

## BOOK REVIEW

### RELOCATING THE LAW OF GEOGRAPHICAL INDICATIONS

*Dev Gangjee*

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Geographical indications (GIs) are defined as a “distinctive sign used to identify a product as originating in the territory of a particular country, region or locality where its quality, reputation or other characteristic is linked to its geographical origin”<sup>1</sup>. Geographical indications are covered as an element of Intellectual Property Rights (IPRs) by Articles 1(2) and 10 of the Paris Convention for the Protection of Industrial Property. They are also covered under Articles 22 to 24 of the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which was negotiated in the decisive Uruguay Round of GATT negotiations.

The use of GIs is not limited to use for agricultural products and they may also emphasise specific qualities of a product which are owing to human factors that can be found in the place of origin of the products, such as precise manufacturing skills and traditions. Similarly, they may indicate that the origin may be a village or town, a region or a country. An instance for the latter is "Switzerland" or "Swiss," which is evident as a geographical indication in many countries for products that are produced in Switzerland, in particular, for watches.

The book “Relocating the Law of Geographical Indications” by Dev Gangjee examines various aspects of the legal framework for the protection of GIs. The book is divided into two parts and seven chapters. The first of these is introductory in nature, covering the historical background to GI’s protection. The second part deals with the current international legal framework and particularly, TRIPS and WIPO. In the first part, the historical background for the protection of GIs is explored through examining the provisions of various treaties and conventions such as: the Paris Convention for the Protection of Industrial Property (1883), the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1891) and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958).

Chapter 1 deals with areas of controversy and interest pertaining to GIs and in particular covers those features which distinguish GIs from trademarks. The author explores whether both trademarks and GIs share overlapping interests, particularly, in regard to their use as: source identifiers, guarantees of quality and protectors of valuable business interests. Additionally attention is paid to the dilemma of *sui generis* protection for GIs. Chapter 2 then elaborates on the journey from Indication of Source (IS) to Appellation of Origin (AO) through the Paris

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<sup>1</sup>This is the definition given by the European Commission, see <http://ec.europa.eu/trade/policy/accessing-markets/intellectual-property/geographical-indications/>

Convention and Madrid Agreement. Chapter 3 focuses on how the journey of Appellation of Origin began in France, with reference to Warren Moran's views on the limitations of the appellation system, particularly, its justifiability. Moran questions to what extent a product's character and quality are tied to a territory asking: "Could a product with exactly the same characteristics be produced in a different locality?"<sup>2</sup>

Chapter 4 elaborates on the consequences of the Lisbon Agreement for the protection of GIs and its critical reception. This agreement has been labelled a 'radical departure' from its predecessors and is perceived as signalling that the requirements for GIs should be as strict as that of trademarks. This agreement also places emphasis on the formal transition from Indication of Source to Appellation of Origin, which emerges as a distinct category of subject matter. The author draws attention to how the Lisbon Agreement favours natural over manufactured products.

Part II of the book explains the current framework for GI protection and the application of the TRIPS Agreement, with a specific focus on Articles 22 to 24. The definition of GIs is given in Art. 22.1 of the TRIPS Agreement as: "indications which 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". The adoption of this definition signifies the importance of GIs in the TRIPS framework.

Overall the author deals well with the WIPO negotiations and TRIPS. The relationship between GIs and trademarks is clearly explained and the significance of contemporary debates regarding the future of TRIPS is well dealt with in Chapter 6.

It is clear from the various case studies examined in the book that GIs are a promising element of Intellectual property protection. The book discusses interesting topics such as the GI-extension debate at the TRIPS Council. The book provides a useful starting point to examining this often neglected area of Intellectual Property Rights and the author's approach to dealing with the subject matter is interesting and clear. The author offers a thought-provoking analysis of both the historical and contemporary approaches to the protection of GIs throughout the book, accompanied by useful examples and facts. Overall the book offers a valuable contribution to the subject of GI protection.

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<sup>2</sup> W Moran, *Rural Space as Intellectual Property* (1993) 12 *Political Geography* 263, 266-7 as cited in D Gangjee, *Relocating the Law of Geographical Indications* at 79

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