If any goods that fall under the definition have been registered as trademarks, they may be registered as GI without requiring approval for renewal. Both shall get protection, which should be avoided because one should get protection simultaneously. The narrow definition renders the renewal invalid, whereas the broad definition, until expiry, gives validity to the renewed one. Before the renewal of the GIs, it should be clarified.

The part of the prohibition of misleading GI is missing in the bill. The TRIPS agreement states that even if the use of GI is actual but misleads the public about origin, it must be prohibited. But there are no such provisions in the bill.

In Section 54, regarding the protection not given to GI goods, it states, "In the following situations, the *GI tag goods* shall not get the protection." Section 54 further mentions that "the GI tag goods shall not be protected under the conditions..." However, the provision is intended to state the GI goods before getting the GI tag. Therefore, instead of the phrase 'GI tag goods,' it could be amended to 'GI goods.'

In section 55 on the registration of homonymous GI on the part of the clarification: The geographically indicated *goods or services* of a different geographical territory or country with the exact spelling and pronunciation are called homonymous GIs. The word 'service' shall be avoided because GI refers only to the context of Nepal, as per the Bill.

In section 59, on the provisions of the substantive examination of GI. The missing part is about the publication of GI in the bulletin. The proposed GI should be published in the IP bulletin or the GI bulletin after substantive examinations, before the registration certification, as the budget allows. Publication of the proposed GI after substantive examinations, before the certification of registration in the IP bulletin or the GI bulletin, as the budget allows.

Section 62 mentions the national logo of GI, stating that the Nepal government shall use the national logo of the GI to identify goods and services registered as GI. The word 'service' should be avoided, and instead, mention the goods. The Nepal government shall use the national logo of the GI to identify goods registered as GI.

The Nepal government shall use the product-specific GI logo to identify GI goods. National logos are okay when there is less GI in similar goods. If there are numerous GIs in the same categories, then product-specific goods are necessary. There shall be a product-specific logo for the GI goods, following the provisions of the Nepal government, which shall use the national GI logo to identify such goods.

Section 63, in the provision regarding the rights of the GI Owner, states that the GI owner cannot give others permission to use or transfer the right. However, the GI owner should not have the right to assign, transfer, sell, mortgage, pledge, or otherwise dispose

of the GI to any other person. If everything is mentioned in the laws, there would be no loopholes.

Regarding the given definition and clarification on the part of industrial property there is the following are mentioned: The purpose of the definitions is to limit the general meaning of words, to include other words or subjects within that meaning, to extend the general sense, to avoid confusion regarding the terms, and to shorten repetitive words. There should be uniformity in Section 2(f), which defines industrial property, including "... traditional knowledge, geographical indication ..." However, Section 77 provides clarification stating that intellectual property encompasses industrial property, specifically "...traditional and indigenous knowledge..."

There should be uniformity in the definition and clarification. The definition should be provided in the first part of Section 2. If industrial property encompasses all the forms of IP specified in the bill, it should not be particularised; if it does not include all industrial property, then the term 'GI' should also be provided in the clarification of Section 77. Sections 79 and 80 include penalties ranging from 10,00,000 to 15,00,000, along with a double fine for repeated offences concerning the unjust use of GI, misuse of the national logo of GI, and infringement of GI goods. Additionally, there should be a minimum term of imprisonment in cases of infringement of the GI. The Muluki Criminal Code provides provisions for imprisonment and compensation for simple crimes. The infringement of intellectual property is also an offence. Hence, it should also include provisions for imprisonment and compensation.

Section 78 of the bill states that the IP office is authorised to perform quasi-judicial work. There should be a Tribunal for the settlement of the GI case. Along with the IP office conducting the registration, procedural examination, and substantive examination, the Tribunal should also review cases related to IP.

Section 80 of the Bill states that the GI is the Civil Case, but it should be seen as the individual party's criminal case. The act against the GI is not against a particular person. It is considered community property; therefore, it should be a criminal case.

As per Section 122, the Patent Design and Trademark Act, 2022, shall be repealed. However, the following shall be repealed: The management of GIs should be under the concurrent rights of local, federal, and central governments, as specified in Schedule 9; however, it is currently listed in Schedule 5 under the powers of the federal government, which must be repealed. Further, the IP is categorised as copyright, patent, design, trademark and other. Instead, the different forms of IP, including GI, should be mentioned in the Constitution of Nepal. Furthermore, local governments should identify the local GIs capable of producing goods and report to the federal government, and all should come under the central government's control.

Similarly, the provisions of The Muluki Civil Code, 2074 BS (2017 AD) state IP as private property. GIs should no longer be seen solely as a private right. It should represent community rights, and, like other properties, it should not be sold or transferred to others. The code does not include GIs as a type of IP. The *sui generis* GIs are considered community property; this also presents a challenge for a country that views its IP as private property, as the scope of IP widens to encompass community property once the government introduces *sui generis* GI laws.

In the statutes, The Customs Act, 2064 BS (2007 AD), section 68 provides that if any person is going to import or export goods in violation of IPR such as patent, design, trademark, and copyright, the person who has acquired such rights shall file a request with the concerned customs officers to withhold such import and export. The Customs Act, 2064 BS, section 68, must be amended to include GI and other forms of IPR. Likewise, in the case of the Right to Information Act, 2064 BS, section 3 states that every citizen has the right to information and access to the information if it is provided, if it seriously affects the protection of IP. The inclusion of GIs in the form of IP also demands an understanding of such IP, which includes GIs as well.

In comparing the compatibility of Nepal's provisions on GIs with the TRIPS agreement, it is found that Nepal's existing provisions are incompatible with some of the TRIPS Agreement. The PDTA 2022 does not address GIs or collective marks. Meanwhile, the Collective Marks Registration Directive 2067 includes provisions of collective trademarks, which do not align with the essence of GIs.

The first question could be: Why is there a compatibility test with the TRIPS agreement when there are no laws of GI in Nepal? To justify this question, the World Intellectual Property Indicator 2024 has provided a list of countries and the category of GI protection, as follows: *Sui generis* GI laws, trademarks, other national legal means, regional system, agreements, and the Lisbon System. This suggests that there is no uniformity in the methods used to protect GI.

The categories demonstrate that a country must protect GI, but in what way is this discretion exercised? In Nepal's context, it has the Collective Marks Registration Related Directive 2067, which registers collective marks. Can these collective marks not be taken as GI? Nepal has collective marks protection, but it is not recognised as a country with GI protection. The primary reason for this is that Nepal is protecting its collective marks through directives, and the principal act, PDTA, has not recognised the collective marks. Then, there could also be a provision stating that the GI of the country shall be protected through collective marks. However, the problem persists as the directive must be converted into law. In this context, Nepal could protect its GI through various means of protection.

Furthermore, the National Intellectual Property Policy, 2074 BS, has stated its position regarding the GIs policy. And the Industrial Property Bill, 2082, is registered in the House of Representatives. If the Bill is compared with the TRIPS for the compatibility the bill's definition of the GI is border, the bill also states that there should be legal means to protect GIs, the bill too prevents the misleading use of GI, also bill states about the unfair competition which are compatible with the TRIPS provisions. The bill mentions the coexistence of earlier trademarks and later GI, even if there is confusion in the public about the goods. Furthermore, the bill does not provide for a refusal of the misleading use, as Article 22(3) has provided, which is incompatible with the TRIPS.

Further, the thesis concludes that Nepal needs *sui generis* GI laws to protect its GI-capable goods, like those in Bangladesh, India, Pakistan, and Sri Lanka. For that, the Industrial Property Bill, 2082 of Nepal, should be enacted as an Act with specific changes. Implementing GI protections in Bangladesh, India, Pakistan, and Sri Lanka is more effective, as reflected in data recorded in WIPO: India has 530 GIs, Bangladesh has 34, Sri Lanka possesses 18, and Pakistan accounts for 10. Additionally, in the

Global Innovation Index, India ranks 39th, Bangladesh is at position 106th, Pakistan is ranked 91st, and Sri Lanka is placed 89th. Meanwhile, Afghanistan, Bhutan, and the Maldives are yet to be ranked. Furthermore, in the “WIPO's Standing Committee on the Law of Trademarks, Industrial Designs, and GIs,” India is the only SAARC member in the database, indicating that India is progressing in its scores.

Out of eight countries (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan) in the SAARC, four countries (Bangladesh, India, Pakistan and Sri Lanka) have protected their GI through *sui generis* GI law. Afghanistan has drafted the GI laws, whereas Nepal has registered the bill in the House of Representatives.

Regarding the Paris Convention, except for the Maldives, are parties to it. Afghanistan became a party on May 14, 2017; Bangladesh on March 3, 1991; Bhutan on August 4, 2000; India on December 7, 1998; Nepal on June 22, 2001; Pakistan on July 22; and Sri Lanka on December 29, 1952. Furthermore, Bangladesh, the Maldives, Nepal, and Sri Lanka are not parties to the Madrid Agreement. Afghanistan became a party on June 26, 2018; Bhutan on August 4, 2000; India on July 8, 2013; and Pakistan on May 24, 2021. Similarly, among the 38 countries parties to the Lisbon Agreement, SAARC countries still need to ratify it. All eight SAARC countries are parties to the World Intellectual Property Organisation, established in 1970, which was signed in Stockholm on 14 July 1967 and came into force in 1970. Afghanistan became a party on 13 December 2005; Bangladesh on 1 January 1995; Bhutan on 16 March 1994; India on 1 May 1975; the Maldives on 12 May 2004; Nepal on 4 February 1997; Pakistan on 6 January 1977; and Sri Lanka on 20 September 1978. Likewise, Bhutan has observer status to the TRIPS Agreement 1995, and all other SAARC countries are parties to it. Afghanistan became a party in 2016; Bangladesh in 1995; India in 1995; Maldives in 1995; Nepal on April 23, 2004; Pakistan in 1995; and Sri Lanka in 1995.

No country in the eight SAARC countries has mentioned geographical indications in its constitution. Except for the Maldives, other countries, such as Nepal, Afghanistan, Bangladesh, India, Pakistan, Bhutan, and Sri Lanka, have protected their IP provisions as Fundamental Rights. This clearly shows that these countries know the need to recognise and protect IP.

The standard provisions of the *sui generis* GIs laws for goods in India, Bangladesh, Pakistan, Sri Lanka, and Nepal are that Bangladesh, India, and Pakistan have enacted GI laws. In contrast, Sri Lanka includes a chapter on geographical indications in its Intellectual Property Act of 2003. The GI acts and provisions aim to register and protect GI-capable goods. The definitions provided in all four countries align with those specified in the TRIPS agreement. GI-capable goods encompass natural or agricultural products, handicrafts, industrial products, and various foodstuffs. Additionally, Pakistan specifies that horticulture includes natural, raw, or manufactured goods and beverages, whether processed, semi-processed, or semi-finished. Sri Lanka states goods mean “any manufactured or naturally available agricultural products, food, wines, spirits, or items of handicraft or industry.” Bangladesh and India include various goods but exclude beverages, while Pakistan uses the term 'beverages', and Sri Lanka specifically mentions 'wines' and 'spirits'. The definitions of generic names or indications are provided. The substantive details concerning application, registration, grounds for refusal of GI registration, and provisions for assignment, transfer, mortgage, pledge, licensing, or other agreements are included along with the definitions. Provisions regarding the registration of homonymous geographical indications are also included. Regulations for the renewal of GIs and prohibitions on registering trademarks as GIs are outlined; however, in Sri Lanka, anyone registering a GI as a certification mark may also register that mark as a GI if they wish. No legal actions have been taken in India or Pakistan against infringing unregistered GIs. However, actions can be pursued against unregistered GIs under unfair competition laws. Foreign GIs are registered in all four countries, and provisions for quality control are specified.

Due to the legal provisions of the GI laws, Nepal could have grasped the opportunities, such as getting shared ownership of Basmati. Nepal could obtain the identification, recognition, and protection of the GIs, as well as the promotion and sustainability of GI goods. There is the instance that Bangladesh, India, Pakistan and Sri Lanka registered their GIs, which is also Nepal’s right to protect its GI goods. Further, it could identify the conditions of the GIs along with the goods so that it can take its stand in international trade.

For the research objective of the legal measures necessary to protect geographical indication goods in Nepal, the thesis employed both doctrinal and empirical methods to implement these measures. A total of 45 key informants were consulted for their opinions on the legal measures required to safeguard GI-capable goods in Nepal. The question related to identifying goods capable of being classified as GIs, the categories of such GIs, the situations involving these goods, the protection of GIs, and the preferred methods for safeguarding GIs in Nepal is as follows.

In the identification and protection of the GI's goods. It is found that there are 157 lists of GIs capable of goods. The respondents are from the Koshi, Madhesh, Bagmati, Gandaki, and Lumbini provinces, with none from the Karnali and Sudurpachhim provinces. There is no exact government research on GIs-capable goods; however, based on doctrinal studies and information provided by the key informant, there are 98 GIs-capable goods in Nepal. Key informants suggested that listing the KII-capable goods in Nepal, based on geographical boundaries rather than political boundaries, should be identified. For that, collaboration between the three tiers of government should be established.

All the key informants stated that agricultural goods, natural goods, handicrafts, manufactured goods, and industrial goods should be included in the categories of GI-capable goods. Thirteen agreed to keep services in the GI categories, while twenty-eight respondents did not agree to include them. Additionally, services are not considered GIs in the SAARC countries with Sui generis GI laws, namely Bangladesh, India, Pakistan, and Sri Lanka. Hence, agricultural goods, natural goods, handicrafts, manufactured goods, and industrial goods should be included in the categories of GI-capable goods, not services.

In response to the question regarding GI-capable goods in Nepal, three respondents stated that the goods are in good condition. Thirteen respondents indicated that the GI-capable goods are 'about to go extinct'. One respondent asserted that the goods were on the brink of extinction. Similarly, seven respondents reported that the goods are in various conditions, while three respondents noted that the goods fall into both categories: those that are on the verge of extinction and those that are already extinct. The respondents' primary concern was their lack of knowledge about GI-capable goods

in Nepal, and they suggested that the central government provide a list of GI-capable goods, along with updates on their status. The local level could then prioritise such items within that territory. Consequently, the goods with GI status are at risk of extinction; thus, protecting these goods is crucial. All 45 respondents unanimously agreed that the best method to safeguard GI-capable goods is "by drafting a law." A total of 43 respondents indicated that they prefer *sui generis* GI laws to protect goods with GIs in Nepal, as opposed to collective marks, certification marks, business-focused laws, and others. All respondents agreed that laws should be drafted to protect Nepal's goods. Moreover, 96% of respondents indicated that *sui generis* GI laws are essential to ensure the safety of GI-capable goods.

It is concluded that identifying goods capable of being GI-tagged is crucial. Various categories of goods should be included, such as agricultural products, natural goods, handicrafts, manufactured goods, and industrial goods; however, services should not be classified as GIs. Drafting legislation is the preferred method of protection. *The sui generis* GI system is the most effective way to protect GI-capable goods.

This thesis is a pioneer in empirical research related to GIs in Nepal, with key informants' interviews with expertise in intellectual property rights. The researcher understands that it is easy to propose new laws. Therefore, the researcher has identified the impediments to implementing GI laws in Nepal. There are prospects and problems in implementing *sui generis* GI laws for goods in Nepal, alongside promoting GI-capable goods and their sustainability within the country. The important thing is to address the problems, as they can be solved by taking care when making laws.

According to the responses from key informants, 20 informants indicated that the implementation of *sui generis* GIs laws assists economic growth, 20 stated that there would be protection for farmers and producers, 19 informants noted the relevance of national and international recognition for the region and Nepal, 14 highlighted the prospects of legal protection for these goods, 11 informants mentioned the identification of goods, 10 noted that GIs laws protect culture, eight informants highlighted the prospects of implementing GIs laws to protect consumers, five mentioned the protection of traditional knowledge, three informants referred to the protection of the environment, three discussed rural development. Two informants

indicated that *sui generis* GIs help fulfil international obligations under international commitments.

Hence, the prospects of implementing *sui generis* GIs as stated by key informants and the thesis also concludes are economic growth, the protection of farmers and producers, national and international recognition of the regions of Nepal and Nepal, legal protections for the goods, identification of goods, preservation of culture, consumer protection, safeguarding of traditional knowledge, rural development, environmental protection, and fulfilments of commitments under international obligations.

Thirteen informants stated the legal problems as the problems of implementing GI laws in Nepal; eight respondents stated that there are only benefits of implementing GIs and no problems of implementing GI laws in Nepal; six respondents stated implementation problems and organisational problems; five respondents emphasised the limitation on laws; four respondents noted the supply chain problems; three respondents stated the financial problems; three informants stated about the market problems; two respondents stated that there would be technological problems; two respondents indicated about quality control problems; two respondents stated about the difficulties of undocumented and unrecorded traditional knowledge, two respondents choose collective marks, certification marks so, they did not stated about the problems of GIs.

Thus, the problems related to implementing *sui generis* GI law for goods in Nepal as stated by key informants and the thesis also concludes that the problems encompass legal problems, implementation and organisational issues, limitations in scope in the existing goods, supply chain problems, financial problems but of the cost of the GI, market concerns, technological hurdles, quality control problems, and the problem of undocumented and unrecorded traditional knowledge.

Incorporating all these elements, the thesis concludes that there is a collective trademark registration through the Collective Mark Registration Related Directive, which the main PDTA does not recognise. There is an IP Policy that incorporates the GI policy, and the Industrial Property Bill has been registered in parliament. The bill has the provisions of the registration of the GIs. But the provision of the identification, promotions and sustainability of the GIs is very important. The bill should be

materialised as an Act as soon as possible with major amendments. The existing laws are not compatible with the TRIPS. Talking about the provisions of the Bill is not compatible with Article 22(3) of the TRIPS. *Sui generis* laws refer to the unique types of laws tailored to a country's specific needs. However, through the experiences of other countries, the provision of the GI and these experiences can serve as references. India, Bangladesh, Pakistan and Sri Lanka have a strong stance in their laws. Nepal can learn from the laws of these countries, especially regarding the infringement and punishment for the infringement of GI. According to the key informants and the thesis, Nepal needs *sui generis* GI laws, as there are more prospects than problems.

7.3. Suggestions

The following are the suggestions drawn from this thesis for the respective concerned authorities:

Government of Nepal

1. The Government of Nepal should materialised Industrial Property Bill, 2082 BS into the Act as soon as possible to register and protect GI-capable goods.
2. The Government of Nepal should ensure that the provisions of the bill are compatible with the TRIPS agreement. The Industrial Property Bill, 2082 BS is registered in HoR. It should incorporate the provision as per Article 22.3 of the TRIPS. That is, the bill lacks a provision of a formal mechanism requiring the trademark authority to either refuse new trademarks or invalidate existing ones that misuse GI.
3. The *sui generis* GIs laws should address the provisions of the collective trademarks that have already been registered in the Department of Industry under the Collective Marks Registration Related Directive 2067 BS through the rules. As the bill has incorporated the provisions of coexistence of prior registered trademark and proceeding GI. Further, The Collective Marks Registration Related Directive 2067 BS should be reformulated and revised which should not allow to register the GI capable goods into collective marks.
4. The Government of Nepal should conduct a baseline survey for the GIs capable of good, identify them, and list them.

5. The Government of Nepal should make a national catalogue of GI.
6. The government should identify the conditions of the goods, those in good condition, those on the verge of extinction and those that are extinct from that place so, that it could provide promotion of the GI-capable goods which are in good condition, protection of the GI-capable goods which are in not good condition and identify those goods which have been removed from such areas so that other GI-capable goods could get care and protection, learning the lesson of those goods.
7. The federal government should collaborate with the local and provincial levels to identify the GI's capable goods of Nepal.
8. Nepal should keep publishing the list of goods along with the territory of the goods and the digital maps of the goods that can be registered at the national and international levels.
9. The Nepal government should be the party to the international instrument, the Lisbon Agreement on the International Registration of Goods, to protect its GI-capable goods outside the country.
10. The Nepal government should be an applicant for filing its important GIs in registering such goods under international laws so that it could save the goods and the risk of infringement of such goods could be lessened.

Provincial Governments

1. In cooperation with the federal and local governments, the provincial governments should identify the GI capable goods of their provinces.
2. The provincial governments should be an applicant to file for the registration of GIs if the GI-capable goods fall into the territory of multiple local levels.

Local Governments

1. Local governments should identify the GIs capable of goods of their domain as stated in the Local Governance Operation Act, 2074 BS section 11 (2)(j) (2018).

2. Local level should also identify the GIs capable goods' conditions if it is on the verge of extinction.
3. There should be a GIs unit office at the local level, which has been identified as the GIs capable region. Those local levels/offices should be responsible for coordinating with the federal level to identify and protect GIs-capable goods.
4. The local level should cooperate with the federal level for the GI-capable goods that are shared among different local levels.
5. Local bodies should be the applicants to register their GIs for the protection and promotion of their GIs, if needed, at the federal level.

“Ministry of Industry, Commerce and Supplies,” “Ministry of Culture, Tourism and Civil Aviation,” “Ministry of Agriculture and Livestock Development”

1. There should be GI units in the administration of GIs. Still, collaboration with the “Ministry of Industry, Commerce and Supplies,” the “Ministry of Culture, Tourism and Civil Aviation,” and the “Ministry of Agriculture and Livestock Development” is required. As GIs are IP that falls under industrial property, they encompass agricultural products from specific territories. GIs are classified as intangible heritage, too. Thus, there should be a connection with this area.
2. The ex officio member representative of the “Ministry of Industry, Commerce and Supplies,” the “Ministry of Culture, Tourism and Civil Aviation,” and the “Ministry of Agriculture and Livestock Development” should be there in the GIs Unit.

Academic Institutions

1. The university should include the chapter on GIs about intellectual property in the syllabus should motivate students to write thesis & article and conduct empirical studies and do research on the interface of GIs. The institution should provide the research grant to conduct research in the GIs.
2. Academic institution should also take a lead to register the GI capable goods of its territory to register.

Federal Parliament

1. The federal parliament and its member could consider the followings suggested provisions for the amendment in the Industrial Property Bill, 2082 that is for, “**A Bill Made to Amend and Consolidate the Laws Related to Industrial Property.**”

Table 31: Suggestions to Federal Parliament Regarding Industrial Property Bill, 2082 BS

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
1.	Preamble	It is expedient to amend and consolidate the laws relating to industrial property <i>to protect human-made</i> creations and innovations, promote the country's interests, safeguard the legal and economic rights	Geographical indications on the premises of the industrial property cover human-made creations and natural goods. The preamble does not include the term "natural goods." Thus, the preamble should incorporate the term. As GI includes both human-made human-made and natural things.	The preamble should state: It is expedient to amend and consolidate the laws relating to industrial property <i>to protect natural goods</i> and human-made creations and innovations...
2.	Definition	Some definitions are provided in the definition section, while others are listed in the clarification section, and some are missing.	Clarification is given in the respective section. Clarification is given if the word is only used for a time in that section. Hence, definitions should be given in the definition part, for example: Producer (section 52 (1), geographical specification (section 52 (3), homonyms (55)	Definition in section 2(d) of all other missing definitions like authorised user along with producer, geographical specification and homonyms should be kept in the definition section.
3.	Definition	Missing definitions	The definition of generic, substantive examinations are missing. It should be incorporated	Generic, substantive examination are to be included.

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
4.	Definition of GI or tag	Section 2(u) has the definition of GI	The definition of of 2(u) is the definition of the GI tag; therefore, the definition should be made in align with the TRIPS and the provisions of national GI logo could be also defined.	2(u) should be segregated as the definition of GI and GI tag.
5.	52(1)(g)	The evidence of the GI goods produces in that area.	The provision is confusing because who shall give evidence might not make clarity in the provisions.	The evidence of the GI goods produced in the territory shall be given by the government bodies including local level or other agencies like agricultural department, NARC etc.
6.	52 (3)	<i>Governmental</i> and non-governmental organisations can give an application in case of geographical specification.	Governmental and Non-Governmental Organisations can give an application in case of geographical specification. "Governmental" should be clarified as including both local and provincial levels, as Section 91 provides for coordination and cooperation between the local, provincial, and federal levels regarding the GI.	It should include that the local, provincial, and other governmental organisations can apply in cases where geographical specification is required.
7.	52	Application for the registration of the GI: GI encompasses a wide range of	The provision should include manufactured goods. All industrial goods fall under the	Application for the registration of the GI:

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
		products, including agricultural goods, foodstuffs, beverages, natural resources, handicrafts, and industrial products. However, this omits manufactured goods.	category of manufactured goods; however, not all manufactured goods are industrial products. Industrial products are a modern production method, but manufactured goods are traditional.	GI includes agricultural products, foodstuffs, beverages, natural goods, handicrafts, industrial products, and <i>manufactured goods</i> .
8.	53	If any GI is registered, then it cannot be registered as a trademark. Provided that before the enactment of this act, if any goods that match the definition of GI are registered as the GI, then both get the protection until the expiry of the trademark. Whether the period until the expiry includes the renewal period or not is subject to interpretation.	After the time limit was reached without obtaining approval for the renewal, the GI could be registered. If there is the existence of them, then that shall be misleading to the people.	If any goods that fall under the definition have been registered as the trademark, then without approving the renewal, such goods could be registered as the GI. Protection in both ways should be avoided because one should receive protection at a time.
9.	56	There is no provision on the issue of the prohibition of misleading GIs.	Prohibition of Misleading GIs: The TRIPS agreement states that even if the use of GI is actual but misleading the public about its origin, then it must be prohibited. But there are no such provisions in the bill. This provision is not explicitly mentioned. To make these provisions compatible with the TRIPS Agreement.	The following should be included prohibition of Misleading GIs Even if the use of GI is actual but misleading the public about its origin, then it must be prohibited.

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
10.	54	Protection not given to the GI Goods “In the following situations, the <i>GI tag goods</i> shall not get the protection.”	Section 54 mentions that “the GI tag goods shall not be protected under the conditions...” However, the provision is intended to state the GI goods before getting the GI tag. Therefore, instead of the phrase 'GI tag goods,' it could be amended to 'GI goods.'	The word protection not given to the GI Goods “In the following situations, the <i>GI goods</i> shall not get the protection.”
11.	55	Registration of Homonymous GI Clarification: The geographically indicated <i>goods or services</i> of a different geographical territory or country which has the exact spelling and pronunciation are called a homonymous GI.	Registration of Homonymous GI Clarification: The geographically indicated <i>goods or services</i> of different geographical territories or countries that have the exact spelling and pronunciation are called homonymous GIs. The word 'service' shall be avoided because GI refers only to the context of Nepal as per the bill.	Registration of Homonymous GI Clarification: Geographically indicated <i>goods</i> from different geographical territories or countries, which have exact spelling and pronunciation, are called homonymous GIs.
12.	59	Substantive Examination of GI The bill has missed about the publication of GI in the bulletin.	Publication of the proposed GI after substantive examinations before the certification of registration in the IP bulletin or the GI bulletin as the budget allows.	Section 59 should add the provision of the publication of the proposed GIs in the bulletin for objection to the claim.
13.	60(3)	The certificate along with the details should be kept in the websites for the general knowledge of the public of the GI.	It should include the provisions that that the details should be kept in the office too	The ... in the websites and <i>in the office</i> of the GIs goods should be kept.
14.	62	National Logo of GI	It should state only about the goods, as GI does not	National Logo of GI

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
		The Government of Nepal shall use the national logo of the GI to identify goods and services registered as GI.	include services in our context. Additionally, during the KII interview, the key informant noted that Nepal should have <i>sui generis</i> GI laws for goods but not for services.	The Nepali government shall use the national logo of the GI to identify goods registered as GI.
15.	63	Rights of GI Owner The GI owner could not give it to others to use or could not transfer the right.	The GI owner should not have the right to assign, transfer, sell, mortgage, pledge or give to any other person. If everything is specified in the laws, there should be no loopholes.	Rights of GI Owner The GI owner could not assign, transfer, sell, mortgage, pledge or give to any other person.
16.	2(f) and 77	Definition and clarification Section 2(f) Definition of Industrial Property ... traditional knowledge, geographical indication ... Section 77 in Clarification intellectual property means industrial property...traditional and indigenous knowledge...	The definition should be given in the first at the part of the definition in section 2. If industrial property encompasses all the forms of IP specified in the bill, it should not be particularised; if it does not include all industrial property, then the term 'GI' should also be included in the clarification of Section 77.	Uniformity in the definition and clarification Uniformity in section 2(f) and Section 77 is required.
17.	79 and 80	Crime and Punishment The penalty of 10,00,000 to 15,00,000 and double fine in case of repetition	The inclusion of imprisonment should be there because infringement of the GIs is not a minor offence. Also, the SAARC countries, which have sui	The penalty of 10,00,000 to 15,00,000 and a double fine in case of repetition, and there should be

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
			generis GI, have provisions for infringement, including those in Bangladesh, India, Pakistan and Sri Lanka.	minimum imprisonment.
18.	78	IP office could do the quasi-judicial work	There should be a Tribunal for the settlement of the GI case.	Along with the IP office conducting registration, procedural examination, and substantive examination, the Tribunal should also review cases related to IP.
19.	80	GI is the Civil Case	It should be viewed an individual-party criminal case.	The act against the GI is not an act against a particular person. It is against the community; therefore, it should be kept as a criminal case.
20.	122	The Patent Design and Trademark Act, 2022, shall be repealed.	Constitution of Nepal The management of GIs should be under the concurrent jurisdiction of local, federal, and central authorities. Now it is in schedule 5 and should be in schedule 9. Locals should identify the local goods and services capable of being produced and report to the federal government, and all should come under the central government's control.	Constitution of Nepal Concurrent Rights of Local, Federal and Central. The management of GIs should be under the concurrent rights of local, federal and central in schedule 9. Locals should identify the local GIs capable of goods and report to the federal

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
			The Muluki Civil Code, 2074 BS (2017 AD) GIS should no longer be seen solely as a private right. It should represent community rights, and, like other properties, it should not be sold or transferred to others. The code does not include GIs as a type of IP. The <i>sui generis</i> GIs are community property; this also presents a challenge for a country that considers its IP as private property, as the IP scope widens to encompass community property once the government introduces <i>sui generis</i> GIs laws. The Customs Act, 2064 BS, section 68 provides that if any person is going to import or export goods in violation of IPR, such as patent, design, trademark, and copyright, the person who has acquired such rights shall file a request with the concerned customs officers to withhold such import and export. The laws demand the incorporations of geographical indications and other forms of IPR.	government, and all should come under the central government. The Muluki Civil Code, 2074 BS GIS should be the community rights, and, like other properties, it should not be sold or transferred to others. The code should include GIs as a type of IP. The Customs Act, 2064 BS, section 68 provides that if any person is going to import or export goods in violation of IPR, such as patent, design, trademark, copyright, GI, and other form of IP the person who has acquired such rights shall file a request with the concerned customs officers to withhold such import and export. Right to Information Act, 2064 BS, in section 3, states that every citizen shall have the right to

S. N.	Sections	Existing Provisions in the Bill	Amendments and Reason	Suggested Provisions
			The Right to Information Act, 2064 BS, in Section 3, states that every citizen shall have the right to information and access to it if it is provided except when it seriously affects the protection of IP. The inclusion of GI in the forms of IP also requires an understanding of such IP, which includes GIs as well.	information and access to the information if it is provided if it seriously affects the protection of IP. The inclusion of GIs in the form of IP also demands an understanding of such IP, which includes GIs as well.
21.	Missing		The provisions on the protection of the unregistered GI- capable goods protection is missing. If some GIs are found from the time immemorial (more than 20 years), then they could get the recognition of GIs. Provisions for the promotions of GIs. Provisions for the sustainability by the provisions of quality control should be incorporated in the bill.	Unregistered GI-capable goods should get the protection.
22.	Missing	Provisions of the external control mechanism	The independent, impartial control mechanism of the government of the cooperative should be kept for the sustainability of the GIs goods.	Section 59 A should be included with the provisions of the external control mechanism.

2. The bill should be passed by the parliamentarian with some amendment with the consultation with the expert of the IP and expert of GI.
3. While discussing on the GIs if the parliamentarians need it is necessary to take an expert opinion on the laws of GIs, then the followings expert of GIs could be consulted including Professor Dr Bal Bahadur Mukhiya, Dr Pratyush Nath Uprety, Dr Swarnim Wagle, Dr Govind Prasad Kusum, Honourable Judge Anju Uprety, Mr. Bhanu Prasad Acharya, Dr Bal Krishna Joshi, Adv. Gourish Krishna Kharel, Ms. Aruna Joshi, Mr. Umesh Prasad Singh, Dr. Posh Raj Panday, Mr. Bharat Bahadur Thapa, Dr Kumar Innam, Mr. Bisu Kumar KC, Mr. Madhu Soodan Poudyal, Ms. Sikshya Rajya Laxmi Rana, Ms. Saraswoti Shah, Mr. Dipak Silwal, Dr. Ram Bahadur Dhakal, Ms. Shikha Dangol, Ms. Sajjan Bar Singh Thapa, Adv. Tilak Bikram Panday, Ms. Usha Kala Rai, Adv. Anish Bastola, Ms. Samikshya Gaire, Dr. Rudra Sharma, Adv. Lajula Maharjan, Adv. Kripa Shrestha, Adv. Narayan Chaulagain, Adv. Raj Kumar Suwal, Dr Din Mani Pokhrel, Dr Sarita Khanal, Rakshya Khanal, Ms. Ikchha Pokharel, Ms. Kritika Dahal, Ms. Sweti Deshemaru, Ms. Dikshya Rajbhadari, Mr. Amit Uprety, Mr. Maan Bahadur Basnet, Mr. Laxman Bhandari, Adv. Ranju Basnet, Adv. Ramchandra Subedi, Ms. Nina Regmi, Mr. Kiran Mainali, Adv. Ambar Bahadur Thapa, Mr. Pradip Thapa, Mr. Krishna Prasad Gyawali.

7.4. Future Caveat to Future Researchers

The research of the geographical indication-protected goods is done with the topic “Legal Protection of Geographical Indication of Goods in Nepal: Prospects and Problems” in this thesis but the geographical indications of wine and spirits are left. As, GI includes wine and spirits along with goods. Research on wine and spirits is also essential in Nepal. Therefore, the researcher would like to suggest area for future research. The existing legal provisions of GIs on wine and spirits in Nepal. The prospect and problems of implementing Nepal's *sui generis* geographical indications law on wine and spirits.

BIBLIOGRAHY

Legal References

Constitution / Acts/ Regulation/ Directives/ Budget/ Guidelines/ Policies of Nepal

Constitution of Nepal

The Interim Constitution of Nepal 2063 BS (2007AD)

Constitution of the Kingdom of Nepal 2047 BS (1990 AD)

The Constitution of Nepal 2019 BS (1962 AD)

The Constitution of the Kingdom of Nepal 2015 BS (1959 AD)

The Interim Government of Nepal Act 2007 BS (1951 AD)

Government of Nepal Act 2004 BS (1948 AD)

The Muluki Civil Code, 2074 BS (2017 AD)

Muluki Ain, 2020 BS (1963 AD)

Muluki Ain, 1910 BS (1854 AD)

Administration of Justice Act, 2073 BS (2016 AD)

Export and Import (Control) Act, 2013 BS (1957 AD)

The Patent, Design and Trademark Act, 2022 BS (1965 AD)

Nepal Standard (Certification Mark) Act, 2037 BS (1980 AD)

Nepal Treaty Act, 2047 BS (1990 AD)

Competition Promotion and Market Protection Act, 2063 BS (2007 AD)

Right to Information Act, 2064 BS (2007 AD)

Customs Act, 2064 BS (2007 AD)

Local Governance Operation Act, 2074 BS (2017 AD)

The Consumer Protection Act, 2075 BS (2018 AD)

The Right to Food and Food Sovereignty Act, 2075 BS (2018 AD)

The Industrial Enterprises Act, 2076 BS (2020 AD)

Nepal Standards (Certification Mark) Rules, 2040 BS (1983 AD)

Collective Mark Registration-Related Directive, 2067 BS (2010 AD)

Budget Speech of Fiscal Year 2081/82 BS (2024/25 AD)

Trademark Work-Conduction Guidelines 2072 BS (2015 AD)

Industrial Policy, 2067 BS (2011 AD)

Trade Policy, 2072 BS (2015 AD)

National Intellectual Property Policy, 2073 BS (2017 AD)

Nepal Trade Integration Strategy, 2079/80 BS (2023 AD)- 2084/85 BS (2028 AD)

Annual Policies and Programs of the Government of Nepal

Foreign Laws (Constitutions/ Acts/ Regulations)

Constitution of Pakistan

Constitution of the Kingdom of Bhutan

Maldives's Constitution of 2008 AD

The Constitution of India

The Constitution of the Democratic Socialist Republic of Sri Lanka

The Constitution of the Islamic Republic of Afghanistan

The Constitution of the People's Republic of Bangladesh

Alcoholic Beverage Labeling Act of 1988(US)

Geographical Indication (Registration and Protection) Act 2013, (Bangladesh)

Geographical Indications Goods (Registration and Protection) Act, 1999 (India)

Geographical Indications Registration Act 2006 (New Zealand)

Intellectual Property Act, 2003, no. 36 (Sri Lanka)

The Copyright Act of the Kingdom of Bhutan, 2001 (Bhutan)

Geographical Indication Rules and Regulations of Bhutan 2025 (Bhutan)

The Copyright and Related Rights Act, 2010 (Maldives)

The Geographical Indication (Registration and Protection) Act, 2020 (Pakistan)

The Industrial Property Act of the Kingdom of Bhutan, 2001 (for collective Trademarks) (Bhutan)

The Intellectual Property (Amendment) Act 2022, No. 8 (Sri Lanka)

Trademark Act, 1946 (US)

Trademark Act, 2009 (Bangladesh)

Trademark Ordinance, 2001 (Pakistan)

Trademark Registration Process of Maldives

Act on Protection of Geographical Indications, 2003 (Thailand)

Law on Trademarks and GIs 20/2016 (Malaysia)

Intellectual Property Law 2005 (Vietnam)

Law on GIs (Jan. 20, 2014) (Cambodia)

Law on Intellectual Property 2012, Decision of the Minister of Science and Technology on the Implementation of GIs under the Law on Intellectual Property, 2016 (Laos).

Trademark Law, 2019 (Myanmar)

GI Act No. 19, 2014 (Singapore)

Act on Protection of the Names of Specific Agricultural, Forestry, and Fishery Products and Foodstuffs, Act No. 84 of June 25, 2014 (Japan)

Geographical Indications Goods (Registration and Protection) Rules, 2002 (India)

The Geographical Indications of Goods (Registration and Protection) Rules, 2015 AD (Bangladesh)

Trademark Registration Process of Maldives

Regional Laws

African Intellectual Property Organization (OAPI), March 2, 1999

Andean Community, May 26, 1969

Association of Southeast Asian Nations (ASEAN), August 8, 1967

Bangui Agreement (West Africa), March 2, 1977

European Union, November 1, 1993

Mercosur, March 26, 1991

North American Free Trade Agreement (NAFTA), January 1, 1994

South Asian Association for Regional Cooperation (SAARC), December 8, 1985

International Laws

Paris Convention for the Protection of Industrial Property, 1883 AD

Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891 AD

Madrid Agreement Concerning the International Registration of Mark, 1891 AD

The Versailles Peace Treaty, 1919 AD

International Convention on the Use of Appellations of Origin and Denominations of Cheeses (Stresa Convention) 1951AD

The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 AD

Geneva Act of the Lisbon Agreement on Appellations of Origin (AO) and Geographical Indications, 2015 AD

Draft Treaty on the Protection of Geographical Indications 1975 AD

Trade-Related Aspects of Intellectual Property, 1994 AD

Convention for the Safeguarding of the Intangible Cultural Heritage, 2003

References

- Aalthady Maloor, R., Raju, R. K., & Thomas, K. J. (2021). Geographical indications as a strategy for market enhancement: Lessons from rice GIs in Kerala. *The Journal of World International Property*, 24(3-4), 221-236.
<https://doi.org/10.1111/jwip.12189>
- Abbott, F. M., Cottier, T., & Gurry, F. (2019). *International intellectual property in an integrated world economy* (3rd ed.). Aspen Publishing.
- Aboujeib, R., & D'Auria, A. (2017). *Geographical indications and indications of sources: A comparison between the Syrian and European Italian systems in light of new developments*. [Master's thesis, WIPO Academy, University of Turin, & ITC-ILO]. SSRN. <https://ssrn.com/abstract=2922227>
- Acharya, B., Pradhan, K. M., Gautam, K., Bhandari, J., & Kharel, G. K. (2020). *Report of the task force formed to make more effective work related to industrial property. (2077)*. Department of Industry, Government of Nepal.
<https://doind.gov.np/uploads/notices/Notices-20210601142708959.pdf>
- Acharya, S.R. (2019). Geographic indication: How can GI application prosper Nepal? *LBEF Research Journal of Science, Technology and Management*, 1(1), 38-42. <https://www.lbef.org/journal/1-1/download/1-1-38-42.pdf>
- Adda247. (2023, April 10). *GI tags: Complete state-wise list of India 2023*. *Adda247 Current Affairs*. <https://currentaffairs.adda247.com/gi-tags-complete-state-wise-list-of-gi-tags-in-india/>
- Adebola, T. (2022). Geographical indications in the era of the African Continental Free Trade Area (AfCFTA). *Journal of Intellectual Property Law & Practice*, 17(9), 748-760. <https://doi.org/10.1111/jwip.12189>

- Aggarwal, R., Singh, H., & Prashar, S. (2014). Branding of geographical indications in India. *International Journal of Law and Management*, 56(6), 431-442.
<https://doi.org/10.1108/ijlma-08-2012-0029>
- Ahmed, M. M., & Kamble, V. M. (2022). Geographical indications in Maharashtra. *Journal of Intellectual Property Rights*, 27(1), 38-41.
<https://nopr.niscpr.res.in/bitstream/123456789/59279/1/JIPR%2027%281%29%2038-41.pdf>
- Ahuja, V. K. (2004). Protection of geographical indications: National and international perspective. *Journal of the Indian Law Institute*, 46(2), 269–287. <http://www.jstor.org/stable/43951907>
- Akhtar, S.I., Jones, V.C., & Johnson, R. (2016). *Transatlantic Trade and Investment Partnership (T-TIP) negotiations* (Report No. R43387). Congressional Research Service.
- Alemu, G. M. (2019). Strategic use of branding for competitiveness: The rationale for branding and marketing agricultural products of African countries. *Journal of Fair Trade*, 1(2), 6. <https://doi.org/10.13169/jfairtrade.1.2.0006>
- Almeida, A.R. de. (2021). The GI structure (the model behind the EU rules) or the complexity of this subjective right. *Journal of Intellectual Property Law & Practice*, 16(4-5), 301-309.
- Almusawir, A., Kamsilaniah, K., & Juliati, J. (2022). Protection of the economic rights of geographical indication holders in the Indonesian trademark and geographical indication law. *Scholars International Journal of Law, Crime and Justice*, 5(3), 128–141. <https://doi.org/10.36348/sijlcj.2022.v05i03.006>

- Aronzon, S. M. (2020). Blockchain and geographical indications: A natural fit? *Journal of Intellectual Property Law & Practice*, 15(11), 913-925.
<https://doi.org/10.1093/jiplp/jpaa151>
- Babcock, B. A., & Clemens, R. (2004). *Geographical Indications and property rights: Protecting value-added agricultural products* (MATRIC Briefing Paper 04-MBP 7). Midwest Agribusiness Trade Research and Information Center, Center for Agricultural and Rural Development (CARD) , Iowa State University.
<https://www.card.iastate.edu/products/publications/pdf/04mbp7.pdf>
- Bagal, M., Vittori, M., & Samper, L. F. (2023). *Manual for geographical indications in Africa* (2nd ed.). European Union Intellectual Property Office. (Original work published 2022).
- Bashir, A. (2020). Protection of geographical indication products from different states of India. *Journal of Intellectual Property Rights*, 25(3-4),74-79.
<http://op.niscpr.res.in/index.php/JIPR/article/download/17397/465481077>
- Belletti, G., Marescotti, A., Paus, M., Reviron, S., Stamm, H., & Deppeler, A. (2011). *The effects of protecting geographical indications: Ways and means of their evaluation* (2nd ed.). Swiss Federal Institute of Intellectual Property.
- Belson, J. (2017). *Certification and collective marks: Law and practice* ((2nd ed.). Edward Elgar Publishing.
- Benavente, D. (2013). *The economics of geographical indications*. Graduate Institute Publications.
- Benavente, D. (2013). *The economics of geographical indications*. Graduate Institute Publications.

- Bently, L., Sherman, B., Gangjee, D., & Johnson, P. (2022). *Intellectual property law* (6th ed.). Oxford University Press.
- Bernard-Mongin, C., Balouzat, J., Chau, E., Garnier, A., Lequin, S., Lerin, F., & Veliji, A. (2021). Geographical indication building process for Sharr cheese (Kosovo): “Inside Insights” on sustainability. *Sustainability*, 13(10), 5696. <https://doi.org/10.3390/su13105696>
- Bhattacharya, N. S. (Ed.). (2022). *Geographical indication protection in India*. Springer Nature.
- Black, J., & Wasserman, A. (2007, August 22). The geography of flavor. *The Washington Post*. <https://www.washingtonpost.com/wp-dyn/content/article/2007/08/21/AR2007082100362.html>
- Blakeney, M. (2014). *The protection of geographical indications: Law and practice*. Edward Elgar Publishing.
- Blakeney, M., Coulet, T., Mengistie, G., & Mahop, M. (2017). *Extending the production of geographical indication: Case studies of agricultural products in Africa*. Routledge.
- Bodimeade, C., & Deane, F. (2023). Evolving theory of IP rights: Promoting human rights in the Agreement on Trade-Related Aspects of Intellectual Property Rights. *Journal of Intellectual Property Law & Practice*, 18(8), 617-628. <https://doi.org/10.1093/jiplp/jpad056>
- Bonadio, E., Contardi, M., & Lucchi, N. (2023). Geographical indications between the *Old World* and the *New World*, and the impact of migration. *GRUR International*, 73(1), 3–17. <https://doi.org/10.1093/grurint/ikad122>
- Bonanno, A. (2020). Geographical indications in agri-food and its role in the global

neoliberal era: A theoretical analysis. In A. Bonanno, K. Sekine, & H. N. Feuer (Eds.), *Geographical indications and global agri-food: Development and democratization* (pp.26-44). Routledge.

Bramley, C. (2011, June 22-24). A review of the socio-economic impact of geographical indication: Considerations for the developing world. *WIPO World Symposium on Geographical Indications*, Lima, Peru.
https://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_lim_11/wipo_geo_lim_11_9.pdf

Bramley, C., & Bienabe, E. (2012). Developments and considerations around geographical indications in the developing world. *Queen Mary Journal of Intellectual Property*, 2(1), 14–37. <https://doi.org/10.4337/qmjip.2012.01.02>

Bramley, C., & Kirsten, J. F. (2007). Exploring the economic rationale for protecting geographical indicators in Agriculture. *Agrekon*, 46(1), 47–71.
<https://doi.org/10.1080/03031853.2007.9523761>

Bramley, C., Bienabe, E., & Kirsten, J. (2009). The economics of geographical indications: Towards a conceptual framework for geographical indication research in developing countries, *Trade and Markets Division, FAO*, 109, 149-169.
https://www.researchgate.net/publication/237377050_The_economics_of_geographical_indications_Towards_a_conceptual_framework_for_geographical_indication_research_in_developing_countries

Bramley, C., Bienabe, E., & Kirsten, J. (Eds.). (2013). *Developing geographical indications in the South: The Southern African experience*. Springer.

Buch, N., & Trivedi, H. (2022). *Geographical Indications of Indian Handlooms:*

Between legal right & reali right. Routledge.

- Cadogan, M. S., & Awad, B. (2025). The development of legal protection for GIs around the world from CETA and the future of geographical indications protection in Canada. JSTOR. <https://doi.org/10.2307/resrep15528.9>
- Calboli, I. (2023). *Overlapping intellectual property rights*. In N. Wilkof, & E. Rosati (Eds.), *Overlapping intellectual property rights*. Oxford University Press.
- Calboli, I., (2020). Geographical indications of origin, economic development, and cultural heritage: Good match or mismatched? *Indian Journal of Intellectual Property Law*, 11, 11-34.
- Calboli, I., & Ginsburg, J. L. (Eds.). (2020). *The Cambridge handbook of international and comparative trademark law*. Cambridge University Press.
- Calboli, I., & Ng-Loy, W.L. (Eds.). (2017). *Geographical indications at the crossroads of trade, development, and culture: Focus on Asia-Pacific*. Cambridge University Press.
- Cardoso, V. A., Lourenzani, A. E. B. S., Caldas, M. M., Bernardo, C. H. C., & Bernardo, R. (2022). The benefits and barriers of geographical indications to producers: A review. *Renewable Agriculture and Food Systems*, 37(6), 707–719. <https://doi.org/10.1017/S174217052200031X>
- Chandrasiri, H. L. N. S. (2024). Protection of geographical indications (GI) in Sri Lanka: A critical legal analysis. *KDU Journal of Multidisciplinary Studies*, 6(1), 35–42.
- Charbonnier, C. (2015). *The economic impact of the geographical indication Penja pepper* (Report). Food and Agriculture Organization (FAO). <https://institut->

agro.docressources.fr/doc_num.php?explnum_id=2649%20report

- Chaudhary, M., Agarwal, B., & Batia, M. (2021). Socio-economic condition of small-scale producers in Varanasi: A case of Banaras brocade and saree. *Journal of Intellectual Property Rights*, 26(5), 286–294. <https://nopr.niscpr.res.in/bitstream/123456789/58959/1/JIPR%2026%285%29%20286-294.pdf>
- Chaudhary, M., Agarwal, B., & Batia, M. (2022). Geographical indications in India: A case of the handicraft industry in Uttar Pradesh. *Journal of World Intellectual Property*, 25(3), 617–634. <https://doi.org/10.1111/jwip.12244>
- Chavan, R. S. (2013). *Legal protection of geographical indications: National and international perspective* [Doctoral dissertation, Karnatak University]. Sodhganga. <http://hdl.handle.net/10603/14514>
- Cheng, W. (2023). Chinese GI Schizophrenia: Impacts of EU-US GI contestations. *Asian Journal of Comparative Law*, 18(2), 210–234. <https://doi.org/10.1017/asjcl.2023.4>
- Ćirić, M., Ćirić, I., Pivac, T., & Besermenji, S. (2023). Consumer attitudes on habits about products with geographical indication in Serbia. *Ekonomika Poljoprivrede*, 70(1), 81–98. <https://doi.org/10.59267/ekopolj230181c>
- Coombe, R. J., & Aylwin, N. (2011). Bordering diversity and desire: Using intellectual property to mark place-based products. *Environment and Planning A: Economy and Space*, 43(9), 2027–2042. <https://doi.org/10.1068/a43256>
- Coombe, R. J., & Malik, S. A. (2017). Rethinking the work of geographical indications in Asia: Addressing hidden geographies of gendered labor. In I.

- Calboli & W.L. Ng-Loy (Eds.), *Geographical indications at the crossroads of trade, development, and culture: Focus on Asia-Pacific* (pp. 87–105). Cambridge University Press. <https://doi.org/10.1017/9781316711002.005>
- Cornish, W. R., & Llewelyn, D. (2003). *Intellectual property: Patents, copyrights, trademarks and allied rights*. (5th ed.). Sweet & Maxwell.
- Correa, C. M. (2002, September). *Protection of geographical indication in CARICOM countries*.
<http://ipsard.gov.vn/images/2007/07/Protection%20of%20GI%20in%20Caricom%20countries.pdf>
- Creditt, E. C. (2009). Terroir vs. trademarks: The debate over geographical indications and expansions to the TRIPS Agreement. *Vanderbilt Journal of Entertainment & Technology Law*, 11(2), 425-468.
<https://scholarship.law.vanderbilt.edu/jetlaw/vol11/iss2/4>
- Crescenzi, R., De Filippis, F., Giua, M., & Vaquero-Piñeiro, C. (2021). Geographical indications and local development: The strength of territorial embeddedness. *Regional Studies*, 56(3), 381–393. <https://doi.org/10.1080/00343404.2021.1946499>
- Dahiya, M. (2020). *Law relating to trademark and geographical indications in protection of consumers rights in India: Issues and challenges* [Doctoral dissertation, Maharshi Dayanand University].
<https://shodhganga.inflibnet.ac.in/handle/10603/326479>
- Dani, K. (2014). *Geographical indications in community collective marks: Status, scope and rivals in the European sign landscape* (1st ed.). Nomos Verlagsgesellschaft. <https://www.jstor.org/stable/j.ctv941rjv.8>

- Datta, S., Manchikanti, P., & Bhattacharya, N.S. (2021). Enhancing geographical indications protection in India for community relevance. *The Journal of World Intellectual Property*, 24(5-6), 420-435.
<https://doi.org/10.1111/jwip.12202>
- Datta, S., Manchikanti, P., & Bhattacharya, N.S. (2024). Comparative perspectives on the protection of food geographical indications in Asian countries. *Asian Journal of Comparative Law*, 19(1), 89-106.
<https://doi.org/10.1017/asjcl.2024.2>
- Davis, J. (2012). *Intellectual property law* (4th ed.). Oxford University Press.
- Delphine, M. V. (2020). Protection of geographical indications in ASEAN countries: Convergences and challenges to awakening sleeping geographical indications. *The Journal of World Intellectual Property*, 23 (3-4), 328-349.
<https://doi.org/10.1111/jwip.12155>
- Department of Industry, Trade & Commerce. (2023). *Nepal integration strategies*. Department of Industry, Trade & Commerce. https://api.giwms.gov.np/storage/6/posts/1706525149_47.pdf
- Department of National Park and Wildlife Conservation. (2020). *Welcome to the Department of National Park and Wildlife Conservation*.
<https://dnpwc.gov.np/en/>
- Dewan, A. O., & Noyon, A. H. (2022, July). A legal appraisal of the protection and opportunities of geographical indication (GI) in Bangladesh. *SSRN*.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4323661.
- Dhungana, S. M., Regmi, P. P., Dhakal, S.C., & Devkota, N. R. (2024). Growth instability index and decomposition effect on production of large cardamom

in Nepal, *Agriculture & Food Security*, 13 (5), 56.

<https://doi.org/10.1186/s40066-023-00456-y>

Di'az-Marta, V. Z., & Kyrylenko, A. (2021). The ever-growing scope of geographical indications' evocation: From Gorgonzola to Morbier, *Journal of Intellectual Property Law & Practice*, 16(6), 442- 449.

Dijkman, L. (2023). Pairing sturgeon with champagne: Towards a due cause exception in the law of geographical indications. *International Review of Intellectual Property and Competition Law*, 54(8), 1226–1243.
<https://doi.org/10.1007/s40319-023-01367-y>

Dijkman, L. E. (2023). Developments and directions in intellectual property law. In H. Boher & E. Rosati (Eds.), *20 years of the IPKat* (pp. 464-480). Edward Elgar Publishing.

Dirkareshza, R., Simanjuntak, A. A., & Pratama, B.G. (2023). Comparative study of the state jurisdiction: The protection towards geographical indication at Indonesia, the EU and US. *Asian Comparative Law Journal*, 4(2), 96-107.
<https://doi.org/10.22219/aclj.v4i2.26434>

Dogan, N. (2024). Economic impact of local geographical indication products on farmers: a case of Kelkit sugar (dry) beans. *Cogent Food & Agriculture*, 10(1). Article 2325083. <https://doi.org/10.1080/23311932.2024.2325083>

Drexler, J., Hilty, R., & Strauss, J. (Eds.). (2005). *New frontiers of intellectual property law: IP and cultural heritage, geographical indications, enforcement, overprotection*. Hart Publishing.

Drishti IAS. (2023). *South Asian Association for Regional Cooperation (SAARC)*.
<https://www.drishtiias.com/pdf/south-asian-association-for-regional->

cooperation-saarc.pdf.

Du Bois, M. (2018). Justificatory theories for intellectual property viewed through the constitutional prism. *Potchefstroom Electronic Law Journal*, 21, 1–38.

<https://doi.org/10.17159/1727-3781/2018/v21i0a2004>

Dutfield, G. (2024). *Three collective and certification trademarks and their feasibility from Intellectual property tools for products based on biocultural heritage: A legal review of geographical indications, trademarks and protection from unfair competition*. (pp.1-20). International Institute for Environment and Development. <https://doi.org/10.2307/resrep01380.8>

Duvaleix, S., Emlinger, C., Gaigne, C., & Latouche, K. (2021). *Geographical indications and trade: Firm-level evidence from the French cheese industry*. *Food Policy*, 102, 102118.

www.sciencedirect.com/science/article/abs/pii/S030691922100097X?via%3

Dihub

Edelmann, H., Quinones- Ruiz, X. F., Penker, M., Scaramuzzi, S., Broscha, K., Jeanneaux, P., Belletti, G., & Marescotti, A. (2020). Social learning in food quality governance: Evidence from geographical indications amendments. *International Journal of the Commons*, 14(1), 108-122.

<https://doi.org/10.5334/ijc.968>

European Commission. (2022, November 17). *The EU protects 10 new geographical indications from Colombia, Peru and Ecuador*.

https://agriculture.ec.europa.eu/news/ten-new-gis-andean-countries-2022-11-17_en.

European Innovation Council, & SMEs Executive Agency. (2023, October 23).

Mercosur agreement on GIs approved by the Brazilian Senate. IP Helpdesk.

<https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/>

[mercosur-agreement-gis-approved-brazilian-senate-2023-10-23_en](#)

European Union & Government of the People's Republic of China. (2020).

Agreement between the European Union and the Government of the People's

Republic of China on cooperation on and protection of geographical

indications. *Official Journal of the European Union*. L 4081, 3-43.

http://data.europa.eu/eli/agree_internation/2020/1832/oj

Faculty of Law, Office of the Dean, Tribhuvan University. (2023). *Research report*

writing guideline 2080. Faculty of Law, Office of the Dean, Tribhuvan

University.

Falasco, S., Caputo, P., & Garrone, P. (2024). Can geographical indications promote

environmental sustainability in food supply chains? Insights from a

systematic literature review. *Journal of Cleaner Production*, 444, 141100.

<https://doi.org/10.1016/j.jclepro.2024.141100>

Fan, M., Wang, L., & Ostic, D. (Eds.). (2022). *Case book of Chinese business*

management. Springer.

Fernandes, B. (2022). Indian GI: Local goes national goes global. *Gateway House*.

<https://www.gatewayhouse.in/indian-gis-local-goes-national-and-global/>

Ferreira da Silva, E., & Pereira Peralta, P. (2011). Collective marks and

geographical indications - Competitive strategy of differentiation and

appropriation of intangible heritage. *Journal of Intellectual Property Rights*,

16(3), 246–257.

<http://docs.manupatra.in/newsline/articles/Upload/84E2D1A7-0BC0-41B7->

- Frankel, S. R. (2011). The mismatch of geographical indications and innovative traditional knowledge. *Prometheus, Forthcoming*, 1(11). Victoria University of Wellington Legal Research Papers Paper No 35/2011 2.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1953033
- Gamrot, W. (2023). Inconsistencies in Himma's intellectual property theory, *Analiza I Egzystencja*, 63, 109.
<https://wnus.usz.edu.pl/aie/en/issue/1246/article/20011/>
- Gangjee, D. (2008). Geographical indications and human rights. In P. L. C Torremans (Ed.), *Intellectual property and human rights: Enhanced edition of copyright and human rights* (pp. 384). Wolters Kluwer Law & Business.
- Gangee, D.S. (2017). From geography to history: Geographical indications and the reputational link. In I. Calboli & W.L. Ng-Loy (Eds.), *Geographical indications at the crossroads of trade, development and culture: Focus on Asia- Pacific* (pp. 36-60). Cambridge University Press.
- Gangee, D.S. (2020). Sui generis or independent geographical indications protection. In I. Calboli & J.C. Ginsburg (Ed.), *The Cambridge handbook of international and comparative trademark law* (pp.256-274). Cambridge University Press.
- Gangjee, D. S. (2023). Overlaps between trademarks and geographical indications. In N. Wilkof, I. Calboli, & S. Basheer (Eds.), *Overlapping intellectual property rights*. (pp.335-356). Oxford University Press.
- Gangjee, D. S. (2012). *Relocating the law of geographical indications*. Cambridge University Press.

- Gebely, T. (2019, February 21). *Tea authenticity and geographical indications*.
teaepicure.com. Tea Epicure. <https://teaepicure.com/tea-appellations/>
- Ghafele, R. (2011). *How developing countries can benefit from intellectual property: The role of collective marks in tourism*. (MPRA Paper No. 32762).
Munich Personal RePEc Archive.
<https://ideas.repec.org/p/pramprapa/32762.html>
- Giovannucci, D. (2009). *Guide to geographical indications*. International Trade Centre.
- Giovannucci, D., Josling, T. E., Kerr, W. A., O'Connor, B., & Yeung, M. T. (2009).
Guide to geographical indications: linking products and their origins.
International Trade Centre.
- Gogoi J. (2020). Proprietorship of GI in India with special focus on the state of
Assam Journal of Intellectual Property Rights, 25(5), 146-154.
<https://nopr.niscpr.res.in/bitstream/123456789/55614/1/JIPR%2025%285%29%20146-154.pdf>
- Government of Nepal Ministry of Forests and Soil Conservation. (2009). *The Nepal fourth national report to the Convention on Biological Diversity*.
<https://www.cbd.int/doc/world/np/np-nr-04-en.pdf>
- Government of Nepal Ministry of Industry, Commerce and Supplies. (2015). *Trade policy, 2072 review*. Government of Nepal Ministry of Industry, Commerce and Supplies. https://giwmscdnone.gov.np/media/app/public/6/posts/1712503644_72.pdf

- Government of Nepal, Agricultural Research Council, National Agriculture Genetic Resource Centre. (2024). *Annual report (2023/24)* (B.K. Joshi, A. Karkee, M. Bhattarai, R.P. Mainali, P. Thapa, & S.K. Shrestha, Eds.).
- Government of Nepal, Ministry of Finance Department of Customs. (2023). *Nepal foreign trade statistics 2079/80 (2022/23 AD)*. Government of Nepal Ministry of Finance Department of Customs. <https://customs.gov.np/storage/DoC/2080-81/Statistics/Annual%20Foreign%20Trade%20%20Statistics%20Book%202079-80.pdf>
- Government of Nepal, Ministry of Finance. (2023). *Budget speech of fiscal year 2023/24*. Government of Nepal, Ministry of Finance. <https://mof.gov.np/site/publication-detail/3263%2017.Government>
- Government of Nepal, Ministry of Forests and Environment. (2018). *National Ramsar strategy and action plan (2018–2024)*. <https://dnppwc.gov.np/en/>
- Government of Nepal, Ministry of Forests and Soil Conservation. (2019). *State of Nepal's forests: Forest resource assessment (FRA)*. Ministry of Forests and Soil Conservation. https://frtc.gov.np/downloadfile/state%20%20forest%20of%20Nepal_1579793749_1579844506.pdf
- Government of Nepal, Ministry of Industry, Commerce and Supplies (2020). *Economic survey 2019/20*. Ministry of Industry, Commerce and Supplies. https://old.moics.gov.np/uploads/document/file/Economic%20Survey%202019_20201125024153.pdf
- Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. (2018). *List of multilateral treaties to which Nepal is a party and a signatory*. <https://www.moljpa.gov.np/wp-content/uploads/2019/04/List-of-Multilateral-Treaties-Signed-by-Nepal.pdf>

Grammartist. (2011, February 15). *Sui generis*. Grammartist.

<https://grammarist.com/usage/sui-generis/#::text=%7C%20Grammarist->

Grazioli, A. (2021, September 6-8). *The Lisbon system: Recent development and perspectives*, (Conference Presentation). WIPO Worldwide Symposium on Geographical Indications, Geneva (virtual).

Hagen, T. (1998). *Nepal – The kingdom in the Himalayas*. Himal Book.

Hari, A.S., & Raju, K. D. (2021). Law of Geographical Indications in South Asia: Need for Addressing Climate Change. In R.P. Vyas & S. Siwakoti (Eds.), *Exploring Asia: Concepts and context*. Routledge.

Hati, P. (2015). *Protection of geographical indication with special reference to India* [Doctoral dissertation, The University of Burdwan]. Sodhganga.
<https://shodhganga.inflibnet.ac.in/simple-search?query=Hati%2C+P.+%282015%29.+Protection+of+geographical+indication+with+special+reference+to+India+%28PhD+Thesis%3B+The+University+of+Burdwan&go=>

Heath, C., & Kamperman Sanders, A. (Eds.). (2005). *New frontiers of intellectual property law: IP and cultural heritage - geographical indications - enforcement - overprotection (Studies in Industrial Property and Copyright Law)*. Hart Publishing.

Henckels, C. (2022). The compatibility of the European Union's geographical indications regulations for wine with the World Trade Organization Agreement on Technical Barriers to Trade. *Journal of World Investment & Trade*, 23(2), 293-326. https://brill.com/view/journals/jwit/23/2/article-p293_6.xml

Higgins, D. M. (2018). *Brands, geographical origin, and the global economy: A*

- history from the nineteenth century to the present*. Cambridge University Press. <https://doi.org/10.1017/9781139507059>
- Höhn, G.L., Huysmans, M., & Crombez, C. (2023). Does terroir size matter? Protected geographical areas and prices of European hams. *Regional Studies*, 1(1), 1–14. <https://doi.org/10.1080/00343404.2023.2187365>
- House of Representatives. (2025). *Industrial Property Bill, 2082*. <https://hr.parliament.gov.np/np/bills/vlo1HxCh>
- https://nepalindata.com/media/resources/bulkuploaded/Plant_Genetic_Resources_CUAPGR_Nepal_OCT17.pdf
- https://unctad.org/system/files/non-officialdocument/Pengelly_IPR_Graduating_LDCs_2024.pdf
- https://www.wipo.int/edocs/mdocs/sct/en/wipo_geo_ge_21/wipo_geo_ge_21_panel_1_grazioli.pdf
- Hughes, J. (2006). Champagne, feta, and bourbon: The spirited debate about geographical indications. *Hastings Law Journal*, 58(2), 299-386. https://repository.uchastings.edu/hastings_law_journal/vol58/iss2/3
- Ingnam, K. (2024). *International trade and business law*. Lex and Juris Publication Pvt. Ltd.
- Intellectual Property Office of Singapore. (2021). *Geographical Indications Infopac*. <https://www.ipos.gov.sg/docs/default-source/resources-library/geographical-indications/resources/gi-infopack-1-nov-21.pdf>
- Intellectual Property Office of Vietnam. (2023, October 28). *Logo of the national geographical indication*. INVESTIP - Vietnam IP Law

Firm. <https://investip.vn/announcement-of-the-logo-of-vietnam-geographical-indication/>

Intellectual Property Organization of Pakistan (IPO-Pakistan). (2022). *Registered GIs of Pakistan*. https://ipo.gov.pk/gi_registeredGIsPK

International Bureau of WIPO. (2021). *Worldwide symposium on geographical indications: Information on speakers*. https://www.wipo.int/edocs/mdocs/sct/en/wipo_geo_ge_21/wipo_geo_ge_21_inf_3.pdf

International Trade Center (ITC), Giovannucci, D., Josling, T., Kerr, W., O'Connor, B., & T. Yeung, M. (2010). *Guide to geographical indications linking products and their origins*. United Nations.

IP Key Latin America. (2023). *Geographical indications for Andean Countries: Challenges and opportunities*. <https://ipkey.eu/en/latin-america/activities/geographical-indications-andean-countries-challenges-and-opportunities>

Jean, L. A., Bienabe, E., & Marie-Vivien, D. (Eds.). (2012). *Geographical indications and international agricultural trade: The challenge for Asia*. Palgrave Macmillan.

Jefferson, D. J., & Adhikari, K. (2019). Reimagining the relationship between food sovereignty and plant intellectual property: Lessons from Ecuador and Nepal. *The Journal of World Intellectual Property*, 22(6), 396-418. <https://doi.org/10.1111/jwip.12134>

Joshi, B. K. (2019). Twenty-four approaches for conservation of non-orthodox agricultural Plant genetic resources in Nepal. *Journal of Nepal Agricultural*

Research Council, 5, 22–33. <https://doi.org/10.3126/jnarc.v5i1.23801>

- Joshi, B. K., Acharya, A. K., Gauchan, D., Singh, D., Ghimire, K. H., & Sthapit, B. R. (2017). *Geographical indication: A tool for supporting on-farm conservation of crop landraces and for rural development. In conservation and utilization of agricultural plant genetic resources. Proceedings of 2nd National Workshop, Dhulikhel.*
- Joshi, B. K., Gautam, D., Bhandari, B., & Jarvis, D. (2020). Good practices for agrobiodiversity management. *Journal of Nepal Agricultural Research Council*, 6(1), 1-12.
- Joshi, B. K., Ghimire, K. H., Bista, P. R., Yadaw, R. B., Shrestha, R. K., Kharel, G. K., Paneru, P., KC, R. B., & Bhandari, D. (2024). Intellectual property rights on basmati rice: Current scenario and evidence of origin, diversity, cultivation and use values of basmati rice in Nepal. *Nepal Journal of Biotechnology*, 9(1), 1 12. <https://doi.org/10.3126/njb.v9i1.38671>
- Joshi, B.K., KC, H.B., & Acharya, A.K. (Eds.). (2017). *Conservation and utilisation of agricultural plant genetic resources in Nepal: Proceedings of the 2nd National Workshop, 22-23 May 2017, Dhulikhel.* National Agriculture, Ministry of Agricultural Development.
- Joshi, B.K., KC, H.B., & Acharya, A.K.(Eds.). (2020). *Good practices for agrobiodiversity management* (pp. 1-35). National Agricultural Genetic Resources Center, Local Initiatives for Biodiversity, Research and Development, & Alliance of Biodiversity International and CIAT.
- Josling, T. (2006). The war on Terroir: Geographical indications as a transatlantic trade conflict. *Journal of Agricultural Economics*, 57(3), 337–363.

<https://doi.org/10.1111/j.1477-9552.2006.00075.x>

- Jumde, A., & Kumar, N. (2020). Protection of traditional art forms under geographical indications law: A case study of Madhubani and Sujini art forms of Bihar, India. *Journal of Intellectual Property Law & Practice*, 16(7), 645-653. <https://doi.org/10.1093/jiplp/jpaa161>
- Kadri, H. (2020). Understanding the theories of intellectual property in the contemporary world - An overview. *Commonwealth Law Review Journal*, 6, 467–479.
- Kan, M., & Belveren, A. (2022). Coğrafi İşaret ve Kalite Algısı: Mersin İli Örneği. *Turkish Journal of Agriculture - Food Science and Technology*, 10(9), 1756–1768. <https://doi.org/10.24925/turjaf.v10i9.1756-1768.5456>
- Keyi, Z. (2020, June 27). *An analysis on right boundary of geographical indications. In Proceedings of the 2020 5th International Conference on Humanities Science and Society Development (ICHSSD 2020)*. Atlantis Press. <https://www.atlantis-press.com/proceedings/ichssd-20/125942223>
- Khair, M. H. M., & Hashim, H. N. M. (2020). Justifications of intellectual property rights: A discussion on Locke and Hegel's theories. *Jurnal Hukum Novelty*, 11(2), 114-123. <https://doi.org/10.26555/novelty.v11i2.a16595>
- Khanal, S. (2022). *TRIPS Agreement and its implication in Nepal* [Doctoral dissertation, Tribhuvan University](on file with Faculty of Law Library).
- Kimura, J., & Rigolot, C. (2021). The potential of geographical indications (GI) to enhance sustainable development goals (SDGs) in Japan: Overview and insights from Japan Mishima Potato. *Sustainability*, 13(2), 961. <https://doi.org/10.3390/su13020961>

- Kireeva, I., & O'Connor, B. (2010). Geographical indications and the TRIPS agreement: What protection is provided to geographical indications in WTO members? *Journal of World Intellectual Property*, 13(4), 275-303.
<https://doi.org/10.1111/j.1747-1796.2009.00374.x>
- Knoema. (2025). *World data atlas: Nepal global innovation index (2013-2023)*.
<https://knoema.com/atlas/Nepal/topics/World-Rankings/World-Rankings/Global-innovation-index>
- Kumar, A. (2019). *Economic benefits of geographical indications* [Doctoral dissertation, Banaras Hindu University]. Sodhganga.
<https://shodhganga.inflibnet.ac.in/handle/10603/383943>
- Kyrylenko, A. (2023, January 3). Geographical Indications and the Versailles Peace Treaty of 1919: Then and now. *The IPKat*. <https://ipkitten.blogspot.com/2023/01/geographical-indications-and-versailles.html>
- Lawal-Arowolo, A. (2019). Geographical indications and cultural artworks in Nigeria: A cue from other jurisdictions. *The Journal of World Intellectual Property*, 22(5-6), 364–374. <https://doi.org/10.1111/jwip.12128>
- Lee, D., Moon, J., & Ryu, M. H. (2019). The effects of extrinsic cues on online sales of fresh produce: A focus on geographical indications. *Cahiers Agricultures*, 28, 13. <https://doi.org/10.1051/cagri/2019014>
- Legislation Management Committee. (2024). *Study report on the laws yet to be made in accordance with the Constitution of Nepal, 2080*. National Assembly, Legislation Management Committee.
<https://na.parliament.gov.np/uploads/attachments/x5jbuff7zbsbx4df.pdf>
- Li, C., Gao, J., Ge, L., Hu, W., & Ban, Q. (2023). Do geographical indication

products promote the growth of the agricultural economy? An empirical study based on meta-analysis. *Sustainability*, 15(19), 14428.

<https://doi.org/10.3390/su151914428>

Li, M., Zhang, M., & Anaba, O. A. (2022). Brand marketing of geographical indication products in Xinjiang Tianxiaxiang. In M. Fan, L. Wang, & D. Ostic (Eds.), *Casebook of Chinese business management* (p. 25). Springer Nature Singapore. <https://doi.org/10.1007/978-981-16-8074-8>

Li, Y. (2021, September 7). *The development of geographical indications protection in China*. (Presentation). WIPO Geographical Indications Symposium. https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=550200

Liao, R. (2023). Applications and responses to RCEP rules on geographical indications protection in China. *SHS Web of Conferences*, 178, Article 03008. <https://doi.org/10.1051/shsconf/202317803008>

Loucks, M. (2012). *Trademarks and geographical indications: Conflict or coexistence?* [Master's thesis, The University of Western Ontario]. Western University Institutional Repository. <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=2044&context=etd>

Lukose, L.P. (2022). Additional protection for geographical indications in India: A working of section 22 (2) of Indian GI Act. *Journal of Intellectual Property Rights*, 27(7), 325-332. <https://nopr.niscpr.res.in/bitstream/123456789/60565/1/JIPR%2027%285%29%20325-332.pdf>

Malla, S. B., & Shakya, P. R. (2004). *The TRIPS Agreement: Potential products for geographical indications*. Food and Agriculture Organization. <https://www.fao.org/4/ae896e/ae896e09.pdf>

- Marette, S., & Crespi, J. M. (2003). Can quality certification lead to subtle cartels? *Review of Industrial Organization*, 23(1), 43–64.
<https://doi.org/10.1023/b:reio.00000005595.35570.1a>
- Marsoof, A. (2023). Critical reflections on Sri Lanka's new sui generis geographical indication registration system. *Journal of Intellectual Property Law & Practice*, 18(12), 907-919. <https://doi.org/10.1093/jiplp/jpad091>
- Marsoof, A., & Tan, L.T. (2021). A CSR/fair trade inspired policy for fairer geographical indications, *The Journal of World Intellectual Property*, 24, 253-273. <https://doi.org/10.1111/jwip.12186>
- Matsushita, M., Schoenbaum, T. J., Mavroidis, P. C., & Hahn, M. J. (2017). *The World Trade Organisation: Law, practice, and policy* (3rd ed.). Oxford University Press.
- Matthews, P. (2010). Increasing revenue in developing nations through intellectual property rights: Why a diversified approach to intellectual property protection with a focus on geographical indications is the best method. *Buffalo Intellectual Property Law Journal*, 7(2), 201.
<https://digitalcommons.law.buffalo.edu/buffaloipjournal/vol7/iss2/3>
- Mazé, A. (2023). Geographical indications as global knowledge commons: Ostrom's law on common intellectual property and collective action. *Journal of Institutional Economics*, 19(1), 1–22. <https://hal.science/hal-04063797/file/Maze%202023%20geographical-indications-as-global-knowledge-commons-ostroms-law-on-common-intellectual-property-and-collective-action.pdf>
- McCluskey, J. J., Loureiro, & M. L. (2003). Consumer preferences and willingness

- to pay for food labeling: A discussion of empirical studies. *Journal of Food Distribution Research*, 34(3), 1-7. <https://doi.org/10.22004/ag.econ.27051>
- Menapace, L., & Moschini, G. (2011). Quality certification by geographical indications, trademarks and firm reputation. *European Review of Agricultural Economics*, 39(4), 539–566. <https://doi.org/10.1093/erae/jbr053>
- Menell, P. S. (2000). Intellectual property: General theories. In B. Bouckaert & G. De Geest (Eds.), *Encyclopedia of law and economics (Vol.II)*, pp. 129-188). Edward Elgar.
- Ministry of Foreign Affairs Nepal. (2025). *Nepal and SAARC*. <https://mofa.gov.np/pages/nepal-and-saarc-5/>
- Ministry of Foreign Affairs. (2016). *South Asian Association for Regional Cooperation (SAARC)*. Government of Nepal, Ministry of Foreign Affairs. <https://mofa.gov.np/wp-content/uploads/2016/03/Revised-SAARC-Brief.pdf>.
- Ministry of Foreign Affairs. (2025). *Geographical indication (GI) products of Bangladesh: Knowing Bangladesh program*. <https://www.dhakatribune.com/bangladesh/339502/three-new-items-gain-gi-status>
- Ministry of Law, Justice and Parliamentary Affairs, Nepal Government. (2025). *List of multilateral treaties to which Nepal is a party and a signatory*. Government of Nepal. <https://www.moljpa.gov.np/wp-content/uploads/2019/04/List-of-Multilateral-Treaties-Signed-by-Nepal.pdf>
- Mishra, A. (2022). Geographical indications - Challenges and opportunities in post-covid India. *Journal of Intellectual Property Rights*, 26, 57-68. <http://op.niscpr.res.in/index.php/JIPR/article/view/41515/465481025>

- Mishra, A., & Fatesaria, H. (2022). Basmati rice – The on-going domestic challenge. *Journal of Intellectual Property Rights*, 27(2). 100-106. <https://doi.org/10.56042/jipr.v27i2.58806>
- Moir, H. V. J. (2015). Geographic indications: Heritage or terroir? *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2656136>
- Moir, H.V.J. (2017). Australia, the European Union and the new trade agenda. In A. Elijah, D. Kenyon, K. Hussey, & P. van der Eng (Eds.), *Australia, the European Union and the new trade agenda* (p.121). Australian National University Press.
- Moschini, G., Menapace, L., & Pick, D. (2008). Geographical indications and the competitive provision of quality in agricultural markets. *American Journal of Agricultural Economics*, 90(3), 794–812. <https://doi.org/10.1111/j.1467-8276.2008.01142.x>
- Mukhiya, B. B. (2015). *Intellectual property law* (1st ed.). Mission Legal Service.
- Musiza, C. (2021). A pathway to international registration for African geographical indications under the Geneva Act: The case for Oku white honey, *Journal of Intellectual Property Law and Practice*, 16(4-5), 394-401. IPLP 394-401.
- Nagpal, K. (2020). *International developments in geographical Indications: Issues and challenges* [Doctoral dissertation, Maharshi Dayanand University]. Sodhganga. <https://shodhganga.inflibnet.ac.in/handle/10603/362750>
- Naik, I. G. (2014). *Legal protection of geographical indication: A study relating to the prevailing and their enforcement in Karnataka* [Doctoral dissertation, University Law College]. <https://shodhganga.inflibnet.ac.in/handle/10603/148592>

- Nanda, N., Barpujari, I., & Srivastava, N. (2013, March). *The protection of geographical indications in India: Issues and challenges* (Briefing Paper). The Energy and Resources Institute. https://yucita.org/file_sub_301_Diger-The-Protection-of-Geographical-Indications-in-India:-Issues-and-Challenges.pdf
- National Agriculture Research Center. (2024). *Nepal agro-biodiversity bulletin*, 2(2).
- National Planning Commission. (2020). *The fifteenth five-year plan (2019/20–2023/24)*. Government of Nepal National Planning Commission. https://www.npc.gov.np/images/category/15th_plan_English_Version.pdf
- National Planning Commission. (2024). *LDC graduation status of Nepal*. https://www.unescap.org/sites/default/d8files/event-documents/Session%20I%20-%20Nepal_1.pdf
- National Planning Commission. (2024). *The Sixteen Five-year Planning (2024/25–2028/29)*.
- National Planning Commission. Government of Nepal. (2024). *The fifteenth plan (Fiscal year 2019/20– 2023/24)*. https://www.npc.gov.np/images/category/15th_plan_English_Version.pdf
- Nepal Government, Ministry of Finance. (2019/20). *Economic survey (2019/20)*. https://mof.gov.np/uploads/document/file/Economic%20Survey%202019_20201125024153.pdf?fbclid=IwAR0cr_fEwYso4u6GBX5t
- Nepal Government, Ministry of Law, Justice and Parliamentary Affairs. (2020). *Kanoon Tarjuma digdarshan*. (Law translation guide). Law, Justice and Parliamentary Affairs Ministry.

- Nepal Government. (2019/20). *Economic survey (2019/20)*. <https://mof.gov.np/content/302/my-slug5/>
- Nepal, M. (2021). *A text book on intellectual property law*. Luminin Prakashan.
- Nguyen, S. L., & Le, V. A. (2023). Diffusion of geographical indication law in Vietnam: “Journey to the West.” *IIC - International Review of Intellectual Property and Competition Law*, 54(2), 176–199.
<https://doi.org/10.1007/s40319-023-01289-9>
- O’Conner, B. (2009). *Sui generis protection of geographical indications*. *Drake Journal of Agricultural Law*, 9(3), 359-386.
<https://aglawjournal.wp.drake.edu/wp-content/uploads/sites/66/2016/09/agVol09No3-OConnor.pdf>
- O’Connor and Company. (2006). *Geographical indications and TRIPS: 10 years later... A roadmap for EU GI holders to get protection in other WTO Members*. Commission of the European Communities.
https://www.oacps.org/wp-content/uploads/2012/09/tradoc_135088.pdf
- Oke, E. K. (2022). Rethinking Nigerian geographical indications law, *The Journal of World Intellectual Property*, 25 (5), 746-752.
- Okyere, M., & Denoncourt, J. (2021). Protecting Ghana’s intellectual property rights in kente textiles: The case for geographical indications, *Journal of Intellectual Property Law & Practice*, 16, 415-425.
- oriGIn. (2019, November 25). *China: New official national GI logo*.
https://www.origin-gi.com/web_articles/25-11-2019-china-new-official-national-gi-logo/

- Ovi, D. A., & Noyon, A. H. (2023). A legal appraisal of the protection and opportunities of geographical indication (GI) in Bangladesh. *UPA Law Review*, 1(2), 57–72.
https://www.academia.edu/99718488/A_Legal_Appraisal_of_the_Protection_and_Opportunities_of_Geographical_Indication_GI_in_Bangladesh
- Palar, M.R.A., Indradi, B., & Hadiwidjojo, D. (2021). Geographical indication protection for non-agricultural products in Indonesia. *Journal of Intellectual Property Rights*, 16(5), 405-414.
- Pandey, P. R., Kharel, P., Dahal, K., Singh, D., & Aryal, S. (2022). *Nepal's graduation from the LDC category Implications for international trade and development cooperation*. South Asai Watch on Trade, Economics and Environment (SAWTEE). https://sawtee.org/publications/LDC_graduation_study_Sep_2022.pdf
- Paudel, M. N. (2018). Geographical indication of agriculture commodity and their products: An issue of genetic resources conservation in Nepal, *ResearchGate*. https://www.researchgate.net/profile/Mina-Nath-Paudel/publication/324798281_Geographical_indication_of_agriculture_commodity_and_their_products_an_issue_of_genetic_resources_conservation_in_Nepal/links/5ae3119ba6fdcc9139a10bb8/Geographical-indication-of-agriculture-commodity-and-their-products-an-issue-of-genetic-resources-conservation-in-Nepal.pdf
- Paudel, M. N. (2021). Patenting need of unique geographical indicator commodities and products to enhance livelihoods and resources conservation in Nepal. *Agronomy Journal of Nepal*, 5(1), 1–22.
<https://doacrop.gov.np/public/uploads/Pdffile/Agronomy%20Journal%20of>

- Pengelly, T. (2024). *Graduating with momentum: Intellectual property issues, challenges and opportunities for least developed countries*. Commonwealth Secretariat.
- Pokharel, D. (2016). *Legal analysis of the implications of intellectual property rights regime for the protection of biogenetic resources: A case study of Nepal* [Doctoral dissertation, Tribhuvan University] (on file with Faculty of Law Library).
- Portes, A. S. M., Medeiros, M.A., & Castro, R.D. (2021). Geographical indications in Brazil and their socio-environmental dimensions: Gaps and opportunities of the Brazilian GI regulation for agricultural products. *Journal of Intellectual Property Law & Practice*, 16, 384-393.
- Press Information Bureau. (2022). *South Asian Association for Regional Cooperation (SAARC): A milestone in regional cooperation*. Ministry of External Affairs. Press Information Bureau.
<https://static.pib.gov.in/WriteReadData/specificdocs/documents/2022/dec/doc2022128141701.pdf>.
- Priyanka, U., & Vimala, V. (2021). Impact of National Handloom Development Programmed (NHDP) – Adoration to GI tagged Kuthampully sarees, *Journal of Intellectual Property Rights*, 26, 27-79.
<https://nopr.niscpr.res.in/handle/123456789/58371>
- Quiñones-Ruiz, X. F., Nigmann, T., Schreiber, C., & Neilson, J. (2020). Collective Action milieus and governance structures of protected geographical indications for coffee in Colombia, Thailand and Indonesia. *International*

Journal of the Commons, 14(1), 329–343. <https://doi.org/10.2307/27016569>

R Nair, L., & Kumar, R. (2005). *Geographical indications: A search for identity*.

Lexis Nexis.

Rački Marinković, A. (2022). Civil enforcement of geographical indications in Europe. *Journal of Intellectual Property Law & Practice*, 17(1). 32-40.

<https://doi.org/10.1093/jiplp/jpab175>

Rahmah, M. (2016). Protection of geographical indication under trademark system:

To fit the square into the triangle? *Mimbar Hukum: Fakultas Hukum*

Universitas Gadjah Mada, 27(3), 536-546.

<https://doi.org/10.22146/jmh.15876>

Rangnekar, D. (2004). *The socioeconomics of geographical indications: A review of*

empirical evidence from Europe. International Centre for Trade and

Sustainable Development (ICTSD). [https://unctad.org/system/files/official-](https://unctad.org/system/files/official-document/ictsd2004ipd8_en.pdf)

[document/ictsd2004ipd8_en.pdf](https://unctad.org/system/files/official-document/ictsd2004ipd8_en.pdf)

Rangnekar, D. (2009). *Geographical indications and localization: A case study of*

Feni. United Nations Conference on Trade and Development (UNCTAD)

Rani, J. (2017). *Law of trademarks and geographical indications in India: Issues*

and challenges [Doctoral dissertation, Maharshi Dayanand University].

Shodhganga. <https://shodhganga.inflibnet.ac.in/handle/10603/298567>

Ravindran, S., & Mathew, A. (2009). *The protection of geographical indications in*

India: Case study on 'Darjeeling Tea'. Property Rights Alliance.

[https://d1wqtxts1xzle7.cloudfront.net/56556909/darjeeling_tea-](https://d1wqtxts1xzle7.cloudfront.net/56556909/darjeeling_tea-libre.pdf?1526252396=&response-content-)

[libre.pdf?1526252396=&response-content-](https://d1wqtxts1xzle7.cloudfront.net/56556909/darjeeling_tea-libre.pdf?1526252396=&response-content-)

[disposition=inline%3B+filename%3DThe_Protection_of_Geographical_Indi](https://d1wqtxts1xzle7.cloudfront.net/56556909/darjeeling_tea-libre.pdf?1526252396=&response-content-disposition=inline%3B+filename%3DThe_Protection_of_Geographical_Indi)

catio.pdf&Expires=1748010593&Signature=SQ3uR5yTHe43WaOMpcFQy
 xkUIfOtBwf7XmmbXxvnWSq8XHkZ6W7dFCIS2dqVJBIdTx0EulHidUc61
 Pvir2Y0oW07FsuuSLBjmES~2sag6NbZylBYbMEr7hn0Rpt36~rPFwajTMf
 -1vD1o6Thkmu2AxXDKKAaq9TsHhSCVAfLT3Gfo5D-18XqB6KN~xhs-
 F~6sYst88zTt19WgDX5XXXuOb4FdHU5H-
 mlmje6cn8PeDurXM24JdlO180S5sjp1GUS4gJfOqGzc-
 Gj1OJV17xNkpZHhmUVveRMlo0tdX41Tt3sr4DOJMZjO1QaJGRxIvDnY
 v1T3rmKSXZawGcBqFQ4eQ__&Key-Pair-
 Id=APKAJLOHF5GGSLRBV4ZA

Rayamajhi, K. & Thakur B. M. (2023). Nepalese fine and aromatic rice landraces: A review. *The Journal of Agriculture and Environment*, 24, 197-204.

Reddy, G.B. (2023). *Intellectual property rights and the law*. Gogia Law Agency.

Rippon, M. J. (2014). What is the geography of geographical indications? Place, production methods and protected food names. *Area*, 46(2), 154–162.
<https://www.jstor.org/stable/24029961>

Rodriguez Garcia, J. M. (2001). *Scientia potestas est*- Knowledge is power: Francis Bacon to Michel Foucault. *Neohelicon*, 28(1), 109-122.
<https://link.springer.com/article/10.1023/A:1011901104984#:~:text=The%20now%2Dfamous%20equation%2C%20%E2%80%9C,by%20Francis%20Bacon%20in%201597>

Roy, S. (2017). *A jural analysis of geographical indication with special reference to state of Odisha* (Doctoral dissertation, Sambalpur University). Sodhganga.
<https://shodhganga.inflibnet.ac.in/handle/10603/284236>

Sabharwal, A. (2022, June 13). The economics of Geographical Indications.

Lexology. <https://www.lexology.com/library/detail.aspx?g=f9ae3506-1f07-4e09-bd79-52da7887e611>.

Sangroula, Y. (2023). *Decolonization of constitutionalism*. Lex and Juris Publication Pvt. Ltd.

Sapkota, L. (2021). Evolution of geographical indication in Nepal: A way forward. *Nepal Bar Council Journal*, 20, 384- 396.

Sapkota, L. (2021). *General concept of law* (1st ed.). Lex and Juris Pvt. Ltd.

Sapkota, L. (2022). Necessity of sui generis geographical indication laws in Nepal. *NJA Law Journal*, 16, 125–141.

Sapkota, L. (2022). Significance of geographical indications laws in Nepal: A comparative study of Bhaktapur ‘Juju Dhau’ and Greece ‘Greek Yogurt’. *Kathmandu School of Law Review*, 11(1), 60-75.

Sapkota, L. (2023). Intellectual Property as the fundamental right: Widening scope and changing dimension of ownership of intellectual property. *Journal of Global Research* 12(1) 28- 42.

Sapkota, L. (2024, November 6). Necessity of Geographical Indications Law. *Kantipur Daily Newspaper*, p.5.

Sapkota, L. (2024). Nepal's position on the geographical indications’ protection debates of North and South. *Sri Lanka Journal of Law Faculty of Law*. (forthcoming, peer- reviewed).

Sapkota, L., & Sharma, A. (2023). *General concept of law* (2nd ed.). Lex and Juris Pvt. Ltd. (Original work published 2018).

Saputro, T.A., Pujiyono, Latifah, E., (2023). *The role of the local community in geographic indications is based on tourism, intellectual property*,

International Conference on Law, Social Sciences, and Education. EAI.
<https://eudl.eu/pdf/10.4108/eai.28-10-2022.2326401#:~:text=Geographical%20indications%20are%20any%20indications,property%20rights%20in%20a%20region>

Schneider, M. (2021). A helpful companion to navigate European geographical indications and designations of origin, *Journal of Intellectual Property Law & Practice*, 16 (4-5), 450-451. ILPLP, 450-451.

Senftleben, M. (2023). Article 10*bis* of the Paris Convention as the common denominator for protection against unfair competition in national and regional contexts. *Journal of Intellectual Property Law & Practice*, 19(2), 81–89. <https://doi.org/10.1093/jiplp/jpad122>

Shapiro, C. (1983). Premium for high quality products as returns to reputations. *The Quarterly Journal of Economics*, 96(4), 659- 679.
<https://doi.org/10.2307/1881782>

Sharma, R., & Oli, Y. (2021). *Intellectual property law, society and economic development*. Nepal Law Commission.

Sharma, R.P., Karkee, M.K., & Gautam, L.K. (Eds.). (2004). *The implications of the WTO membership on the Nepalese agriculture*. Food and Agriculture Organization of the United Nations, United Nations Development Programme, and Ministry of Agriculture and Cooperatives.
<https://www.fao.org/4/ae896e/ae896e00.pdf>

Sharma, S. (2023). An Introduction to Geographical Indications: New Perspectives and Recent Developments. *International Journal of Legal Science and Innovation*, 5(1), 74–80. <https://ijlsi.com/paper/an-introduction-to->

geographical-indications-new-perspectives-and-recent-developments/

Shiva Kumar, S. (2012). *Legal protection of geographical indications in India: An analysis* [Doctoral dissertation; University of Madras].

Simanjuntak, Y. N. (2021). The review of communal rights on geographical indications: Communal standpoint as constraints to legal protection. *Environmental Policy and Law*, 51(1), 1-12. <https://doi.org/10.3233/epl-210001>

Singh, R. K. (2022). *Intellectual property right*. Lex Worth - Gogia Law Agency.

Singh, V. (2011). *A study of law of geographical indications as an IPR and tool for economic development* [Doctoral dissertation, University of Delhi]. Sodhganga.<https://shodhganga.inflibnet.ac.in/handle/10603/402473>

Sitepu, F.Y. (2018). The potential of geographical indications and its legal protection, *E3S Web Conference*. 52, 00017. <https://doi.org/10.1051/e3sconf/>

SKB. (2023). *DPDT - Department of Patent, Industrial Design and Trademarks, Web Based Recruitment System | Powered By: Tele talk*. <http://dpdt.teletalk.com.bd>

Snow, N. (2022). *Intellectual property and immorality: Against protecting harmful creations of mind*. Oxford University Press.

Soanes, C., & Stevenson, A. (Ed.). (2006). *Oxford dictionary of English* (2nd ed.). Oxford University Press.

Song, X. (2018). The role played by the regime of collective and certification marks in the protection of geographical indications: Comparative study of law and practice in France, the EU and China. *The Journal of World Intellectual Property*, 21(5-6), 437–457. <https://doi.org/10.1111/jwip.12111>

- Sorgho, Z., & Larue, B. (2014), Geographical indication regulation and intra-trade in the European Union. *Agricultural Economics*, 45 (S1), 1-12.
<https://doi.org/10.1111/agec.1212>
- South Asian Association for Regional Cooperation (SAARC). (1985, April 29). Charter of the Asian Association for Regional Cooperation (SAARC). In *Compilation of multilateral treaties* (Vol. VI, p. 21). Government of Nepal.
- Sridharan, J. (2020). GI protection: The need for amelioration. *International Journal of Legal Science and Innovation*, 2(23), 23–28. <https://www.ijlsi.com/wp-content/uploads/GI-Protection-The-Need-for-Amelioration.pdf>
- Statistics Times. (2021). India GDP sector-wise 2020. *StatisticsTimes.com*.
<https://statisticstimes.com/economy/country/india-gdp-sectorwise.php>
- Sthapit, A. (2022). Nepal's graduation from a least developed country to developing country by 2026: Challenges for handicraft sector MSMEs. Paper presented at the *Seminar on Nepal's Graduation from Least Developed Country to Developing Country by 2026: Challenges for Handicraft Sector MSMEs*.
https://www.researchgate.net/publication/361727280_Nepal's_Graduation_from_Least_Developed_Country_to_Developing_Country_by_2026_Challenges_for_Handicraft_Sector_MSMEs
- Subba, N. K. (2020). Domestication of international laws in Nepalese context. *Nepal Bar Council Law Journal*, 19, 246–255.
- Sunner, L. (2021). How the European Union is expanding the protection levels afforded to geographical indications as part of its global trade policy, *Journal of Intellectual Property Law & Practice*, 16 (4-5), 341.
<https://doi.org/10.1093/jiplp/jpab016>

- Syadzwin, D.N., Hidayati, N., & Sari, D.P. (2023). Characteristics of legal science as *sui generis*, *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 23(2), 261-275.
<https://jurnal.radenfatah.ac.id/index.php/Nurani/article/view/20165/6483>
- Tamang, M., Sharma, K., & Upadhaya, D. (2024). Case study of geographical indication of Mandarin orange in Dailekh District. In S. Karki (Ed.), *Mandarin Orange: History, science and technology in Nepal: Historical, socio-cultural and technical compendium* (pp. 139- 159). (Nepal Horticulture Society (NHS) and Nepal Centre for Food Development (NCFD).
- The Office of the Controller General of Patents, Designs & Trademarks (CGPDTM). (2021). *Registered Gl's | Geographical Indications | Intellectual Property India*. <https://ipindia.gov.in/registered-gls.htm>
- Thomas, W. (2018). *Economics of geographical indications and its implications for producers: A study concerning Kerala* [Doctoral dissertation, Mahatma Gandhi University]. Sodhganga.
<https://shodhganga.inflibnet.ac.in/handle/10603/6>
- Uluko, H., Oyewunmi, A., & Mandewo, G. (2012). Protecting geographical indications in Malawi: Current situation and future prospects, *Journal of Intellectual Property Rights*, 17(3), 226-234. https://www.researchgate.net/publication/259829537_Protecting_Geographical_Indications_in_Malawi_Current_Situation_and_Future_Prospects
- UNESCO. (2003). *Convention for the safeguarding of the intangible cultural heritage*. <https://ich.unesco.org/en/convention>

- United Nations Conference on Trade and Development. (2016). *Why geographical indications for least developed countries?* UNCTAD.
- Upreti, P. N. (2019). *Geographical indications in Nepal: In search of identity*. In S. Frankel (Ed.), *Is Intellectual Property Pluralism Functional?* (pp. 235–265). Elgar Publishing. <https://doi.org/10.4337/9781788977999.00017>
- Upreti, P. N. (2023). The battle for geographical indication protection of basmati rice: A view from Nepal. *IIC-International Review of Intellectual Property and Competition Law*, 54(5), 710-731.
<https://link.springer.com/content/pdf/10.1007/s40319-023-01323-w.pdf?pdf=button%20sticky>
- Uprety, A. (2011). *Need of the sui generis mode of protection of geographical indication in Nepal* [LLB thesis, Kathmandu School of Law].
- Usman, M. S. (2024). Basmati rice and geographical indications: Options for Pakistan (Policy research brief). Islamabad Policy Research Institute.
<https://ipripak.org/wp-content/uploads/2024/05/Basmati-Rice-and-Geographical-Indications-Options-for-Pakistan.pdf>
- Van Caenegem, W., & Cleary, J. (Eds.). (2017). *The importance of place: Geographical indications as a tool for local and regional development*. Springer International Publishing.
- Vandecandelaere, E., Teyssier, C., Barjolle, D., & Jeanneaux, P. (2018). *Strengthening sustainable food systems through geographical indications*. Food and Agriculture Organization of the United Nations.
- Vandecandelaere, E., Teyssier, C., Barjolle, D., Jeanneaux, P., Fournier, S., & Beucherie, O. (2018). *Strengthening sustainable food systems through*

geographical indications: Evidence from 9 worldwide case studies. Food and Agriculture Organization of the United Nations.

<https://openknowledge.fao.org/server/api/core/bitstreams/afc44660-75ac-43b4-918e-ef4915c0ff52/content>

Victor do Rosário, A., Barreto Francisco dos Santos, I. T., & Belmino dos Santos, J. A. (2022). Brazilian goods and services protected by geographical indication. *International Journal of Development Research*, 12(9), 59117–59121.
<https://doi.org/10.37118/ijdr.25373.09.2022>

Wang, X. (2018). Absolute protection for geographical indications: Protectionism or justified rights? *Queen Mary Journal of Intellectual Property*, 8(2), 73-75.
<http://dx.doi.org/10.4337/qmjip.2018.02.01>

Wang, Y.S. (2013). *Geographical indication as intellectual property: In Search of Explanations of Taiwan's Gi conundrum* [Doctoral dissertation, Newcastle Law School]. Newcastle University Theses.
<https://theses.ncl.ac.uk/jspui/bitstream/10443/1869/1/Wang%20S.Y.%2013.pdf>

Wijesinghe, S. S. (2015). The protection on geographical indications in developing countries: A case study of Sri Lanka. *Balance: International Multidisciplinary Law Journal*, 1(1), 1-19.
https://www.academia.edu/19877889/The_Protection_on_Geographical_Indications_in_Developing_Countries_A_Case_Study_of_Sri_Lanka

Wilkof, N. (2014). Theories of intellectual property: Is it worth the effort? *Journal of Intellectual Property Law & Practice*, 9 (4), 257.
<https://doi.org/10.1093/jiplp/jpu018>

Wilkof, N., Basheer, S., & Calboli, I. (Eds.). (2023). *Overlapping intellectual*

property rights (2nd ed.). Oxford University Press.

WIPO Magazine. (2007). *Geographical indications: From Darjeeling to Doha*.

<https://www.wipo.int/en/web/wipo-magazine/articles/geographical-indications-from-darjeeling-to-doha-35824>

Wong, C. Y, & Elbegsaikhan, M. (2020). Geographical indications in development contexts: Function, supply chain and pursuit of rural industrial development.

The Journal of World Intellectual Property, 23(5-6), 712–735.

<https://doi.org/10.1111/jwip.12169>

World Intellectual Property Organization. (1967). *Convention establishing the World Intellectual Property Organization*.

<https://www.wipo.int/treaties/en/convention/>

World Intellectual Property Organization. (2002). *Standing committee on the law of trademarks, industrial designs, and geographical indications: Ninth session*.

https://www.wipo.int/edocs/mdocs/sct/en/sct_9/sct_9_4.pdf

World Intellectual Property Organization. (2007). Geographical indications: From Darjeeling to Doha. *WIPO Magazine*. <https://www.wipo.int/web/wipo-magazine/articles/geographical-indications-from-darjeeling-to-doha-35824>.

World Intellectual Property Organization. (2015). *Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications*.

<https://tind.wipo.int/record/28896?v=pdf>

World Intellectual Property Organization. (2021). *Geographical indications: An introduction*. (2nd ed.). https://www.wipo.int/geo_indications/en

World Intellectual Property Organization. (2025) About WIPO.

<https://www.google.com/search?client=safari&rls=en&q=World+Intellectual+Property+Organization.++About+WIPO&ie=UTF-8&oe=UTF-8>.

- World Intellectual Property Organization. (2022). *World intellectual property indicators 2022*. <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-941-2022-en-world-intellectual-property-indicators-2022.pdf>
- World Intellectual Property Organization. (2023). *Global innovation index 2023*. <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2023/np.pdf>
- World Population Review. (2025). *Global innovation index by country 2025*. <https://worldpopulationreview.com/country-rankings/global-innovation-index-by-country#:~:text=Countries%20with%20the%20Highest%20Global%20Innovation%20Indices,-The%20most%20recent&text=That%20year%2C%20Switzerland%20topped%20the,had%20a%20score%20of%2061.8>
- World Trade Organization. (2004). *World trade report 2004*. https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report04_e.pdf
- World Trade Organization (2020, October 1). Extension of the transition period under Article 66.1 for least developed country members (IP/C/W/668). <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q%3A/IP/C/W668.pdf&Open=True>
- World Trade Organization. (1994). Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). *In Compilation of multilateral treaties (Vol.3, p.411)*.
- Wulandari, F., Suparman, E., Palar, M. R.A., & Amirulloh, M. (2023). Sui generis system: GI protection for the herbal product in Indonesia as communal property right. *Cogent Social Sciences*, 9(1), Article 2176989. <https://doi.org/10.1080/23311886.2023.2176989>

- Xie, R., & Jia, L. (2018). *The global dispute on geographical indication protection system among China-EU-USA and its implication for China*.
<http://nationsworld.kr/cncho/paper/73-Ruxie.pdf>
- Zaman, K. (2021). Protection of intellectual property rights for agricultural innovations: Evaluating Bangladesh's progression towards the international plant variety protection regime, *Journal of World Intellectual Property*, 16 (7), 677-691.
- Zappalaglio, A. (2018). *The why of geographical indications: The transformation of the link between the product and its place of origin in Europe* [Doctoral dissertation, University of Oxford]. Oxford University Research Archive.
<https://ora.ox.ac.uk/objects/uuid:d7124003-81b5-4d7b-8c27-eba29c8a3d24/files/m5f977267d4cbf29e063d5552452fd5c>
- Zappalaglio, A. (2021). *The transformation of EU geographical indications law: The present, past, and future of the origin link*. Routledge.
- Zappalaglio, A. (2023). Understanding the functioning of EU geographical indications. (Policy Brief No. 116). South Centre.
<https://www.southcentre.int/category/publications/policy-briefs/>
- Zappalaglio, A., & Mikheeva, E. (2021). The new Russian law of geographical indications: A critical assessment, *Journal of Intellectual Property Law and Practice*, 16(5), 368-375.
- Zappalaglio, A., Guerrieri F., & Carls, S. (2020). Sui generis geographical indications for the protection of non-agricultural products in the EU: Can the quality schemes fulfil the task? *International Review of Intellectual Property*

and Competition Law, 51(1), 31-55. <https://doi.org/10.1007/s40319-019-00890-1>

Zhu, Y. (2018). Solutions to overseas protection of China's geographical indications, *Open Journal of Social Sciences*, 6 (10), 146- 160.
<https://doi.org/10.4236/jss.2018.610012>

Zito, P. (2021). Current and future protection of geographical indications in Australia. *Journal of Intellectual Property Law & Practice*, 16 (4-5), 348-356.

Zografos, D. (2008). Geographical indications and socio-economic development. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1628534>

Zübek, T. (2018). *Compendium of basic theories of intellectual property protection*. [Master's thesis, Masaryk University].
https://is.muni.cz/th/pjlfq/DP_finit_Archive.pdf

Appendices

Appendix 1: List of Potential GI Products of Nepal ¹¹⁰⁹

Plant Origin

Cultivated

1. Ilam ko Alainchi (Big Cardamom, *Amomum subulatum* from Ilam).
2. Dhunibensi ko Ambaa (Guava, *Psidium guajava*) from Dhunibensi.
3. Nepali Makai Bodi (*Vigna unguiculata*) grown in corn fields.
4. Sindhuli ko Junaar (Orange, *Citrus sinensis*) from Sindhuli.
5. Lapsi (Nepalese Hog Plum, *Choerospondis axillaris*)
6. Malbhog keraa (Banana, *Musa* sp.)
7. Trisuli/Gorkha/ Palpa ko Pindaloo (Corm of *Colocasia* sp.) from Trisuli, Gorkha, Palpa.
8. Pokhareli Masino (*Oriza sativa*) developed at Pokhara.
9. Lukla ko Simi (Beans, *Phaseolus* sp.) from Lukla
10. Bhang/Simikot ko Simi (Beans, *Phaseolus* sp.) from W. Nepal (Bhang, Simikot).
11. Khoku ko Suntalaa (Mandarin, *Citrus reticulata*) of Khoku, Dhankuta.
12. Jumli/Helambu/Marpha ko Syau (Apple, *Malus domestica* from Jumla, Helambu and Marpha
13. Tutrun tarul (*Hibiscus sabdarifa*) from Tutrun, Saptari
14. Dhunibansi/Tokha ko Ukhu (Sugarcane, *Saccharum officinarum*) from Dhunibansi and Tokha.
15. Uwa (High altitude Barley, *Hordium vulgare* var. *nudum*).
16. Jumli marshi (rice from Jumla)
17. Pharpinge/Chhaimal Naaspaati (Pear from Pharping and Chhaimal)
18. Pyuthaane moola (radish from pyuthan)
19. Ilame chiyaa (Ilam tea)

¹¹⁰⁹ Ramesh P. Sharma et al. eds., *Implication of the WTO membership in the Nepalese agriculture* (Food & Agric. Org. of the U.N., U.N. Dev. Programme & Ministry of Agric. & Coops., His Majesty's Gov't of Nepal 2004), <https://www.fao.org/4/ae896e/ae896e00.pdf> (last visited May 26, 2025).

Cultivated and Processed

20. Nepali Aaloo ko achaar (Pickle of Potato, *Solanum tuberosum*).
21. Amp ko Achaar (Seasoned pickle of Mango, *Mangifera indica*).
22. Bhote chiya (*Camellia kissi* and *Osyris wighthiana*) Mustang, Manang, Solukhumbu, etc.
23. Tokha ko Chaaku (Jaggery of sugarcane, *Sacharum officinarum*) from Tokha.
24. Chhampa (Flour of baked wheat, *Triticum aestivum* or barley, *Hordium vulgare*).
25. Paschim Nepal ko Chiuri gheu (Butter of Chyuir, *Aesandra bytaracia* from W. Nepal – Gulmi, Pyuthan, Arghakhanchi).
26. ChukAmilo (Souring materials, Boiled juice of Citrus fruits spp.).
27. Dalechuk (Fruit juice of *Hippophe tibetana*)
28. Gundruk (Silage of green vegetables of Mustard family).
29. Khokhana ko Tori ko Tel (Cooking Mustard, *Brassica campestris* var. toria Oil from Khokana).
30. Nepali Lasun ko Achaar (Nepalese Seasoned pickle of Garlic, *Allium sativum*).
31. Masyoraa (Nuggets) made up of Maas (Black gram, *Vigna mungo*) and Colocasia mixed).
32. Nepali Moola ko achaar (Seasoned pickle of *Raphanus sativus*).
33. Moola ko chaanaa (Dried vegetable of radish *Raphanus sativus*).
34. Saano Keraau ko achaar (Pickle of Small pea, *Pisum sativum* var. arvense).
35. Sattu (Flour of baked wheat, *Triticum aestivum*).
36. Nepali Sutho (Nepalese Dried Zinger, *Zingiber officinale*) from Pyuthan and Butwal.
37. Manihari ko Taamaa (Fermented bamboo shoot) from Manohari.
38. Tikin baji (Rice flakes of *Oriza sativa*) from Tikni, Bode (Bhaktapur).
39. Titaura (Nuggets of Moong, *Vigna radiata*).
40. Wolaa waa (Hill Paddy, *Oriza sativa*) and Baji (Beaten rice, rice flakes).

Wild source

41. Amaala (Fruits of *Embellic myrobolan*, *Phyllanthus emblica*)
42. Bhyaagute neuro (Vegetable from *Polysticum squrosum*)
43. Daanhte neuro (Vegetable from *Dryopteris cochleata*)
44. Fibre from Allo (*Girardiana heterophylla*)

45. Fibre from Hemp (*Cannabis sativa*)
46. Fibre from Odal (*Sterculia villosa*)
47. Halhale (Vegetable from *Rumex nepalensis*)
48. Jire neuro (Vegetable from *Thelypteris ciliata*)
49. Kaalo Neuro (Vegetable from *Athyrium boryanum*), (*Diplazium solierkae*).
50. Khichaa bhyaatah (*Blumea lacera*)
51. Khulu-Simali, bread made from dried green algae (*Prasiola* sp.).
52. Koche neuro (Vegetable from *Thelypteris multilineata*)
53. Rukh Neuro (Young Fronds of Tree Fern, *Cythea spinulosa*.).
54. Sisno (Vegetable from *Urtica dioica*)
55. Thotne (Vegetable from *Aconogonum molle*)
56. Toosaa (Vegetable from Young shoot of *Arundinaria* sp.)
57. Nepali kagaj (hand-made paper)
58. Sallyani/Pyuthane timoor (Nepali pepper from Sallyan and Pyuthan)

Animal Origin

59. Bhyaglung Sheep (Northern aspect of Himalaya Mountain, representing 1 % of the total sheep in Nepal; Features: Yields best type of wool for carpet, adopted in high hills and mountains, Disease resistant; Status declining population).
60. Humla Chyapu (Small-bred Mountain Goat from Humla)
61. Bhaktapure Juju dhau (King Curd from Bhaktapur).
62. Jumli Ghoda (Horse from Jumla).
63. Pigmy hog (Smallest pig, each weighing 20 – 25 Kg)
64. Pokharali Battain (Quail of Pokhara – popular in fighting bird)
65. Yak and Yak Cheese from Langtang/Jiri,
66. Koshi ko Jalkapoor (Jalkapoor fish from Koshi river)
67. Kulekhaani ko asla maachhaa (Asla fish from Kulekhani)
68. Achhaami gai (Cow from Achham)
69. Lulu gai (Lulu cattle)

Liquors and Beverages

70. Ailaa/Rakshi (Nepali whisky of Newar).
71. Haai laama (Blended Nepali liquor)
72. Jaand (Rice wine of Newar Community)

73. Manaa of Newar (Yeast spawn spores grown on boiled wheat flakes)
74. Marcha (Yeast cake)
75. Marpha Brandy
76. Nigar (Corn and Millet Wine of Tamang, Sherpa, Gurung, Rai, Limbu Community)
77. Tumba (Millet wine of Sherpa and Bhotia Community)

Indigenous Knowledge and Technologies for Industrial Products

78. Bhadgaunle Takuwa Topi (Black National Cap from Bhadgaon)
79. Palpali/Terhathume Dhaka (Dhaka Cloth and Dhaka cap from Palpa and Terhathum).
80. Karuwa, Amkhora, Ghalcha, Gagro (Different kinds of Water pots with or without spouts of different shapes and sizes from Chainpur, Bhojpur, Palpa)
81. Khukuri from Bhojpur
82. Palaanchoke Jutta (Crude Leather shoes from Palanchok, Kabre- Palanchok District)
83. Nepali Cloth/Velvet Lounge Slipper made up of velvet cloth with Thread/Rubber sole from Kathmandu
84. Nalu Lakan (Shoes and Slipper made up of Agave fibre).
85. Maakacha (Metal earring worn by peasants of Lalitpur)
86. Haakupatasi (Black hand-woven Sari with broad red border worn by female farmers of Lalitpur and Bhaktapur weaved by themselves).
87. Damberkumari Khasto/Pachhaura (Thin and printed cloth used as Shawl).
88. Pashmina Khasto/Pachhaura (Nepali Pashmina Shawl)

Appendix 2: List of Export Potential Goods and Services¹¹¹⁰

Potential Goods

1. Gingers/dried gingers
2. Large cardamom
3. Wool and carpets
4. Drugs, medicinal herbs and essential oils
5. Coffee
6. Carpets
7. Silk products
8. Sugar
9. Tea
10. Footwears
11. Textiles
12. Vegetables, vegetable seeds
13. Instant noodles
14. Ready-made garments
15. Dairy products
16. Processed leather
17. Pashmina
18. Floriculture
19. Fruits
20. Iron and steel products
21. Honey
22. Pulses
23. Cement
24. Gold, silver ornaments and precious stones
25. Handicrafts
26. Handmade papers and paper products

¹¹¹⁰ Trade Policy 2072, sched. 1 (2015).

Potential Services

1. Engineering
2. Hydropower
3. Tourism
4. Education
5. Information Technology and Business Process Outsourcing (IT/BPO)
6. Health Services
7. Labor Services (Skilled/Semi-Skilled professionals)

Appendix 3: Products of Nepal at the International Markets¹¹¹¹

S. N	GI Products	Geo-location of GI Product	Value
1	<i>Bhirmauri Ko Maha</i> Wild bee honey	High Hill, Nepal	Natural, nutritious and taste
2	<i>Gundruk</i> Fermented leaf or silage of broad leaf mustard	Mid Hill, Nepal	Sour, organic, long storability, tasty
3	High land Coffee	Mid Hill, Nepal	Good taste, high market value
4	Himalayan Honey	High and Mid Hill, Nepal	Nutritious, taste
5	Organic Highland Coffee	Mid Hill, Nepal	Taste
6	Orthodox Tea	East Nepal	Taste
7	Turmeric Powder	West Mid Hill, Nepal	Medicinal value, high color and good scent
8	Lentil	Terai	Small, tasty and pink

¹¹¹¹ BAL KRISHNA JOSHI ET AL., *Conservation and Utilization of Agricultural Plant Genetic Resources in Nepal FDD DoA MoAD 2017 Photo Proceedings of 2 nd National Workshop 22-23 May 2017, Dhulikhel*, 60 (2017), https://nepalindata.com/media/resources/bulkuploaded/Plant_Genetic_Resources_CUAPGR_Nepal_OCT17.pdf (last visited Dec. 2, 2024).

Appendix 4: List of Potential GI-capable goods of Nepal (Popular Geo-Linked Agri-Product)¹¹¹²

S.N	Product	Location	Importance	Geo- Linked Product Name
1.	Bhote tea	Mustang, Manang, Solukhumbhu	Unique taste	Bhotechiya
2.	Black pig meat	Dharan	Cultural value, tasty	Dharan ko Kaalo Sungur
3.	Cap	Palpa	Good and attractive	Palpali Dhaka
4.	Cheese	Illam	Good taste and color	Illam ko Cheese
5.	Cheese	Langtang, Jiri	Tasty	Yak ko Cheese
6.	Dried Slice of radish	Mid Hill	Tasty, long storability	Mula ko Chaana
7.	Dried zinger	Pyuthan and Butwal	Strong smell, tasty	Nepali sutho
8.	Fish	Trishuli	Delicious	Trishuli ko asala maachha
9.	Fish	Kulekhaani	Delicious, high market value	Kulekhanani ko asala maachha
10.	Fish	Koshi River	Tasty, Delicious, Camphoric Fragrance	Koshiko Jalkappor
11.	Hand made paper	High Hill	Unique	Nepali Kaagaj
12.	High land coffee	Mid High Hill	Good taste and color	High land Coffee
13.	Millet wine	East Mid Hill	Tasty, high demand	Thumba, Chyaang
14.	Nuggets (amala)	Mid Hill	Tasty, long storability	Titaura
15.	Nuggets (mix of black gram and taro)	Mid Hill	Delicious and long storability	Masyoraa

¹¹¹² BAL KRISHNA JOSHI ET AL., *Conservation and Utilization of Agricultural Plant Genetic Resources in Nepal FDD DoA MoAD 2017 Photo Proceedings of 2 nd National Workshop 22-23 May 2017, Dhulikhel*, 50 (2017), https://nepalindata.com/media/resources/bulkuploaded/Plant_Genetic_Resources_CUAPGR_Nepal_OCT17.pdf (last visited Dec. 2, 2024).

S.N	Product	Location	Importance	Geo- Linked Product Name
16.	Oil	Khokana	Tasty, good smell	Khokana ko tel
17.	Pashmina	High Mountain	Fine wool	Mountain goat pashmina
18.	Sugarcane Jaggery	Tokha	Sweet, good smell	Tokha ko chhaku
19.	Whiskey	Kathmandu	very strong, high market value	ailaa
20.	Wool for carpet	High hill	Soft and attractive	Bhyaglung sheep ko oon
21.	Yogurt	Bhaktapur	Very good taste, high market demand and value	Bhaktapur ko dhahi, Juju Dhau

Appendix 5: List of Potential GI-capable goods of Nepal (Geo-linked Popular Crop Landraces and their Important Traits)¹¹¹³

S.N	Crop	Landrace	Location/ address	Geo Linked trait	Value of this trait	Geo- information
1.	Banana	Ghiu Kera	Lamjung, Tanahun	Scented green, long storage life	Quality and market value	Sub-tropical
2.	Bean	Jumli Bean	Jumla	Good species	High market value	cool temperate
3.	Black cumin	Himali Jira	Jumla	Good species	Medicinal value	cool temperate
4.	Black gram	Kalo Maas	Lamjung, Tanahun	Very tasty and good cooking quality	High demand	Sub topical
5.	Colocasia	Hattipau	Lamjung and Tanahu	Large size, many eyes and good cooking quality (soft and tasty)	High market value	sub-tropical
6.	Mountain dill	Mountain Sauf	Jumla	Good spice, good smell	High market value	Cool temperate
7.	Potato	Mude	Mude, Dolakha	Easy cooking, tasty	High market value and demand	Warm temperate
8.	Rice	Jumli marshi	Jumla	Cold tolerance, taste, reddish	High market value	Cool temperate

¹¹¹³ Bal Krishna Joshi et al., Geographical Indication: A Tool for Supporting On- Farm Conservation of Crop Landraces and for Rural Development, 6 J. Nepal Agric. Res. Coun. 1 (2020), <https://cgspace.cgiar.org/bitstream/handle/10568/109652/geographical.pdf> (last visited May, 2025).

Appendix 6: Goods and Services Identified by Nepal Trade Integration Strategy, 2023¹¹¹⁴

Agro-based Products	Craft & Manufacturing Products	Service	Forest Sector Categories	Large Scale Industry Categories	Small & Cottage Industry Categories
1.Cardamom, 2. Ginger, 3. Tea, 4. Medicinal and Aromatic Plants 5. Lentils 6. Jute 7. Vegetables 8. Fruits 9. Spices 10. Coffee	1. All Fabrics, 2. Textile, 3.Yarn & Rope, 4. Leather, 5. Footwear, 6. Pashmina, 7. Carpets	1.Skilled and Semi-Skilled Professionals in Remittance Generating Services, 2. IT and Business Process Outsourcing & IT Engineering, 3.Tourism including Leisure, Business, Education and Medical 4.Electricity	1.Handmade Lokta Paper 2. Rosin and Turpentine 3. Fragrant Oil 4. Textiles of Long Fiber	1.Iron and Steel 2. Cement, 3. Readymade garments	1.Jewelry 2. Pasta 3. Himalayan Spring Water 4. Honey,

¹¹¹⁴ *Nepal Integration Strategy 2023*, Dep't of Indus., Trade & Com., https://api.giwms.gov.np/storage/6/posts/1706525149_47.pdf (last visited May 17, 2024).

Appendix 7: List of Potential GI-capable goods of Nepal (Location Specific Unique Crop Landraces)¹¹¹⁵

S.N	Crops	Landrace	Location	Unique Traits
1.	Banana	Mungre Kera	Lamjung and Tanahun	Yellow, Long Finger
2.	Black husked Rice	Mallaji	Lekhphant, Parbat	Aadilo
3.	Buckwheat	Bhate Phaper	Dolpa	Loose Husk
4.	Cauliflower	Sthaniya	Aaruchaur, Rupakot, Syangja	Perennial, sweet, large head, branch for propagation
5.	Cucumber	Madale Kaakro	Pelakot, Aaruchaur, Rupakot, Syangya	Good for pickle, disease and insect tolerant
6.	Finger Millet	Dalle Kodo, Barshe Kodo	Ghanapokhara-5, Lamjung	Dhindo sweet and tasty
7.	Ginger	Syangja	Chilaune Bas	High dry ginger recovery
8.	Lapsi	Bhagara Sthaniya	Bhagara, Parbat	More pulp, tasty, long storability
9.	Lentil	Sindur	Siraha	Small seeds, good taste, high quality
10.	Maize	Murali	Chapakot, Syangja	Popcorn
11.	Mandarin	Rumjhataar ko Suntala	Rumjhataar, Okhaldunga	Sweet
12.	Mayal	Local Mayal	Marpha	Red bunchy, small fruit, rootstock for apple and pear
13.	Naked Barley	Kalo Uwa	Jhong, Mustang	Black in color, tasty and colored flour
14.	Pigeon Pea	Dhanusha Local	Dhanusha	SMD resistant, small seed, tasty,
15.	Potato	Tarkhole Seto, Dhorpatan Local	Tara VDC, Bobaang VDC, Baglung	Scented, fissa futne

¹¹¹⁵ MN Paudel, *Patenting need of unique geographical indicator commodities and products to enhance livelihoods and resources conservation in Nepal*, 5 AGRONOMY JOURNAL OF NEPAL 1 (2021), <https://doacrop.gov.np/public/uploads/Pdffile/Agronomy%20Journal%20of%20Nepal,%20vol%205,%202021-26756.pdf> (last visited Jul 1, 2024).

S.N	Crops	Landrace	Location	Unique Traits
16.	Potato	Sthaniya	Jantarkhani, Okhaldhunga	Boiled having very special taste
17.	Potato	Sthaniya	Gatlang, Rasuwa	Easy and fast cooking, special taste
18.	Radish	Choto	Jumula, Humla	High off season vegetable, good storability, tasty, large and turnip- shaped
19.	Rice	Pokhareli masilo	Pokhara	Scented, fine grain, good taste, fine grain good quality
20.	Rice	Junde Masino	Lamjung	Highly scented
21.	Rice	Anadi	Gandaki	Glutinous and used as delicacy
22.	Rice	Ekle, Jhinuwa, Lekali, Basmati	Ghanapokhara-5, Lamjung	Scented, bhatbadne
23.	Rice	Mallaji (Red and Black)	Lekhpant, Parbat	Aadilo
24.	Rice	Anadi	Bhagwana, Parsa	More starch, good for pooped rice
25.	Rice	Jarneli	Chapkot, Syangja	Sweet and soft
26.	Rice	Jhinuwa	Syangja	Scented
27.	Rice	Gudura	Aruchaur, Syangja	Disease tolerant, high milling recovery
28.	Rice	Mansara	Aadhikhola, Syangja	Disease and lodging tolerant, high milling recovery
29.	Rice	Ate, Belguti, Chirakhe	Ikhu, Terathum	More straw, lodging tolerant, tasty
30.	Rice	Ghaiya, Chattar, Chobo, Pakhe, Jhinuwa, Debkotini, Kalo Jhinuwa	Bhanu, Tanahun	Drought tolerant, tasty, good for beaten rice, disease tolerant
31.	Rice	Atte marsi, Dudhe marsi	Lokhim, Salyan, Tingala, Solukhumbu	Tasty and soft
32.	Rice	Anadi	Pokharathok, Palpa	Medicinal property for joint problem
33.	Sea buck thorn/ /Daale chuk	Muktinath	High mountain	Juicy yellow pulp, antioxidant property

S.N	Crops	Landrace	Location	Unique Traits
34.	Sesame	Nawalpur Khario Til- 1	Chitwan	less fiber, good for pickle
35.	Sponge gourd	Basaune Ghiraula	Syangja	Scented, late maturity, fruiting only after bhadra
36.	Taro	Hattipau, Karibot	Purkot, Aabu, Tanahun	Tasty vegetable, sweet for boiled
37.	Til	Kalo and Seto	Katdarbar, Ramjakot, Sundhhara, Tanahun	Tasty pickle
38.	Wheat	Kadu	Kimtang, Nuwakot	Tasty nutrition
39.	Wheat	Naaphal	Humla	Winter wheat, high protein content
40.	Wild radish	Choto	Solu, Jumla, Humla, Kalikot, Karnali region	High off season vegetable, good storability, tasty, large and turnip-shaped जंगली

Appendix 8: Location-Specific Crops Having Unique Properties Indicating GIs of Nepal¹¹¹⁶

SN	Crop commodity	Landrace	Geographical location	Unique Traits
1.	Banana	Mungre Kera	Lamjung and Tanahun	Yellow, long finger
2.	Black husked Rice	Mallaji	Lekhphant, Parbat	Aadilo
3.	Buckwheat	Bhate Phaper	Dolpa	Loose husk
4.	Cauliflower	Sthaniya	Aaruchaur, Rupakot, Syangja	Perennial, sweet, large head, branch for Propagation
5.	Cucumber	Madale Kaakro	Pelakot, Rupakot, Syangja Aaruchaur, Rupakot	Good for pickle, disease and insect tolerant
6.	Finger millet	Dalle Kodo, Barshe Kodo	Ghanapokhara-5, Lamjung	Dhindo sweet and tasty
7.	Ginger	Syangja	Chilaune bas	High dry ginger recovery
8.	Lapsi	Bhagara Sthaniya	Bhagara, Parbat	More pulp, tasty, long storability
9.	Lentil	Sindur	Siraha	Small seeds, good taste, high quality
10.	Maize	Murali	Chapakot, Syangja	Pop corn
11.	Mandarin	Rumjataar Suntala	Rumjataar, Okhaldunga	Sweet
12.	Mayal	Local Mayal	Marpha	Red bunchy small fruit, root stock for apple and pear
13.	Naked barley	Kalo Uwa	Jhong, Mustang	Black in color, tasty and colored flour
14.	Pigeon pea	Dhanusha Local	Dhanusa	SMD resistant, small seeds, tasty
15.	Potato	Tarkhole	Tara VDC, Bobaang	Scented, fissa futne

¹¹¹⁶ M.N. Paudel, *Patenting Need of Unique Geographical Indicator Commodities and Products to Enhance Livelihoods and Resources Conservation in Nepal*, 5 Agron. J. Nepal 1 (2021), <https://www.cabidigitallibrary.org/doi/pdf/10.5555/20220239755> (last visited May 20, 2025).

SN	Crop commodity	Landrace	Geographical location	Unique Traits
		Seto, Dhorpatan Local	VDC, Baglung	
16.	Potato	Sthaniya	Jantarkhani, Oklaldhunga	Boiled having very special quality taste
17.	Potato	Sthaniya	Gatlang, Rasuwa	Easy and fast cooking, special taste
18.	Rice	Junge Masino	Lamjung	Highly scented
19.	Rice	Pokhareli Masino	Pokhara	Scented, fine grain, good taste, fine grain good quality
20.	Rice	Anadi	Gandaki zone	Glutinous and used as delicacy
21.	Rice	Ekle, Jhinuwa, Lekali, Basmati	Ghanapokhara-5, Lamjung	Scented, bhatbadne
22.	Rice	Anadi	Bhagwana, Parsa	More starch, good for popped rice
23.	Rice	Jarneli	Chapakot, Syangja	Sweet, soft
24.	Rice	Jhinuwa	Syangja	Scented
25.	Rice	Gudura	Aruchaur, Syangja	Disease tolerant, high milling recovery
26.	Rice	Mansara	Aadhikhola, Syangja	Disease and lodging tolerant, high milling recovery
27.	Rice	Atte marsi, Dudhe marsi,	Lokhim, Salyan, Tingala, Solukhumbu,	Tasty, soft
28.	Rice	Anadi	Pokharathok, Palpa	Medicinal property for joint problem
29.	Rice	Ate, Belguti, Chirakhe	Dhankuta, Ikhu, Terathum	More straw, lodging tolerant, tasty
30.	Sesame	Kalo and Seto	Kotdarbar, Ramjakot, Sundhara Tanahun	Tasty pickle
31.	Seabuckthorn /Daale chuk	Muktinath	High mountain	Juicy yellow pulp, antioxidant property
32.	Sesame	Khairo Til-1	Nawalpur, Chitwan	Less fiber, good for pickle

SN	Crop commodity	Landrace	Geographical location	Unique Traits
33.	Sponge gourd	Basaune Ghiraula	Syangja	Scented, late maturity, fruiting only after
34.	Taro	Hattipau, Kharibot	Purkot, Aabu, Tanahun	Tasty vegetable, sweet for boiled
35.	Wheat	Kadu	Kimtang, Nuwakot and Rasuwaa	Tasty, nutritious
36.	Wheat	Naaphal	Humla	Winter wheat, high protein content
37.	Wild radish	Choto	Solu, Jumla, Humla, Kalikot, Karnali region	High off season vegetable, good storability, tasty, large and turnip-shaped

Appendix 9: Some of the Potential Geographical indications (GIs) of Agriculture Commodities, Products, Indigenous foods, and Ethnic-based Endemic Itinerary of Nepal¹¹¹⁷

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
1	Achhame cattle (Bos primigenius indicus)	Endangered smallest dwarf cattle recorded in the world	Achham district	Achham district
2	Apple (Malus domestica)	Trans-Himalayan apple of Marpha/Jumla	Mustang/Jumla	Apple
3	Arna buffalo (Bubalus arnee)	Endangered wild buffalo	Koshi Tappu	Wild buffalo
4	Baadaa prepared from black gram (Vigna mungo)	Hills and mountain where Newar community holds majority	Kathmandu valley	Unique ethnic based cousin
5	Bamboo and bamboo products	Locally made bamboo products	Hills and mountain	Different product from bamboo
6	Bamboo shoot/Nigalo Tusa	Unique and organic bamboo shoots as fresh delicacy	High hills	Gandaki, Dhaulagiri, Mechi, Koshi zones
7	Banana (Musa spp.)	Banana of Terai	Terai	Jhapa, Sunsari, Chitwan, Nawalpur, Kailali
8	Bhote Lasun/Garlic (Allium sativum)	Local organic garlic of high hills	High hills	Across Nepal
9	Bitten rice (Oryza sativa var japonica)	Bitten rice from Glutinous Taichun variety	Mid hills	Bitten rice from Taichung variety of rice
10	Black gram (Vigna mungo)	Tasty black gram	River basin maize/black gram or maize-millet/black	Gandaki ra salyan ko Kaalo maas

¹¹¹⁷ M.N. Paudel, *Patenting need of unique geographical indicator commodities and products to enhance livelihoods and resources conservation in Nepal*, 5 AGRONOMY JOURNAL OF NEPAL 1 (2021), <https://doacrop.gov.np/public/uploads/Pdffile/Agromony%20Journal%20of%20Nepal,%20vol%205,%202021-26756.pdf> (last visited Dec. 1, 2024).

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
			gram cropping system	
11	Black lentil (<i>Lens culinaris</i>)	Black lentil of mid hills	Mid hills	Rasuwa, Nuwakot, Kabhre
12	Black pig (<i>Sus scrofa domestica</i>)	Black pig of Dharan	Terai and mid hills	Black pig
13	Black pig (<i>Sus scrofa</i>)	Black pig of mid hills	Eastern hills	Eastern hills
14	Broad leaf mustard (<i>Brassica juncea</i>)	Broad leaf mustard of Marpha/ Tankhuwaa	Mid hills	Marphaa/ Tankhuwaa
15	Broom grass /Tiger grass (<i>Thysanolaena latifolia</i>)	Nepali Kucho	Mid hills	Nepali broom (Nepali Kucho)
16	Brown Black-gram (<i>Vigna mungo</i>)	Brown black-gram of mid hills	Mid hills	Gandaki, Lumbini and Rapti zone
17	Buddha Chitta (<i>Ziziphus buddensis</i>)	Buddha chitta of mid hills	Mid hills	Kabhre and Ramechhap districts
18	Buffalo (local buffaloes available in Nepal), Lime, Parkote and Gaddi buffaloes	Across Nepal	Hills and Terai	Easter, Central, western and farwestern hills and Terai
19	Butter tree /Chiuri (<i>Diploknema butyracea</i>)	Butter tree of Chepang community in the Chure region	Chure region	In dry and harsh environment of Bhawar and Churiya region
20	Castrated rooster (<i>Gallus gallus domesticus</i>)	Veri/Rapti zone regions	Dang/ Deukhuri valley	Castrated chicken
21	Cheese/Chhurpi prepared from yak (<i>Bos grunniens</i>) milk	Cheese prepared from yak of trans-Himalayan	Himalaya/ trans-Himalaya region	Yak cheese/Chhurpi
22	Chilly/ Jyanmara Khursani (<i>Capsicum frutescence</i>)	Most pungent Chilly of hills	Eastern mid hills	Mechi, Koshi Zone and similar domains

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
23	Chiraito (Swartia chirata)	Chiraito of high hills	Eastern high hills	Across Nepal (1200-3000 m)
24	Chukauni, a food made up of mass potato, whey and native spices	Chukauni prepared in Syangja and Palpa districts	Mid hills	Lumbini zone
25	Cinnamon/Alainchi (Cinamon verum)	Cinnamon of mid to high hills	Hills and mountain	Across Nepal
26	Cold water fish (Neotropius atherinoides)	Jal kapur of Koshi river	Cold water fish in the rivers flowing from the Himalaya	Koshiko Jalkapoor
27	Dal Bhat, a unique Nepali cousin	Nepali Dal Bhat	Across Nepal	Special system of cooking rice and pulses as a main course of Nepali
28	Different pickles for different ethnic community i.e. Tomato+ coriander leaves+ chilly/ Timur+ black pepper+ garlic+ turmeric	Unique Nepali pickle	Across Nepal	Across Nepal
29	Dwarf Lulu cattle (Bos taurus indicus)	Lulu cattle	Mustang and Manang districts	Suited for harsh environment of high mountain
30	Ghee, local/organic ghee	Local ghee of Surkhet	Mid hills/Surkhet region	Pure ghee
31	Gundruk Dhindo, a unique organic Nepali cousin	Special porridges prepared from flour of maize/millet porridge	Mid and high hills	Nepali radish silage and porridge as main course of hilly people
32	Handmade black Nepali cap	Special black handmade Nepali black cap	Bhaktapur	Special handmade black cap
33	Handmade cotton clothes (Palpali/ Tehrathum Dhaka,	Dhaka caps of Palpa and teh Rathum districts/ Gharbuna	Hills and mountain	Handmade caps, saris, blouses,

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
	Gharbuna, Hakupatasi)	clothes prepared by ethnic communities across Nepal, Haku Patasi (black saree and Choli prepared in Kathmandu valley by Newar community)		bags and many more
34	Him coffee, organic coffee (Coffea arabica)	Himalayan coffee of mid hills	Mid hills	Gulmi, Palpa, Syamgja, Lamjung
35	Himalayan musk deer (Moschus leucogaster)	Himalayan region	Himalayan region	High Himalayan region
36	Hog plum/Lapsi (Choerospondias axillaris)	Hog plum of Kathmandu valley	Kathmandu valley	Only in Kathmandu and similar microclimatic condition
37	Honey hunter- Bhir Mauri/ Singush/Rock bee/Giant Himalayan honeybee (Apis dorsata/ A. laboriosa)	Honey of rock bee	High Himalaya region	Lamjung, Manang and Gorkha districts
38	Horse gram/Gahat (Macrotyloma uniforum)	Horse gram of hills	Mid hills across Sindhuli/ Ramechhap	Ramechhap
39	Kidney beans/Simi (Phaseolus vulgaris)	Bean of Karnali	Karnali region	Karnaliko Simi
40	Large cardamom/Alainchi (Elettaria cardamomum)	Nepali large Nepali cardamom	Mid hills of eastern and western region	Mid hills
41	Local alcoholic drinks of different ethnic community prepared from rice and millets	Local drinks of Nepal	Nepal	Nepal

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
42	Local buffalo (Bos spp.)	Local buffalo of mid hill	Mid hills	Suited for draft and harsh environment
43	Local pigs (Sus spp.)	Local pig of Terai	Terai	Suited for harsh condition of Terai
44	Lokta/Nepali paper (Daphne bholua/papyracea)	Handmade Nepali paper	High mountains	Handmade tradition Nepali paper used for ancient writings including religious Sanskrit books and epics
45	Mandarin orange (Citrus reticulata)	Mandarin orange of Manakamana	Mid hills	Manakamana/Khokuko Suntala
46	Mango (Mangifera indica)	Mulghat and Lahan	River basin/Terai	Dhganhuta, Sirahaa
47	Medicinal herbs i.e. Satuwa (Paris polyphylla), Jethi madhu (Glycyrrhiza glabra), Thulo aushadhi (Astilhe rivularis), Ghottapre (Centella asiatica), Sikari Laharo (Sciendapsus officinalis), Paanch Aunle (Dactylorhiza hatagiria), Pakhan Bhed (Bergenia lingulata/ciliate), Sugandhawaal (Valeriana officinalis), Hing (Ferula	Special Nepali medicinal herbs	Hills, mountain and terai	Nepali medicinal herbs (Nepali Jadibuti)

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
	asafoetida), Chillo Batulpate (Cissampelos pareira), Orchids, (Orchis spp.) Himalayan olives (Olea cuspidate. O. ferruginea, O. glandulifera), and many other MAPS			
48	Medicinal mushroom (Ganoderma, Merchella, Sitake and many more)	Medicinal mushrooms	High mountain	Karnali zone
49	Mountain goat/Chyangra (Capra falconeri)	Mountain goat of trans-Himalayan	High mountain	Mountain goat good for Pashmina shawl and meat
50	Native fowl (Gallus gallus domesticus)	Native fowl of Nepal	Nepal	Across Nepal
51	Native goat (Capra aegagrus hircus, Capra sps.)	Native goat of mid and high hills	Mid and high hills	Harash environment
52	Native hog (Sus sps.)	Native hog of mid hills and Terai	Mid hills and Terai	Across Nepal
53	Nepali handmade paper /Lokta (Daphne bholua/D. papyracea), Bhoj patra / Himalayan birch (Betula utilis)	Nepali handmade papers	Himalayan region up to 4500 m	Ancient time writing in Sanskrit for many religious books in Hinduism including the Vedas
54	Nepali pepper /Timur (Xanthoxylum armatum)	Timur of high hills	Nepal	Rapti and Seti zone

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
55	Nepali spices; coriander (<i>Coriandrum sativum</i>), ginger (<i>Zingiber officinalis</i>), pepper (<i>Piper nigrum</i>)	Nepali coriander	Nepal	Across Nepal
56	Nepali underutilized fruits such as Kaphal (<i>Myrica esculenta</i>), Katus (<i>Castanopsis indica</i>), Dale chuk (<i>Hippophae salicifolia</i>), Panhelo aiselu (<i>Rhubus foliolosus</i>), Kalo aiselu (<i>R. ellipticus</i>), Amla (<i>Embilica officinalis</i>), Bael (<i>Aegel marmelos</i>), Chutro (<i>Berberis spp.</i>), Jamun (<i>Eugenia jambolana</i> / <i>Syzygium cumunill</i>), Dahi Kamlo (<i>Callicarpa macrophylla</i>), Pureni/wild grape (<i>Ampelocissus rugosa</i>), Angeri (<i>Melastoma melabathricum</i>) Bhakkamlo (<i>Rhus chinensis</i>) and many more	Nepali underutilized wild fruits	Terai (60m) to high mountain (4000m)	Medicinal value, fresh fruits, jam, jelly and wine preparation

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
57	Nepali underutilized vegetables i.e. Niuro (<i>Dryopteris cochleata</i>), Sipligan (<i>Cratera unilocularis</i>), Banko (<i>Arisaena tortuosum</i>), Jaringo (<i>Phytolacca acinosa</i>), Koiralo (<i>Bahunia variegata</i>), Kabro (<i>Ficus lacor</i>), Dumri (<i>Ficus racimos</i>), Sital Chini/Drum stick (<i>Moringa olifera</i>) Choto/ Lekali Mula (<i>Raphanus sativus</i> var. <i>oleifera</i>) and many more	Nepal	Terai , mid to high hills	Indigenous vegetables
58	Newari food, unique combinations of different non-vegan foods	Kathmandu valley	Mid hills	Newari khaana
59	One-horned rhinoceros (<i>Rhinoceros unicorn</i>)	Chitwan	Terai	Chitwan and Bardiya National park
60	Pear (<i>Pyrus</i> spp.)	Kathmandu	Mid hills	Pear of Pharphing
61	Pop corn (<i>Zea mays everta</i>)	Trans-Himalaya	High hills	Mustang
62	Potato (<i>Solanum</i> spp.)	High hills	High hills	Summer potato
63	Radish (<i>Raphanus sativus</i>)	Pyuthan	Pyuthan/mid hills	Red radish
64	Radish (<i>Raphanus sativus</i>)	High hills	High hills	Kakani, Palung

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
65	Radish silage (Raphanus sativus) and roasted soybean (Glycine max)	Hills and mountain	Across Nepal	Across Nepal
66	Rice (Oryza sativa var. glutineous)	Gandaki region	Gandaki Region	Glutinous rice
67	Rice (Oryza sativa var. indica)	Mid hills (Tar/aerobic condition)	Mid hills of Gandaki and Dhaulagiri and Lumbini	Upland rice (Ghaiya)
68	Rice (Oryza sativa var. japonica)	High hills	Kaski/Mygdi	Chhumro Stahniya (local)
69	Rice (Oryza sativa var. Japonica)	Karnali region	Chhum Chour Jumla, highest elevation of the world where Jumli Marsi rice is cultivated (3050m)	Cold tolerant rice (Jumli Marshi), place where rice cultivation is done in the highest elevation 3050 m
70	Rice (Oryza sativa)	Jethobudho rice of Kaski	Mid hills	Pokhrel Jetho budho
71	Rice (Oryza sativa)	Tilki rice of Dang	Mid hills	Raptiko Tilki
72	Rice (Oryza sativa)	Lalka Basmati/Kalanama rice of Mahottari and Bara	Terai	Barako Kalanimak, Dhanushako Lalka basmati
73	Rice (Oryza sativa)	Manabhog rice of Gandaki	Mid hills	Manabhog
74	Roasted corn (Zea mays) and soybean (Glycine max)	Hills and mountain	Nepal	Across Nepal
75	Rudraakshe (Elaocarpus ganitrus)	Rudraksha of Sanskushabha Dingla	Mid hills	Sankhuwasabha, bhojpur, khotang districts

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
76	Sahar Machha (Tor putitora)	Himalayan cold-water fish	High mountain	Gandaki, Koshi and Karnali river system
77	Sel Roto-Achaar	Nepal	Nepal	Unique Nepali delicacy
78	Soybean (Glycine spp.)	Kaalo soybean of high hills	High hills	Across Nepal
79	Spinach/Palungo (Tetragonia tetragonoides) and cress/Methi (Barbarea verna) leaves/Fenugreek (Trigonella)	Kathmandu	Mid hills	Kathmandu valley
80	Sugarcane (Saccharum officinalis)	Panmara	Morang/ Dhunibesi Dhading	River basin and mid hills
81	Summer vegetable (cauliflower, cabbage (Brassica spp.), radish (Raphanus sativus), carrot (Daucus carota), turnip (Brassica rapa), pea (Pisum sativum), broadleaf mustard (Brassica juncea))	Off season vegetable of high hills	High hills	Summer vegetable/off season vegetable
82	Sweet orange/Junar (Citrus sinensis)	Sweet orange of Sindhuli/ Ramechhap	Mid hills	Sindhuliko Junar
83	Taro/Pindalu (Colocasis esculentus)	Taro of Gandaki and Rapti-Bheri zones	River basin	Gandaki ra Raptiko Pindaalu

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
84	Tea (<i>Camellia sinensis</i>)	Orthodox tea	Mechi/Koshi region	Mid high hills (Mechi, Koshi and Sagarmatha zones)
85	Tomato (<i>Solanum lycopersicum</i>)	Tomato of Sarlahi	Terai	Sarlahiko Golbhenda
86	Turmeric /Haledo (<i>Curcuma longa</i>)	Turmeric of mid hills and Terai	Nepal	Sunsari and sarlahi districts
87	Under- utilized crops (buck wheat (<i>Fagopyrum esculentum</i> , <i>F. tartaricum</i>), naked barley (<i>Hordeum vulgare</i>), amaranthus (<i>Amaranthus</i> spp.) proso millet/Chino (<i>Panicum miliaceum</i>), foxtail millet (<i>Setaria italic</i>), high hill rice(<i>Oryza sativa</i> var. <i>japonica</i>))	Underutilized crops trans-Himalaya	Trans-Himalaya region	Lekalai khana
88	Unique cultural based food of different ethnic communities	Foods of different ethnic groups of Nepal	Nepal	Ethnic communities based attires
89	Unique dress of different ethnic communities (Gurung, Magar, Tharu, Tamang, Jumli, Sherpa, Dhimal, Bhote, Khas, and all ethnic communities)	Different ecological regions of Nepal	Nepal	Ethnic communities based attires

SN	Commodity/Product	Unique Geographical Indicators	Agroecological Domain	Geographical Location
90	Unique Nepali attires for men (daura-surwaal-topi) and women (Guniu-choli-patuka)	Hills and mountain	Hills and mountain	Nepali attires
91	Wooden pots, special hand carved wooden pots	Wooden pots of mid hills, Churiya region	Nepal	Different pots from woods
92	Woollen blanket, special blanket locally made from wool of mountain goat (<i>Capra spp.</i>)	Woollen blanket	Karnali	Karnali, Region
93	Woollen blanket, special handmade blanket from local wool and mountain goat (<i>Capra spp.</i>) and mountain sheep (<i>Ovis ovis</i>)	Woollen blanket of high hills/mountain	Himalaya/ trans-Himalaya region	Made from the wool of sheep and goat
94	Yam (<i>Dioscorea spp.</i>)	Yam of Terai	Terai	Sarlahi/Rautahat
95	Yarsha Gumbu (<i>Cordyceps spp.</i>)	High Himalaya , Nepal	High hills of western Nepal	Yarsha Gumba of the Himalayan region
96	Yoghur	Yoghurt of Bhaktapur	Mid Hills	the Himalayan region Juju Dhau
97	Zinger/Aduwa (<i>Zingiber officinalis</i>)	Ilam	Mid hills	Fibreless zinger (bose Aaduwa)
98	Zuzube/Bel (<i>Ziziphus jujuba</i>)	Mid hills and Terai	Mid hills and Terai	Sindhuli, Ramechhap and bardiya

Appendix 10: List of Potential GIs Products of Nepal

S. No.	Word	English Name	Location
1.	Amaala	Fruits of Emblic Myrobolan (Phyllanthus emblica)	Native to South Asia Nepal
2.	Amkhora	A pot	Nepal (Mainly inside the Kathmandu Valley)
3.	Ampko Achaar	Seasoned Pickle of Mango (Mangifera indica)	Terai Region
4.	Anadi	Rice	Gandaki, Bhagwana, Parsa, Pokharathok, Palpa
5.	Arna Buffalo (Bubalus arnee)	Wild Buffalo	Koshi Tapu
6.	Ate, Belguti, Chirakhe	Rice	Ikhu, Terathum
7.	Atte Marsi, Dudhe Marsi	Rice	Lokhim, Salyan, Tingala, Solukhumbu
8.	Taichen Baji	Beaten Rice	Bhaktapur
9.	Basaune Ghiraula	Sponge Gourd	Syangja
10.	Basmati Rice	A kind of rice	Nepal, India, Pakistan
11.	Bhadgaunle Takuwa Topi	Black National Cap from Bhadgaon	Bhadgaon (Bhaktapur), Nepal
12.	Bhaktapure Juju dhau	King Curd from Bhaktapur	Bhaktapur, Nepal
13.	Bhate Phaper	Buckwheat	Dolpa
14.	Bhirmauri Ko Maha	Honey	Nepal
15.	Bhote Chiya	Tea (Camellia kishi and Oxyria sp.)	Mustang, Manang, Solukhumbu, Nepal
16.	Bhote Lasun/Garlic	Local Organic Garlic	Across Nepal
17.	Bhyaagute Neuro	Vegetable from Polystichum squarrosum	Nepal
18.	Bhyaglung Sheep	Sheep (Northern aspect of Himalaya Mountain)	High hills and mountains of Nepal
19.	Bitten Rice (Oryza Sativa var Japonica)	Bitten Rice form Glutinous Taichun Variety	Mid Hills
20.	Bjhang/Simikotko Simi	Beans (Phaseolus sp.)	Bajhang, Simikot (Western Nepal)
21.	Buddha Chitta	Buddha Chitta of Mid Hills	Mid Hills

S. No.	Word	English Name	Location
22.	Cheese/Chhurpi prepared from yak (Bosgrunniens) milk	Cheese prepared from yak of trans-Himalayan	Himalaya/ trans-Himalaya region
23.	Chhampa	Flour of baked wheat (Triticumaestivum) or barley (Hordeumvulgare)	Nepal
24.	Chilly/ JyanmaraKhursani (Capsicum frutescence)	Most pungent Chilly of hills	Eastern mid hills
25.	Chiraito (Swartiachirata)	Chiraito of high hills	Eastern high hills
26.	Choto Mula	Radish	Jumla, Humla
27.	Chuk Amilo	Souring materials (Boiled juice of Citrus fruits spp.)	Nepal
28.	Chukauni, a food made up potato, whey and native spices	Chukauni prepared in Syangja and Palpa districts	Mid hills
29.	Alainchi (Cinamonverum)	Cinnamon of mid to high hills	Hills and mountain
30.	Cold water fish (Neotropiusatherinoide s)	Jalkapur of Koshi river	Cold water fish of rivers of Himalaya
31.	DaanhtheNeuro	Vegetable from Dryopteriscochleata	Nepal
32.	Dal Bhat, a unique Nepali cousin	Nepali Dal Bhat	Across Nepal
33.	Dalechuk	Fruit juice of Hippophaetibetana	Nepal
34.	Dalle, Kodo, BarsheKodo	Finger Millet	Ghanapokhara-05, Lamjung
35.	DamberkumariKhasto/ Pachhaura	Thin and printed cloth used as Shawl	Nepal
36.	Dharan ko Kaalo Sungur	Black Pig from Dharan	Dharan, Nepal
37.	Dhunibansi/TokhakoU khu	Sugarcane (Saccharumofficinarum)	Dhunibansi, Tokha, Nepal
38.	Dhunibensi ko Ambaa	Guava (Psidiumguajava)	Dhunibensi, Nepal
39.	Ekle, Jhinuwa, Lekali, Basmati	Rice	Ghanapokhara-5, Lamjung

S. No.	Word	English Name	Location
40.	Fibre from Allo	Fibre from Girardiniaheterophylla	Nepal
41.	Fibre from Hemp	Fibre from Cannabis sativa	Nepal
42.	Fibre from Odal	Fibre from Sterculiavillosa	Nepal
43.	Gagro	Water pot	Nepal
44.	Ghaiya, Chattar, Chobo, Pakhe, Jhinuwa, Debkotini, KaloJhinuwa	Rice	Bhanu, Tanahun
45.	Ghalcha	Water pot	Nepal
46.	GhiuKera	Banana	Lamjung, Tanahun
47.	Gudura	Rice	Aruchaur, Syangja
48.	Gundruk	Silage of green vegetables of Mustard family	Nepal
49.	Haakupatasi	Black hand-woven Sari with broad red border	Lalitpur, Bhaktapur, Nepal
50.	Halhale	Vegetable from Rumexnepalensis	Nepal
51.	Hattipau	Colocasias	Lamjung, Tanahun
52.	Highland Coffee	Coffee	Highland regions of Nepal
53.	Himalayan Honey	Honey	Himalayan region of Nepal
54.	Himalayan musk deer (Moschusleucogaster)	Himalayan region	Himalayan region
55.	Himali Jira	Black Cumin	Jumla
56.	HumlaChyapu	Small-bred Mountain Goat from Humla	Humla, Nepal
57.	Ilame chiyaa	Ilam tea	Ilam, Nepal
58.	Ilam ko Alainchi	Big Cardamom (Amomumsubulatum)	Ilam, Nepal
59.	Illam ko Cheese	Cheese	Ilam, Nepal
60.	Jarneli	Rice	Chapkot, Syangja
61.	Jhinuwa	Rice	Syangja
62.	Jire Neuro	Vegetable from Thelypterisciliata	Nepal
63.	Jumli Bean	Bean	Jumla

S. No.	Word	English Name	Location
64.	Jumli/Helambu/Marpha akoSyau	Apple (<i>Malus domestica</i>)	Jumla, Helambu, Marpha, Nepal
65.	Jumli Ghoda	Horse from Jumla	Jumla, Nepal
66.	Jumli Marshi	Rice from Jumla	Jumla, Nepal
67.	Junde Masino	Rice	Lamjung
68.	Kaalo Neuro	Vegetable from <i>Athyrium boryanum</i> and <i>Diplazium solieriae</i>	Nepal
69.	Kadu	Wheat	Kimtang, Nuwakot
70.	Kalo and Seto Till	Sesame	Katdarbar, Ramjakot, Sundhara, Tanahun
71.	Kalo Mass	Black Gram	Lamjung, Tanahun
72.	Karuwa, Amkhora, Ghalcha, Gagro	Water pots of different shapes and sizes	Chainpur, Bhojpur, Palpa, Nepal
73.	Khario Till	Sesame	Chitwan
74.	Khichaa Bhyaatah	Blumealacera	Nepal
75.	Khokhanako Tori ko Tel	Cooking Mustard Oil (<i>Brassica campestris</i> var. toria)	Khokana, Nepal
76.	Khoku ko Suntala	Mandarin, citrus <i>reticulata</i> of Khoku	Dhankuta
77.	Khukhuri	Khukuri from Bhojpur	Bhojpur
78.	Khulu-Simali	Bread made from dried green algae (<i>Prasiola</i> sp.)	Nepal
79.	Khupu	Traditional Nepali footwear	Nepal
80.	Kidney beans/Simi (<i>Phaseolus vulgaris</i>)	Bean of Karnali	Karnali region
81.	Koche Neuro	Vegetable from <i>Thelypteris multilineata</i>	Nepal
82.	Koshi ko Jalkapoor	Jalkapoor fish	Koshi River, Nepal
83.	Kulekhaani ko Asla Maachhaa	Asla fish	Kulekhani, Nepal
84.	Lapsi	Nepalese Hog Plum (<i>Choerospondias axillaris</i>)	Bhagara, Parbat
85.	Local Mayal	Mayal	Marpha
86.	Lukla ko Simi	Beans (<i>Phaseolus</i> sp.)	Lukla, Nepal
87.	Maakacha	Metal ear-ring worn by peasants of Lalitpur	Lalitpur, Nepal

S. No.	Word	English Name	Location
88.	Madale Kaakro	Cucumber	PelakotAaruchaur, Rupakot, Syangya
89.	Malbhog Keraa	Banana (Musa sp.)	Nepal
90.	Mallaji	Black Husked Rice	Lekhphant, Parbat
91.	Manaa of Newar	Yeast spawn spores grown on boiled wheat flakes	Nepal
92.	Rumjhatarko Suntala	Mandarin	Rumjhataar, Okhaldunga
93.	Manihari koTaamaa	Fermented bamboo shoot	Manohari, Nepal
94.	Mansara	Rice	Aadhikhola, Syangja
95.	Marcha	Yeast cake	Marpha,Nepal
96.	Masyoraa	Nuggets made of Black gram (Vignamungo) and Colocasia	Nepal
97.	Medicinal mushroom (Ganoderma, Merchella, Sitake and many more)	Medicinal mushrooms	Karnali
98.	Moode ko Aalo	Potato	Nepal
99.	Moola ko Chaanaa	Dried vegetable of radish (Raphanussativus)	Nepal
100.	Mountain goat/Chyangra (Capra falconeri)	Mountain goat of trans- Himalayan	Karnali
101.	Mountain Sauf	Mountain Dill	Jumla
102.	Mulpani Ko Saag	Green vegetable	Nepal
103.	Mungre Kera	Banana	Lamjung and Tanahun
104.	Murali Makai	Maize	Chapakot, Syangja
105.	Naaphal	Wheat	Humla
106.	Nalu Lakan	Shoes and slippers made of Agave fibre	Nepal
107.	Nepali Aaloo ko Achaar	Pickle of Potato (Solanumtuberosum)	Nepal
108.	Nepali Cloth/Velvet Lounge Slipper	Velvet slippers with thread/rubber sole	Kathmandu, Nepal
109.	Nepali LasunkoAchaar	Seasoned pickle of Garlic (Allium sativum)	Nepal
110.	Nepali Makai Bodi	Vignaunguiculata grown in corn fields	Nepal

S. No.	Word	English Name	Location
111.	Nepali Moola ko Achaar	Seasoned pickle of Radish (Raphanussativus)	Nepal
112.	Nepali Sutho	Dried Ginger (Zingiberofficinale)	Pyuthan, Butwal, Nepal
113.	NigaloTusa	Bamboo Shoot	Gandaki, Dhaulagiri, Mechi, Koshi,
114.	Nigar	Corn and Millet Wine	Tamang, Sherpa, Gurung, Rai, Limbu communities, Nepal
115.	Organic Highland Coffee	Organic Coffee	Highland regions of Nepal
116.	Orthodox Tea	Tea	Nepal
117.	Palaanchoke Jutta	Crude Leather Shoes from Palanchok	,Kabre-Palanchok District
118.	Palpali Dhaka	Dhaka Cloth and Dhaka Cap	Palpa, Nepal
119.	Paschim Nepal ko Chiuri Gheu	Butter of Chiuri (Aesandrabutyracea)	Gulmi, Pyuthan, Arghakhanchi, Nepal
120.	Pasmina Khasto/Pachhaura	Nepali Pashmina Shawl	Nepal
121.	Pharpinge/ChhaimalN aaspaati	Pear	Pharping, Chhaimal, Nepal
122.	Pigeon Pea	Dhanusha Local	Dhanusha
123.	Pigmy Hog	Smallest pig	Nepal
124.	Pokharali Battain	Quail of Pokhara (popular fighting bird)	Pokhara, Nepal
125.	Pokhareli Masino	Rice (Oriza sativa)	Pokhara, Nepal
126.	Pop corn (Zea mays everta)		Mustang
127.	Pyuthaane Moola	Radish	Pyuthan, Nepal
128.	RukhNeuro	Young Fronds of Tree Fern (Cyatheaspinulosa)	Nepal
129.	Saano Keraau ko Achaar	Pickle of Small Pea (Pisumsativum var. arvense)	Nepal
130.	Sahar Machha (Tor putitora)	Himalayan cold-water fish	High mountain
131.	Sallyani/Pyuthane Timoor	Nepali Pepper	Sallyan, Pyuthan, Nepal

S. No.	Word	English Name	Location
132.	Sattu	Flour of baked wheat (Triticumaestivum)	Nepal
133.	Sea buck thorn/ DaaleChuk		Muktinath
134.	SelRoti-Achaar	Food and Pickle	Nepal
135.	Sindhuli ko Junaar	Orange (Citrus sinensis)	Sindhuli, Nepal
136.	Sindur	Lentils	Siraha
137.	Sisno	Vegetable from Urticadioica	Nepal
138.	Soybean (Glycine spp.)	Kaalo soybean of high hills	High hills
139.	Spinach/Palungo (Tetragoniatetragonoid es) and cress/Methi (Barbareaverna) leaves/Fenugreek (Trigonella)	Kathmandu	Mid hills
140.	Sthaniya	Cauliflower	Aaruchaur, Rupakot, Syangja
141.	Tarkhole	Potato	Tara VDC
142.	Terhathume Dhaka	Dhaka Cloth and Dhaka Cap	Terhathum, Nepal
143.	Thotne	Vegetable from Aconogonummolle	Nepal
144.	Tikin Baji	Rice flakes (Oriza sativa)	Bode Sano Thimi (Bhaktapur), Nepal
145.	Titaura	Nuggets of Moong (Vignaradiata)	Nepal
146.	Tokhako Chaaku	Jaggery of Sugarcane (Saccharumofficinarum)	Tokha, Nepal
147.	Toosaa	Vegetable from young shoot of Arundinaria sp.	Nepal
148.	Trishuli ko Asala Maachhaa	Asala fish	Trishuli River, Nepal
149.	Trisuli/Gorkha/Palpak oPindaloo	Corm of Colocasia sp.	Trisuli, Gorkha, Palpa, Nepal
150.	Turmeric Powder	Turmeric	Nepal
151.	TutrunTarul	Hibiscus sabdariffa	Tutrun, Saptari, Nepal

S. No.	Word	English Name	Location
152.	Uwa	High-altitude Barley (<i>Hordeumvulgare</i> var. nudum)	Jhong, Mustang
153.	Wolaa Waa	Hill Paddy (<i>Oriza sativa</i>) and Baji (Beaten rice)	Nepal
154.	Yak and Yak Cheese	Yak and Yak Cheese	Langtang, Jiri, Nepal
155.	Yam (<i>Dioscorea</i> spp.)	Yam of Terai	Terai
156.	Yarsha Gumbu (<i>Cordyceps</i> spp.)		High hills of western Nepal
157.	Zuzube/Bel (<i>Ziziphusjuba</i>)	Mid hills and Terai	Sindhuli, Ramechhap and bardiya

Appendix 11: List of National Collective Marks

S.N.	Name of Trademark	Class	Goods	Address	Owner	Status
1.	DEVICE	25	Sweete, Coat	Kathmandu -32	Nepal Pasmina Udhyog Shang	Cancelled
2.	DEVICE	24	Bed cover	Kathmandu -33	Nepal Pasmina Udhyog Shang	Cancelled
3.	SWACHCHH A PANI PIU SWASTHYA JIVAN JIU	32	Water	Kathmandu	Nepal Bottle Water Udhyog Shang	Formalities Examination
4.	NEPAL HERBS	3		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Formalities Examination
5.	NEPAL HERBS	5		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Formalities Examination
6.	NEP COOP COFFEE	30	Coffee	Lalitpur	Rastriya Sahakari Mahasangh Nepal	Formalities Examination
7.	Logo only	22	Jute	Biratnagar, Mornag	Nepal Jute Mill Shangh	Formalities Examination
8.	NEPAL HERBS	31		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Formalities Examination
9.	NEPAL HERBS	44		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Formalities Examination
10.	NEPAL HERBS	41		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Formalities Examination
11.	NEPAL HERBS	17		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Substantive Examination
12.	AQUAMARI NE	19	Jewelers	Kathmandu	Nepal Sunchadi Ratna Tatha Aabhusan Mahasangh	Formalities Examination

S.N.	Name of Trademark	Class	Goods	Address	Owner	Status
13.	KYANITE	19	Jewelers	Kathmandu	Nepal Sunchadi Ratna Tatha Aabhusan Mahasangh	Formalities Examination
14.	JASPER	19	Jewelers	Kathmandu	Nepal Sunchadi Ratna Tatha Aabhusan Mahasangh	Formalities Examination
15.	QUARTZ	19	Jewelers	Kathmandu	Nepal Sunchadi Ratna Tatha Aabhusan Mahasangh	Formalities Examination
16.	TOURMALIN E	19	Jewelers	Kathmandu	Nepal Sunchadi Ratna Tatha Aabhusan Mahasangh	Formalities Examination
17.	NEPAL HERBS	19		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Substantive Examination
18.	NEPAL HERBS	30		Kathmandu	Nepal Herbs tatha Herbal Utpadak Sangh	Formalities Examination
19.	TERATHUM DHAKA	1	Dhaka topi	Tearthumb	Dhaka Udhhyog Samaj	Formalities Examination
20.	NEPALI METAL CRAFT	6		Kathmandu	Federation of Handicraft Associatio of Nepal	Formalities Examination
21.	GULMI ORGANIC COFFEE	30	Coffee	Resunga-8, Gulmi	District Co-operative Federation Ltd	Formalities Examination
22.	CHYANGRA PASHMINA	24	Nepalese Pashmina	Kathmandu	Nepal Pasmina Udhhyog Sangh	Registered
23.	CHYANGRA PASHMINA	25	Nepalese Pashmina	Kathmandu	Nepal Pasmina Udhhyog Sangh	Registered
24.	SINDHUKA	29	Dairy Product and other	Kavrepala nchowk	Phoolbari Krishi Sahakari Sanstha Limited	Registered
25.	SINDHUKA	35	Advertising	Kavrepala nchowk	Phoolbari Krishi Sahakari Sanstha Limited	Registered

S.N.	Name of Trademark	Class	Goods	Address	Owner	Status
26.	SINDHUKA	30	Grain & foodstuff	Kavrepala nchowk	Phoolbari Krishi Sahakari Sanstha Limited	Registered
27	EVEREST BIG CARDAMOM	30	Spice	Birtamod, Jhapa	Nepal Alaichai Byayasi Mahasangh	Registered
28	HIMALAYAN NEPALESE CARPET	27	Carpet	Baudha, Kathmandu	Nepal Galaicha Utpadana Tathya Nikasi Karta Shangha	Registered
29	NEPALI TEA QUALITY FROM THE HIMALYANS WITH LOGO	30	COFFEE	Kirtipur, Kathmandu	National Tea and Coffee Development Board	Cancelled
30	NEPALI TEA QUALITY FROM THE HIMALYANS WITH LOGO	31	COFFEE	Kirtipur, Kathmandu	National Tea and Coffee Development Board	Awaiting Opposition
31	SWADESHI (LEBAL)	1		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
32	SWADESHI (LEBAL)	2	Decorative paints and Industrial paints	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
33	SWADESHI (LEBAL)	3	Essential Oil and Cleaning preparations and non-medicated toiletry preparation	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
34	SWADESHI (LEBAL)	6	Certain Goods of Common Metals, Prima Cable, mainly	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application

S.N.	Name of Trademark	Class	Goods	Address	Owner	Status
			unwrought and Partly Wrought Common Metals			
38	SWADESHI (LEBAL)	9	Electrical Equipment, Cable, Wires and Conductors	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
36	SWADESHI (LEBAL)	16	Paper	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
37	SWADESHI (LEBAL)	19	Cement, Rigid Pipe and Building and Construction Material Except Materials	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
38	SWADESHI (LEBAL)	21	Glassware and Ceramic Earthenware, Glass	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
39	SWADESHI (LEBAL)	24	Fabric	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
40	SWADESHI (LEBAL)	25		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
41	SWADESHI (LEBAL)	26		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
42	SWADESHI (LEBAL)	29		Lalitpur Metropolitan	Confederation of Nepalese Industries	New Application

S.N.	Name of Trademark	Class	Goods	Address	Owner	Status
				n, Ward No. 2		
43	SWADESHI (LEBAL)	30		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
44	SWADESHI (LEBAL)	33		Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application
45	JUJU DHAU	29	Curd, Milk & Milk Product and Dairy Product	Suryabina yak-8, Bhaktapur	BHAKTAPUR JUJU DHAU: BYABASAYI SANGH	Registered
45	SWADESHI (LEBAL)	42	Services provided in relation to the Theoretical and Practical Aspects of Complex Field of Activities.	Lalitpur Metropolitan, Ward No. 2	Confederation of Nepalese Industries	New Application

Appendix 12: Export Performance of Nepal's Major Exported Commodities¹¹¹⁸

Product	Unit	Quantity (2079/80)	Value (2079/80) (Rs. Billion)	Share in Total Export (2079/80) (%)
Refined Palm Oil	LTR	97,990,082	20.51	13.05
Synthetic Yarn	KG	45,068,328	12.20	7.77
Woolen Carpet	SQM	492,337	11.51	7.32
Refined Soybean Oil	KG	31,289,297	8.48	5.39
Cardamom	KG	9,991,149	8.28	5.27
Prepared Cloth	PCS	12,887,745	7.82	4.98
Iron Plate	KG	54,347,964	7.20	4.58
Fruit Juice	LTR	78,981,836	6.64	4.22
Jamoth Cloth	KG	2,069,479	5.23	3.33
Jute Woven Fabric	SOM	103,324,972	4.77	3.04
Subtotal			92.62	58.94
Total Export			157.14	100.00

¹¹¹⁸ *Nepal Foreign Trade Statistics Fiscal Year 2022/23 (2079/80)*, Table II, at IV, Dep't of Customs, Ministry of Fin., Gov't of Nepal, <https://customs.gov.np/storage/DoC/2080-81/Statistics/Annual%20Foreign%20Trade%20%20Statistics%20Book%202079-80.pdf> (last visited Jul. 11, 2024).

Appendix 13: Nepal's Exports by Commodities¹¹¹⁹

S.N	Products	Quantity	Value (Exports Value are in Rs. Thousand)
1.	Guavas, mangoes and mangos teens, fresh or dried.	31887	1275
2.	Citrus fruit, fresh or dried,	21150	310
3.	Plums and sloes	1065	186
4.	Kiwi fruit, fresh.	800	85
5.	Dried apples	804	548
6.	Black tea(fermented)&partly fermented, whether or not flavoured, in packing's of <=3kg	6561	4001
7.	Big Cardamom (Alaichi) neither crushed nor ground	9990859	8276597
8.	Fresh Ginger nether crushed nor ground	21555734	884325
9.	Buckwheat	6005	1544
10.	Other grain sorghum (Junelo)	1210	159
11.	Broom grass (Amriso)	13978330	1008800

¹¹¹⁹ Nepal Government, Ministry of Finance, Department of Custom, Nepal Foreign Trade Statistics Fiscal Year 2022/23 (2079/80), Table 9, at 593, <https://customs.gov.np/storage/DoC/2080-81/Statistics/Annual%20Foreign%20Trade%20%20Statistics%20Book%202079-80.pdf> (last visited Jul. 11, 2024).

Appendix 14: Nepal's Exports by Commodities and Partner Countries¹¹²⁰

S.N	Products	Country	Quantity (In KG, LTR, SQM)	Export Value (Exports Value are in Rs. Thousand)
1.	Processed natural honey	Australia	1148	11380
		China	1553	811
		Japan	382	811
		Malaysia	1217	354
		United Kingdom	250	626
		United State	484	5077
2.	Coffee, not roasted, not decaffeinated	Australia	2300	4359
		Austria	228	769
		Canada	1000	1904
		Germany	36830	57658
		Japan	11144	19271
3.	Green tea, whether flavoured, nes	Canada	3065	7956
		China	13697	7082
		France	4912	19590
		Germany	25422	70887
		Hong Kong	11275	70887
		United States	8154	114267
4.	Black tea(fermented) and partly fermented, hether or not flavoured, in packings	India	16229546	3436882
		Germany	18916	28678
		Russian Federation	119229	63011
		United States	15442	16849
5.	Alaichi crushed or ground	India	50	40
		USA	240	214
6.	Ginger crushed or ground (sutho)	Bangladesh	500	601
		India	761517	118589
		Japan	98	19
7.	Millet seed	Canada	2075	357
		Hong Kong	4000	183
		Korea, Republic of	8250	1468
8.	Rock sugar or rock candy or sugar candy (Mishri)	Australia	340	113
		United States	502	178

¹¹²⁰ Nepal government, Ministry of Finance, Department of Custom, Nepal Foreign Trade Statistics Fiscal Year 2022/23 (2079/80), Table 10, at 603, <https://customs.gov.np/storage/DoC/2080-81/Statistics/Annual%20Foreign%20Trade%20%20Statistics%20Book%202079-80.pdf> (last visited Jul. 11, 2024).

S.N	Products	Country	Quantity (In KG, LTR, SQM)	Export Value (Exports Value are in Rs. Thousand)
9.	Pickle (Achar)	Italy	18947	10290
		Japan	25211	16676
		Korea	28500	16894
		USA	46671	38819
10.	Mineral waters and aerated waters	France	300 ltr	591
		Germany	418 ltr	13
		Japan	439 ltr	38
11.	Black Salt Sindhe Bire Kalo Noon	United States	1344	275
		Japan	400	42
12.	Hand-made paper and paperboard	China	53850	13957
		Canada	2336	12598
		France	21500	57383
		Japan	11765	43561
		United Arab Emirates	85766	53811
		United States	52322	227796
13.	Carpets and other textile floor coverings, of wool or fine animal hair, knotted.	Australia	7182 SQM	204362
		Belgium	11342 SQM	248831
		Canada	8242 SQM	250024
		France	10546 SQM	342592
		Germany	33734 SQM	887022
		Italy	26765 SQM	614662

Appendix 15: List of Universities of Nepal Offering GIs in their Syllabus

S. N	University	Teaching of IP	Teaching of GIs	Compulsory/ Elective	Year/ Semester
1.	Tribhuvan University, 1959 AD.				
	LLM				
	BA.LLB (2010AD)	Yes	Yes	Compulsory under Intellectual Property Law	6 th Semester
2.	Purbanchal University, 1993				
	BA.LLB (2005)	Yes	Yes	Elective	5 th year
	LLB				
	LLM	Yes	Not Specified		1 st year for Business and International Trade Law
3.	Kathmandu University Kathmandu University School of Law, 2013				
	BBA.LLB	As a compulsory subject	Yes		6 th semester
	BEc.LLB	As a compulsory subject	Yes		6 th semester
4.	Mid-Western University Graduate School of Law, 2019.				
	BA.LLB	As a compulsory subject	Yes		6 th semester
5.	Lumbini Buddhist University, 2076 B.S.				
	BA.LLB	As a compulsory course as property law			7 th semester

S. N	University	Teaching of IP	Teaching of GIs	Compulsory/ Elective	Year/ Semester
6.	Rajarshi Janak University, 2017 AD				
	BA.LLB	As a compulsory subject in 6 th semester	Yes, under other form of intellectual property		6 th semester
7.	Madhesh University Madhesh University, 2079 B.S.				
	BA.LLB				
8.	Gandaki University, 2019AD				
	BA.LLB				
9.	Far-Western University, 2010 AD				
	BA.LLB	As an optional subject	Not included in syllabus		5 th Semester
10.	Pokhara University, 1997				
	BA.LLB	Yes, as a compulsory			6 th semester

Appendix 16: List of Countries Having Sui generis Geographical Indications Law

S.N	Countries	Sui Generis Geographical Indication Law
1.	Afghanistan	NO
2.	Argentina	NO
3.	Andorra	NO
4.	Andean Community	NO
5.	Angola	NO
6.	Antigua and Barbuda	Geographical Indications regulations 2006 Geographical Indication Act 2003 Link: https://wipolex.wipo.int/en/members/profile/AG
7.	Albania	NO
8.	Algeria	NO
9.	Argentina	NO
10.	Armenia	The law of the Republic Of Armenia on Geographical Indications 2010 Link: https://www.aipa.am/en/Geographical-IndicationsLaw/
11.	Australia	NO
12.	Austria	NO
13.	Azerbaijan	Law on Trademark and Geographical Indications 1998 Link: https://www.jpo.go.jp/e/system/laws/gaikoku/document/index/azerbaijan-e_shouhyou.pdf
14.	Bahamas (a)	Geographical Indications Bill, 2013 Link: https://www.bahamas.gov.bs/wps/wcm/connect/6d9bade6-3e2e-41a6-82b3-10f8b7dbebcf/Geographical+Indications+Bill+2013+-+4+January%2C+2013.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=6d9bade6-3e2e-41a6-82b3-10f8b7dbebcf
15.	Baharain	NO
16.	Bangladesh	Geographical indications of goods (registration and protection) act, 2013 Link: https://wipolex.wipo.int/en/text/506193
17.	Barbados	Geographical indications regulations, 2001 Link: https://caipo.gov.bb/wp-content/uploads/2021/09/30.1-Geographical-Indications-Regulations-2001-Cap320A.pdf
18.	Belarus	Yes Geographical Indications (amended up to Law No. 243-Z of January 9, 2023), Belarus https://www.wipo.int/wipolex/en/legislation/details/22304

S.N	Countries	Sui Generis Geographical Indication Law
19.	Belgium	NO
20.	Belize	NO
21.	Bhutan	NO
22.	Bolivia	NO
23.	Bosnia and Herzegovina	The law on the protection of indications of geographical origin, 2010 Link: https://wipo.int/edocs/lexdocs/laws/en/ba/ba009en.html
24.	Botswana	NO
25.	Brazil	NO
26.	Brunei Darussalam	NO
27.	Bulgaria	Law on Marks and Geographical Indications, 1999 Link: https://wipo.int/edocs/lexdocs/laws/en/bg/bg028en.pdf
28.	Burkina Faso	NO
29.	Burundi	NO
30.	Cabo Verde	NO
31.	Cambodia	Law on geographical indication Link: https://wipo.int/edocs/lexdocs/laws/en/cd/cd028en.pdf
32.	Cameroon	NO
33.	Canada	NO
34.	Central African Republic	NO
35.	Chad	NO
36.	Chile (a)	NO
37.	China, Hong Kong SAR	NO
38.	China, Macao SAR	NO
39.	Colombia	NO
40.	Comoros	NO
41.	Congo	NO
42.	Cook Islands	NO
43.	Costa Rica	NO
44.	Côte d'Ivoire (a)	NO
45.	Croatia	Yes Act on Geographical Indications and Designations of Origin of Products and Services and Act on Amendments to the Geographical Indications and Designations of Origin of Products and Services https://www.wipo.int/wipolex/en/legislation/details/18126
46.	Cuba	Yes

S.N	Countries	Sui Generis Geographical Indication Law
		on Geographical Indications, Cuba https://www.wipo.int/wipolex/en/legislation/details/899
47.	Cyprus	Yes Appellation of Origin and Geographical Indications for Agricultural Products and Foodstuffs https://www.wipo.int/wipolex/en/legislation/details/9466
48.	Czech Republic	Yes Protection of Designations of Origin and Geographical Indications and on the Amendment to the Act on Consumer Protection https://www.wipo.int/wipolex/en/legislation/details/21819
49.	Democratic Republic of Korea	NO
50.	Democratic Republic of Congo	NO
51.	Denmark	NO
52.	Dominica	Geographical Indications (Amendment) Act, 2008 Link: https://wipolex.wipo.int/en/legislation/details/9011
53.	Djibouti	NO
54.	Dominican Republic	NO
55.	Egypt	NO
56.	Ecuador	NO
57.	El Salvador	NO
58.	Eritrea	NO
59.	Estonia	Geographical indications protection act, 2019 Link: https://wipolex.wipo.int/en/members/profile/EE
60.	Eswatini	NO
61.	Ethiopia	NO
62.	European Union	NO
63.	Finland	NO
64.	Fiji	NO
65.	France	NO
66.	Gabon	NO
67.	Ghana	Geographical indications act, 2003 Link: https://wipolex.wipo.int/en/members/profile/GH
68.	Gambia	NO
69.	Georgia	Yes Appellations of Origin and Geographical Indications of Goods (as amended by Law No. 5664-IIS of December 28, 2011) https://www.wipo.int/wipolex/en/legislation/details/19240

S.N	Countries	Sui Generis Geographical Indication Law
70.	Germany	NO
71.	Greece	NO
72.	Grenada	NO
73.	Guinea-Bissau	NO
74.	Guinea	NO
75.	Guyana	Geographical indications act, 2005 Link: https://wipolex.wipo.int/en/members/profile/GH
76.	Guatemala	NO
77.	Honduras	NO
78.	Haiti	NO
79.	Holy see	NO
80.	Hungary	NO
81.	Iceland	NO
82.	India	The Geographical Indications of Goods (Registration and Protection) Act, 1999 Geographical Indications of Goods (Registration and Protection) Rules, 2002 Link: https://wipolex.wipo.int/en/members/profile/IN
83.	Indonesia	Law of the Republic of Indonesia on Trademarks and Geographical Indications 2016 Link: https://wipolex.wipo.int/en/members/profile/ID
84.	Iraq	NO
85.	Iran (Islamic Republic of)	Act of Protection of Geographical Indications 2005. Link: https://wipolex.wipo.int/en/members/profile/IR
86.	Ireland	NO
87.	Israel	Application of Origin and Geographical Indication Law, 1965 Link: https://wipolex.wipo.int/en/members/profile/IL
88.	Italy	NO
89.	Jamaica	The protection of Geographical Indications Act, 2004 The protection of Geographical Indications Act, 2009 Link: https://wipolex.wipo.int/en/members/profile/JM
90.	Japan	NO
91.	Jordan	Yes Law No. 8 of 2000 on Geographical Indications https://www.wipo.int/wipolex/en/legislation/details/2602
92.	Kazakhstan	NO
93.	Kenya	NO
94.	Kiribati	NO
95.	Kuwait	NO
96.	Kyrgyzstan	Yes

S.N	Countries	Sui Generis Geographical Indication Law
		Trademarks, Service Marks and Appellations of Origin of Goods (as amended up to Law of the Kyrgyz Republic No. 55 of May 26, 2018) https://www.wipo.int/wipolex/en/legislation/details/18947
97.	Lao People's Democratic Republic	NO
98.	Latvia	NO
99.	Lebanon	NO
100.	Lesotho	NO
101.	Liberia	NO
102.	Libya	NO
103.	Liechtenstein	Law on the Protection of trademarks and Geographical Indications 1997 Link: https://wipolex.wipo.int/en/members/profile/LI
104.	Lithuania	Yes Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs https://www.wipo.int/wipolex/en/legislation/details/7240
105.	Luxembourg	NO
106.	Malaysia	Yes Geographical Indications Act 2000 Act No. 602 https://www.wipo.int/wipolex/en/legislation/details/3119
107.	Maldives (a)	NO
108.	Malta	NO
109.	Mexico	NO
110.	Mongolia	Law of Mongolia on Trade Marks and Geographical Indications 2010 Link: https://wipolex.wipo.int/en/members/profile/MN
111.	Morocco	NO
112.	Madagascar	NO
113.	Malawi	NO
114.	Mali	NO
115.	Marshall Islands	NO
116.	Mauritania	NO
117.	Mauritius	NO
118.	Micronesia	NO
119.	Monaco	NO
120.	Montenegro	Law on Geographical Indications 2011 Link: https://wipolex.wipo.int/en/members/profile/ME
121.	Mozambique	NO

S.N	Countries	Sui Generis Geographical Indication Law
122.	Myanmar	NO
123.	Netherlands	NO
124.	New Zealand	Geographical Indications Act 2006 Link: https://wipolex.wipo.int/en/members/profile/NZ
125.	Namibia	NO
126.	Nauru	NO
127.	Nepal	NO
128.	Nicaragua	NO
129.	Nigeria	NO
130.	Niger	NO
131.	Niue	NO
132.	North Macedonia	Regulation on Appellation of Origin of the Product and Geographical Indication 2009 Link: https://wipolex.wipo.int/en/members/profile/MK
133.	Norway	NO
134.	Oman	NO
135.	Palau	NO
136.	Panama	NO
137.	Papua New Guinea	NO
138.	Paraguay	Yes Geographical Indications and Designations of Origin https://www.wipo.int/wipolex/en/legislation/details/13802
139.	Pakistan	Geographical Indications (Registration and Protection) Act, 2020 Link: https://wipolex.wipo.int/en/members/profile/PK
140.	Peru	NO
141.	Philippines (a)	NO
142.	Poland	Yes https://www.wipo.int/wipolex/en/members/profile/PL?collection=laws&collection=treaties&collection=judgments
143.	Portugal	NO
144.	Qatar	NO
145.	Republic of Moldova	Yes https://www.wipo.int/wipolex/en/members/profile/MD?collection=laws&collection=treaties&collection=judgments
146.	Romania	NO
147.	Russian Federation	NO
148.	Rwanda	NO
149.	Saint Vincent and Grenadines	Geographical Indications Act, 2007 Link: https://wipolex.wipo.int/en/members/profile/KN
150.	Saint Kitts and Nevis	Geographical Indications Act, 2007 Link: https://wipolex.wipo.int/en/members/profile/KN

S.N	Countries	Sui Generis Geographical Indication Law
151.	Saint Lucia	Geographical Indications Act 2000 Link: https://wipolex.wipo.int/en/members/profile/LC
152.	Samoa	NO
153.	San Marino	NO
154.	Sao Tome and Principe	NO
155.	Saudi Arabia	NO
156.	Senegal	NO
157.	Seychelles	Industrial Property (Geographical Indication) Regulations, 2014 Link: https://wipolex.wipo.int/en/members/profile/SC
158.	Sierra Leone	NO
159.	Solomon Islands	NO
160.	Somalia	NO
161.	South Africa	NO
162.	South Sudan	NO
163.	Sudan	NO
164.	Suriname	NO
165.	Switzerland	NO https://www.wipo.int/wipolex/en/members/profile/CH?collection=laws&collection=treaties&collection=judgments
166.	Syrian Arab Republic	Yes https://www.wipo.int/wipolex/en/legislation/details/5580
167.	Serbia	NO
168.	Singapore	Geographical Indications Act 2014 Link: https://wipolex.wipo.int/en/members/profile/SG
169.	Slovakia	NO
170.	Slovenia	NO https://www.wipo.int/wipolex/en/members/profile/SI?collection=laws&collection=treaties&collection=judgments
171.	Spain	NO https://www.wipo.int/wipolex/en/members/profile/ES?collection=laws&collection=treaties&collection=judgments
172.	Sri Lanka	Yes https://www.nipo.gov.lk/web/images/pdf_downloads/act/chapter_33.pdf
173.	Sweden	NO
174.	Thailand	Geographical Indications Protection Act (2003) Link: https://wipolex.wipo.int/en/members/profile/TH
175.	Togo (a)	NO
176.	Tajikistan	NO
177.	Timor-Leste	NO

S.N	Countries	Sui Generis Geographical Indication Law
178.	Tonga	Protection of Geographical Indications Act 2002 Link: https://wipolex.wipo.int/en/members/profile/TO
179.	Tunisia	Yes https://www.wipo.int/wipolex/en/legislation/details/5033
180.	Turkmenistan	NO
181.	Tuvalu	NO
182.	Trinidad and Tobago	Geographical Indications Act, 1996 Link: https://wipolex.wipo.int/en/members/profile/TT
183.	Turkey	Yes Regulation on the Emblems of Geographic Indications and Traditional Product Names
184.	Uganda	The Geographical Indications Act, 2013 Link: https://wipolex.wipo.int/en/members/profile/UG
185.	Ukraine	NO
186.	United Arab Emirates	NO
187.	United Republic of Tanzania	NO
188.	Uruguay	NO
189.	United Kingdom	Yes https://www.wipo.int/wipolex/en/members/profile/GB?collection=laws&collection=treaties&collection=judgments
190.	United States of America	NO
191.	Uzbekistan (a)	Yes Law on Trademarks, Service Marks and Appellations of Origin https://www.wipo.int/wipolex/en/members/profile/UZ?collection=laws&collection=treaties&collection=judgments
192.	Vanuatu	Geographical Indications Act 2000 Link: https://wipolex.wipo.int/en/members/profile/VU
193.	Venezuela	NO
194.	Viet Nam	NO
195.	Yemen (a)	Yes https://www.wipo.int/wipolex/en/members/profile/YE?collection=laws&collection=treaties&collection=judgments
196.	Zambia	No
197.	Zimbabwe	No

Appendix 17: Details of the Informants of Key Informant Interview

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
01	Dr Swarnim Wagle	Parliamentarian	Worked on GIs	swarnim.wagle@gmail.com
02	Dr. Govind Prasad Kusum	Former Secretary Nepal Government and Former Member Public Service Commission	Worked on IP as a secretary during his service period	gpkusum@ksl.edu.np,
03	Anju Uprety	Judge High Court Patan, Bench Number 9	Worked on IP also case file by her in Supreme Court: Advocate Anju Uprety Dhakal, on behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others, Case No. 073-RI-2437, 2079/12/24 (year) (Nepal)	anjuupretydhakal@gmail.com
04	Bhanu Prasad Acharya	Former Auditor General and Former Finance Secretary in the Government of Nepal	Played role in signing the WIPO Agreement and one of the delegates form Nepal to WIPO and TRIPS	acharyabhanu@hotmail.com
05	Dr Bal Krishna Joshi	Senior Scientist, Chief of the National Agriculture Genetic Research Center, National Gene Bank	Articles on GIs Mandarin Orange Landraces: Diversity, Conservation and Potential for Geographical Indication ¹¹²¹ and other articles. ¹¹²²	Joshi064@gmail.com

¹¹²¹ Bal krishna Joshi, Pradip Thapa & Mukunda Bhattra, Mandarin Orange Landraces: Diversity, Conservation and Potential for Geographical Indication, in *Mandarin Orange: History, Science and Technology in Nepal* 35-54 (NHS and NCFD, Dec. 2024).

¹¹²² *National Agriculture Genetic Resource Centre (Genebank), Annual Report 2079/80 (2023/24), at 97* (B. K. Joshi et al. eds., Nepal Agri. Res. Council. 2023).

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
06	Gourish Krishna Kharel	Advocate on the case of Basmati Case	Worked on filing process of Basmati as a GI	gkharel@ymail.com
07	Aruna Joshi	Joint Secretary, Ministry of Law, Justice and Parliamentary Affairs, Singha Darbar, Kathmandu		hereisaruna@gmail.com
08	Umesh Prasad Singh	President, Federation of Nepal Cottage and Small Industry	It brings the goods from rural parts of Nepal	upsingh6@gmail.com
09	Dr. Posh Raj Panday	Executive Chairman of South Asia Watch on Trade, Economics and Environment (SAWTEE)	Has contributed in the publication of the GIs published by South Asia Watch on Trade, Economics and Environment	Posh.panday@sawtee.org
10	Bharat Bahadur Thapa	Former Director General of Department of Industry	Also established Intellectual Property Protection Society	bharatbthapa@gmail.com
11	Prof. Dr. Kumar Ingham	Principal, Kathmandu School of Law	PhD on the topic, 'Role and Impacts of WTO for the Economic Development of Least Developed Countries in Particular Nepal: A Legal Perspective' (2017)	kumar.ingnam@gmail.com
12	Bisu Kumar KC	President	Intellectual Property Protection Society of Nepal (IPPSON)	bisukc@gmail.com
13	Madhu Soodan Poudyal	Former President, Former LDO,	Intellectual Property	mspoudyal@gmail.com

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
		former Assistant Professor	Intellectual Property Protection Society of Nepal (IPPSON)	
14	Sikshya Rajyalaxmi Rana	Assistant Professor, Kathmandu School of Law	Teaching Intellectual Property Law for LLM	sikshyarana@gmail.com
15	Saraswoti Shah	Assistant Professor, Kathmandu University School of Law	Teaching Intellectual Property Law for BBM LLB	Shah.saraswoti@gmail.com
16	Dipak Silwal	Course Contract Teacher, Nepal Law Campus	Teaching Intellectual Property Law for BA LLB	Advocate.dsilwal@gmail.com
17	Dr. Ram Bahadur Dhakal	Professor, Chakrabarti HaBi Education Academy (College of Law)	Teaching Intellectual Property Law for LLM	rkdhakal@hotmail.com
18	Shikha Dangol	Assistant Lecturer, Khwopa College of Law,	Master's thesis on GI entitled: Geographical Indication Protection in Nepal for Local Alcoholic Beverages: An Analysis, Published article on the topic of Anusilan, Bhaktapur Bar Journal 2081 on the topic Protection of Wine and Spirit in Context of Nepal	Shikhadangol.sd@gmail.com
19	Sajjan Bar Singh Thapa	Lawyer	Worked on Geographical Indications	sajjanthapa@gmail.com
20	Tilak Bikram Panday	Advocate of collective marks	Advocate Anju Uprety Dhakal, on behalf of The Scotch Whiskey Association of Scotland UK v. Department of Industry, Tripureshwor and Others, Case No. 073-	tilak@pioneerlaw.com

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
			RI-2437, 2079/12/24 (year) (Nepal)	
21	Usha Kala Rai	Former Minister for Social Development of Koshi Province	Activist for the branding of the alcoholic beverage of Nepal in the international Market	raiushakala@gmail.com
22	Anish Bastola	Lawyer and teacher of Intellectual Property		anish.bastola1@gmail.com
23	Samikshya Gaire	Food and Agriculture Organisation, Operation Assistant	Prospects of Geographical Indications in Nepal	samikshyagaire98@gmail.com
24	Rudra Sharma	Writer, Assistant Professor at National Law College	Books on intellectual property	rudralawyer@gmail.com
25	Lajula Maharjan	Advocate	Corporate Lawyer	lajula@pioneerlaw.com
26	Kripa Shrestha	Advocate	Collective Trademark Practicing Lawyer	kripa@pioneerlaw.com
27	Narayan Chaulagain	Advocate	Corporate Lawyer	narayan@infinitynp.com
28	Raj Kumar Suwal	Bhaktapur Juju Dhau: Byabasyi Sangh	Former teacher also one of the members of Bhaktapur Juju Dhau: Byabasyi Sangh	rajsuwal
29	Dr Din Mani Pokhrel	PhD from Faculty of Law, Tribhuvan University	Legal Analysis of the Implication of Intellectual Property Rights Regime for the Protection of Biogenetic Resources: A Case Study of Nepal (2016)	devlaw.associates@gmail.com

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
30	Dr Sarita Khanal	PhD from Faculty of Law, Tribhuvan University	TRIPS Agreement and It's Implementation in Nepal (2022)	Advocatesarita.0101@gmail.com
31	Rakshya Khanal	Article on GIs and Researcher	Battle over Basmati, Rising Nepal, 29 July 2022, available at https://risingnepaldaily.com/news/14633 ,	Rakshya11196@gmail.com
32	Ikchha Pokharel	Researcher	Situation of GIs and Legal Frameworks	Ikchhapokharel13@gmail.com
33	Kritika Dahal	Researcher	Protection of Mad Honey through GIs in Nepal	Dahalkritika76@gmail.com
34	Sweti Deshemaru	Researcher	Geographical Indications: Comparison with TRIPS Agreement	swetideshemaru@gmail.com
35	Dikshya Rajbhadari	Researcher	Research on Assessment of GI laws in Context of Nepal	rajbhandaridikchya@gmail.com
36	Amit Uprety	Deputy Attorney General, Office of Attorney General	Research on GIs	Nelsa2009@gmail.com
37	Maan Bahadur Basnet	Deputy Secretary, Legal Department, Department of Industry	Seeing all the case of department of Industry	
38.	Laxman Bhandari	Section Officer, Ministry of Law, Justice and Parliamentary Affairs, Singha Darbar, Kathmandu	Working on the laws of intellectual Property	Laxmanb646@gmail.com
39	Ranju Basnet	Lawyer	Advocate Ranju Basnet on behalf of Apex Law Chamber Scotch Whiskey Association UK,	Ranjubasnet67@gmail.com

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
			Quatermile 2 v. Binod Maharjan on behalf of Scot & Scot Pvt. Ltd (Nepal) Decision No. 74 (Department of Industry)	
40	Ramchandra Subedi	Lawyer	Advocate Ramchandra Subedi, on behalf of Apex Law Chamber authorised by Scotch Whisky Association, UK v. Mohini Hygiene Productions, Decision No. 70 (Department of Industry)	rc.subedi@apexlaw.com.np
41	Nina Regmi	Apex Law Chamber	Article on Geographical Indications, available at https://thehimalayantimes.com/opinion/geographical-indication-with-reference-to-basmati-rice , published on December 24, 2020, in The Himalayan Times, on the topic Geographical Indication: With reference to Basmati Rice	ninaregmi@gmail.com
42	Kiran Mainali	Food and Agriculture Organization, Mountain Products Expert	Article on GIs Goegraphical Indiation and Identity of Nepali Products, available at https://myrepublica.nagari.knetwork.com/news/geographical-indication-and-identity-of-nepali-products , accessed on 7 Jan. 25 published on November 18, 2022 at 4:00 PM, Republica	kminali11111@gmail.com
43	Ambar Bahadur Thapa	Vice President of Intellectual	Works in the intellectual property	Ambarthapa2010@gmail.com

S.N	Key Informants	Designations	Ways of Contribution on GIs	Phone Number/ WhatsApp's Number
		Property Protection Society and Advocate		
44.	Pradip Thapa	Technical Officer of National Agriculture Research Center	He has done study of Gulmeli Gud (a kind of jaggery from Julmi district of Nepal) to incorporate it as GIs, also written article on the topic "Geographical Indications on Agriculture Goods)	Pradipthapa876@gmail.com,
45	Krishna Prasad Gyawali	Past President of Intellectual Property Protection Society, Former Secretary of Nepal Government	Worked on and working on the area of intellectual Protection	Kgyawali2012@gmail.com

Appendix 18: List of Peer Reviewed Journals in Nepal in Law and Articles on GIs

S. N	Name of Journals	Number of Volume	Published from	No. of Articles on GIs	Remarks
1.	Nepal Law Review	32	1998	Not found	
2.	NJA Law Journal	17	2007	One	
3.	Nepal Bar Council Law Journal	2022	2000 but Peer Reviewed from 2018 volume XVII	Two	Up to volume XIII/XIV, named as Annual Survey of Nepalese Law and Nepal
4.	Kathmandu School of Law Review	12	2012	One	
5.	Pratipadan		2078 BS	Not found	
6	Nepal Kanoon Paricharcha	4	2076 BS	Not found	
7.	Kanoon Anbesika			Not found	
8.	Asian Journal of Law	3		one	
9	Anushilan Bhaktapur Bar Journal	1	2081	One	

Appendix 19: WTO Report of Article 24.2 of the TRIPS Agreement on Geographical Indications

1.	Denominación de origen: A denominación de origen	It is a geographical name of a region, district, place or locality used to designate a product from that area having distinctive qualities and characteristics due mainly to the natural environment and to its preparation and cultivation; it is considered to be used to designate a product originating in that area if it is permanently in wide circulation and well-known on the domestic market or has at least achieved a considerable reputation on a regional scale or a developed market abroad.
2.	Agricultural and Food Product Labels and Certificates	The use of a label can be authorized for a foodstuff or agricultural product which has a distinct set of properties and specific, pre-defined characteristics which result, by virtue of the specific conditions of production (e.g. due to the origin of raw material or the place of production), in a product with of a higher quality that distinguishes the product from other products on the market of the same kind. Certification is provided for in case an agricultural product or foodstuff conforms to specific characteristics or pre-defined rules with respect to its production, processing, or preparation for consumer purposes.
3.	Denominación Específica	The term denominación específica is a description applicable to an agricultural product or foodstuff other than wine, which has distinctive qualities among products of the same kind due to its raw material base, environment or methods of production.
4.	Quality Wines Produced in Specified Regions	Quality Wines Produced in Specified Regions: "Specified region" is defined as a wine-growing area or combination of wine-growing areas which produces wine possessing special quality characteristics and whose name is used to designate them.
5.	Table Wines	Table wine designated with a geographical unit is defined as a small locality or group of such localities, a local administrative area or part thereof, a wine-group sub-region or part thereof or a region other than a specified region and meeting certain product/production requirements. The use of a geographical ascription for designating table wine may be made conditional, in particular, on the wine having been produced wholly from certain clearly specified wine varieties and coming exclusively from the territory, precisely demarcated, whose name it bears.
6.	Viticultural Areas and Appellations of Origin (for Wines)	Viticultural areas and appellations of origin are defined in terms of both geographic boundaries and the percentage of wine derived from fruit or agricultural products grown within those boundaries.

7.	Appellation d'Origine (for Wines)	This term identifies grapes, musts or wines of recognized quality from a geographically defined area such as a canton, cantonal region, commune, locality, château or domaine which meet certain defined product/production requirements. Wines with an appellation d'origine may only come from grapes harvested in the geographical area concerned which fulfil the conditions specified for category 1 (natural minimum sugar content by batch and limited production per unit area).
8.	Appellation d'Origine Contrôlée (for Wines)	This term identifies grapes, musts and wines of recognized quality which fulfil the conditions laid down for an appellation d'origine and, moreover, meet the additional product/production requirements established by the canton.
9.	Appellation d'Origine Contrôlée (A.O.C.) (for Wines)	This term identifies wines produced, transformed and elaborated within a defined geographical area under requirements specified by law, such as the use of consistently used wine-making techniques and methods of cultivation in keeping with local usage.
10.	Indication de Provenance/Herkunftsbezeichnung (for Wines)	This term identifies grapes, musts and wines from a geographically defined area, i.e. the name of the region, or part thereof if it extends over more than one canton, or a traditional designation that refers to a geographical area. Products with an indication de provenance/Herkunftsbezeichnung may only come from grapes harvested in the geographical area concerned which fulfil the conditions laid down for category 2 (minimum natural sugar content by batch lower than for category 1)
11.	Geographical Designations (for Spirits)	These geographical designations are reserved for spirit drinks in the case of which the production stage during which they acquired their character and definitive qualities took place in the geographical area indicated.
12.	Geographical Indication (for Wine or Grape Products)	A word or expression used in the description and presentation of the wine to indicate the country, region or locality in which the wine originated
13.	Geographical Indication (for Specified Goods)	A description or presentation used to indicate the geographical origin for goods. "Geographical origin" means any country, region, locality or linear feature.
14.	Indication of Source for Any Good or Service	Any reference, direct or indirect, to the geographical source of products or services, including references to property or quality in relation to the source. Geographical names or signs which are not considered by the circles concerned to be a reference to the source of products or services are not indications of source.
15.	Indication of Source (Goods and Services)	A name, expression, image or sign that indicates or evokes a particular country, region, locality or place.
16.	Reserved Descriptions (for Spirits)	(1) Indications of geographical origin consisting of or containing the name of an actually existing city, region or state; (2) indirect

		traditional indications of geographical origin, the use of which is, by legal provision, exclusively reserved for products from a specific region, because the products in question are traditionally produced only in these regions.
17.	Protected Geographical Origin (for Wines)	A term which may only be used for quality wines, provided that the grapes and wine are produced in a territory identical with or contained within a single viticulture district.
18.	Recognized Geographical Indication (for Wines)	A term which applies to land wines made from grapes produced in a particular viticulture region or an area contained within it.
19.	Recognized Traditional Denomination (for Wines)	The right to use that term for wines must be supported by a study, prepared beforehand, which defines the geographical territory and characteristics of wine, and substantiates the use of traditional denominations. The study is to be prepared by the producers involved and shall be certified by the Minister of Agriculture
20.	Geographical Indication (for Agricultural Products and Foodstuffs)	The term shall be the name of a geographical region, in exceptional cases, a country, used to describe an agricultural product or a foodstuff, and the production and/or processing and/or market preparation of which take place in the defined geographical area. The geographical indication may be used for an agricultural product or a foodstuff: - originating in a certain geographical region, and- which possesses a specific quality, reputation or other characteristics attributable to a certain geographical region.
21.	Designation of Origin (for Agricultural Products and Foodstuffs)	The term shall be the name of a geographical region, in exceptional cases, a country, used to describe an agricultural product or a foodstuff originating exclusively in a certain geographical region, where the raw materials of the products concerned come from the same geographical area.
22.	Indication de Provenance (for Goods and Services)	An expression or sign used to indicate that a product or service comes from a country or group of countries, or from a region or specific place.
23.	Appellation d'origine (for Goods and Services)	The geographical name of a country, region or locality used to designate a product originating therein whose quality, reputation or other specified characteristics are exclusively or essentially attributable to the geographical environment, including natural and human factors.

Appendix 20: Recognition of Property in the Constitutions of Nepal

Constitution of Nepal (Date in B.S.)	Provision Regarding Property
Government Of Nepal Act 2004	Part II: Fundamental Rights Article 4: Guarantee of security of private property
The Interim Government of Nepal Act 2007	Part II: Directive Principle of State policy Article 17: Under fundamental Principle of law: To acquire, hold, and dispose of property.
The Constitution of the Kingdom of Nepal 2015	Part III: Fundamental Rights, Article 6: Property: (1) No person is deprived of his property in accordance with the law. (2) Every citizen is entitled to right to earn, possess, hold, and sell of property.
The Constitution of Nepal 2019	Part III: Fundamental Rights Article 15: Right to Property: No person is deprived of his/her property saves in accordance with the law.
Constitution of the Kingdom of Nepal 2047	Part III: Fundamental Rights, Article 17: Right to property: All citizens shall, subject to the existing laws, have the right to acquire, own, sell and otherwise dispose of property. (2) The State shall not, except in the public interest, requisition, acquire or create any encumbrance on, the property of any person. (3) The basis of compensation and procedure for giving compensation for any property requisitioned, acquired, or encumbered by the State for in the public interest, shall be as prescribed by law.
The Interim Constitution of Nepal 2063	Part III: Fundamental Rights, Article 19: Right to property: (1) Every citizen has the right to acquire, own, sell and otherwise dispose of property. (2) The State will not acquire, or create any encumbrance on the property of any person, except in the public interest, But, this provision is not applicable to property acquired through illegal means. (3) Compensation is provided for any property requisitioned, acquired, or encumbered by the State in implementing scientific land reform program or in public interest in accordance with law. The amount and basis of compensation, and relevant procedure is as stated in the law.
The Constitution of Nepal (promulgated in 2072)	Part III: Fundamental Rights & Duties, Article 25: Right relating to property (1) Every citizen has the right to acquire, own, sell, dispose, acquire business profits from, and otherwise deal with, property. But, the State may levy tax on property of a person, and tax on income of a person in accordance with the concept of progressive taxation. And in the explanation: "property" means any form of property including movable and immovable property and includes an intellectual property right.

Appendix 21: Consent Form of Key Informant Interview

Consent Form of Key Informant Interview

I with full consent participate as the key informant in the PhD research of Laxmi Sapkota, a PhD Scholar at the Faculty of Law, Tribhuvan University. The research aims to explore the legal mechanism required to protect Nepal's Geographical Indications and identify the prospects and problems of such GIs in Nepal. Through the key informant interview, the researcher wants to explore the legal protection of geographical Indications in Nepal: Prospects and Problems.

Name of interviewee:

Signature of the interviewee:

Date of the interview:

Appendix 22: Key Informant Interview Questionnaire

PhD Research

Faculty of Law, Tribhuvan University

Key Informant Interview for the Expert of Geographical Indications

The responses to the following questionnaire will be kept confidential and used solely for research purposes. The information provided will not be used for personal or commercial purposes.

1. Respondent Personal Information

1.1	Name:
1.2	Sex:
1.3	Mobil Number/ WhatsApp Number/ Email address:
1.4	Address Province: District: Municipalities: Ward Number:
1.5	Available Geographical Indication in your place:
1.6	Academic Qualification:
1.7	Occupation:

2. Information of the Subject

2.1 Identification of Geographical Indications

2.1.1	Which of the following categories of GIs should be there for the protection of GIs capable goods in Nepal?	a. Agricultural goods b. Handicrafts c. Natural goods d. Manufactured goods e. Industrial goods	

		f. Services (whether to keep service or not) g. Others	
2.1.2	What are those other categories of GIs?	a. b. c.	
2.1.3	What is the condition of those GIs capable goods?	a. are in good condition b. are in a state of extinction c. some may have completely disappeared d. Others	

2.2 Protection of Geographical Indications

2.2.1	What can be done to further protection of the goods that are in good condition?		
2.2.2	If some goods are in the state of extinction, then what can be done for the protection of those goods?		
2.2.3	If some things have disappeared, what are those things?		
2.2.4	What can be done for the protection of geographical indications? Please select	a. Laws should be made and protected b. They protect themselves c. could not say d. Others.	

2.2.5	Are the laws on GIs of Nepal compatible with that of TRIPS Agreement?	a. Yes b. No c. Others	Optional
2.2.5	What Nepal should do to make the GIs laws compatible with TRIPS?		Optional
2.2.5	What kind of laws are needed to protect Geographical Indications?	a. Sui generis Geographical Law b. Certification Mark c. Collective Marks d. Laws focusing on business e. Others	
2.2.6	Why do you think it should be protected by such laws (basic geographical indication laws, collective trademark laws, certification marks, or laws focusing on business)?	a. b. c. d. e. f. g.	
2.2.7	Are there any other special things in which we need to pay attention while protecting from such laws?	a. b. c. d. e.	
2.2.8	What would be the prospects of protecting of GIs capable goods by such a law?	a. b. c. d. e. f.	
2.2.9	What are the problems of being protected by such a law?	a. b. c. d.	

		e. f.	

2.3 Promotion of Geographical Indications

2.3.1	What should be done to promote goods protected by geographical indications?	a. b. c. d. e.	
2.3.2	What should be done to make such geographical indications goods sustainable?	a. b. c. d. e.	

Thank you very much for participating in the research.

With full consent signature:

Date: