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**COMPARATIVE STUDY OF GI SYSTEM AND POLICY OF INDIA AND
BRAZIL**- Shudharshini E¹**ABSTRACT**

Geographical Indications (GIs) represent a critical intersection of intellectual property law, cultural heritage, and economic development. This article offers a comparative legal and policy analysis of GI protection in India and Brazil, two jurisdictions with rich artisanal traditions and divergent regulatory frameworks. As of 2025, India has registered over 697 GIs, while Brazil has recognized only 119, a disparity that invites scrutiny of legislative scope, institutional capacity, and producer engagement.

India's GI regime is governed by a dedicated statute, the Geographical Indications of Goods (Registration and Protection) Act, 1999, which restricts protection to goods and requires collective applications. Brazil, by contrast, embeds GI protection within its Industrial Property Law (Law No. 9,279/1996), recognizing both goods and services and permitting individual applicants. The article examines these definitional and procedural differences, including registration formalities, evidentiary standards, and duration of protection.

Through case studies, such as Coimbatore Wet Grinders in India and Porto Digital in Brazil, the article explores how GIs contribute to regional identity and market value. It also evaluates enforcement mechanisms, highlighting India's stronger penal provisions and Brazil's administrative approach. Challenges such as limited awareness, weak inspection regimes, and the absence of a sui generis GI law in Brazil are critically assessed.

The article concludes with policy recommendations aimed at strengthening legal clarity, enhancing institutional support, and promoting international harmonization. By situating

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India and Brazil within the global GI discourse, it contributes to a deeper understanding of how legal systems can balance local authenticity with global competitiveness.

INTRODUCTION

Geographical Indications (GIs) have evolved into a strategic legal instrument at the intersection of intellectual property, trade policy, and cultural preservation. Their capacity to confer market exclusivity based on origin-linked qualities makes them particularly valuable for developing economies seeking to valorize traditional knowledge and regional specialities. Yet, the legal architecture underpinning GI protection varies significantly across jurisdictions, influencing not only the scope of rights but also the accessibility and effectiveness of enforcement.

India and Brazil offer instructive contrasts. India's GI regime is governed by a dedicated statute that reflects a structured, goods-only approach, emphasizing collective ownership and procedural formalism. Brazil, by contrast, embeds GI protection within its broader industrial property framework, embracing a more flexible model that includes services and permits individual applications. These divergences are not merely technical—they reflect deeper normative choices about the role of intellectual property in shaping economic identity and legal access.

This article undertakes a comparative analysis of the two systems, focusing on definitional scope, registration procedures, enforcement mechanisms, and policy outcomes. It argues that while India's model offers clarity and institutional depth, Brazil's approach reflects a broader conceptual ambition that remains underdeveloped in practice. By examining how legal design interacts with administrative capacity and producer engagement, the study highlights the need for more integrated, responsive, and inclusive GI governance. In doing so, it contributes to ongoing debates about the future of origin-based rights in a globalized legal order.

TRIPS agreement plays an important role by setting down the foundation for The Geographical Indications of Goods (Registration and Protection) Act, 1999 (GI Act) in India and The Industrial Property Law (Law No. 9,279) in Brazil. The Geographical Indications of Goods (Registration and Protection) Rules, 2002 in India and Normative Instruction No.

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095/2018 in Brazil lays down the procedures, format and other important information. The National Institute of Industrial Property (INPI) is the body responsible for registering and monitoring GIs in Brazil and Controller General of Patents, Designs, and Trademarks (CGPDTM) is responsible for administering GI in India.

Under article 22'1. Geographical indications are, for the purposes of this Agreement, 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.

2. In respect of geographical indications, Members shall provide the legal means for interested parties to prevent:

(a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good;

(b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967).

The definition of the Geographical indication is given under section 2(e) of GI act, on the other hand it is evident to see that the article 176 of Law No. 9,279 states that 'geographical indication is constituted by an indication of source or an appellation of origin', and it does not define geographical indication. Article 177 defines indication of source and 178 defines an appellation of origin. It is important to know that in India, GI protection can only be given to goods and not to services, but the Brazilian act explicitly includes goods and services. And even individuals can get protection for GI in Brazil (Article 5 Normative Instruction No. 095/2018) unlike in India, where only association or group of persons can apply for protection.

Section 2(e) of GI act—Defines geographical indication, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or

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preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

Article 177 of Law No. 9,279 - An indication of source is considered to be the geographical name of a country, city, region or locality of its territory, which has become known as a centre of extraction, production or manufacture of a determined product or for providing a determined service.

Article 178 of Law No. 9,279 - An appellation of origin is considered to be the geographical name of a country, city, region or locality of its territory, which designates a product or service, the qualities or characteristics of which are exclusively or essentially due to the geographical environment, including natural and human factors.

HISTORICAL AND LEGAL FOUNDATIONS

India: From Cultural Legacy to Sui Generis Protection

India's engagement with Geographical Indications (GIs) is deeply rooted in its civilizational history, where region-specific goods have long been associated with cultural identity, artisanal skill, and agricultural distinctiveness. Long before the formalization of intellectual property rights, Indian communities relied on reputation, oral tradition, and customary norms to protect the uniqueness of their products. The weaving of Kanchipuram silk, the cultivation of Darjeeling tea, and the crafting of Mysore sandalwood oil are not merely economic activities, but expressions of regional heritage passed down through generations.

The legal recognition of GIs in India emerged in response to both domestic imperatives and international obligations. The pivotal moment came with India's accession to the World Trade Organization (WTO) in 1995 and its consequent commitment to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS Articles 22–24 mandated member states to provide legal means for the protection of GIs, particularly to prevent misleading use and unfair competition. For India, this was not just a compliance exercise, it was an opportunity to codify and elevate traditional knowledge within a modern legal framework.

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The result was the enactment of the Geographical Indications of Goods (Registration and Protection) Act, 1999, which came into force in 2003. This legislation is notable for its sui generis character, meaning it provides a standalone legal regime for GIs, distinct from trademarks, patents, or copyrights. The Act defines GIs narrowly, limiting protection to good like agricultural, natural, manufactured, handicrafts, and foodstuffs and by explicitly excluding services. It also requires that applications be made by associations of persons, producer groups, or statutory bodies, thereby reinforcing the collective nature of GI ownership.

India's GI regime has grown rapidly. From the first registration of Darjeeling tea in 2004, the country has recognized over 697 GIs by 2025, spanning textiles, agricultural products, handicrafts, and manufactured goods. This expansion reflects both institutional momentum and increasing awareness among producer communities. However, challenges persist. Many producers remain unaware of the benefits of GI registration, and enforcement mechanisms especially inspection and quality control where they are unevenly implemented. The Act requires internal and external inspection bodies, but their capacity and consistency vary widely across regions.

Moreover, while the legal framework is robust, its implementation often falters due to bureaucratic delays, limited outreach, and insufficient market linkage. The absence of a strong promotional strategy means that many registered GIs fail to translate into economic gains for producers. There is also a lack of integration between GI protection and broader rural development policies, which could otherwise amplify the socio-economic impact of origin-based rights.

Despite these limitations, India's GI regime represents a significant achievement. It offers a structured, transparent, and culturally sensitive model of protection that aligns legal formalism with the lived realities of its diverse producer base. The emphasis on collective ownership, procedural rigor, and product integrity reflects a normative commitment to preserving traditional knowledge within a rule-based system. As India continues to refine its GI governance, the challenge will be to move from registration to meaningful protection, ensuring that GIs serve not only as legal tools but as engines of inclusive growth.

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Brazil: Integrated Flexibility and the Quest for Legal Identity

Brazil's approach to GI protection is shaped by its unique blend of legal traditions, economic priorities, and regional diversity. Unlike India, Brazil does not operate under a dedicated GI statute. Instead, it embeds GI protection within its broader intellectual property framework, primarily through the Industrial Property Law (Law No. 9,279/1996). This law, enacted in the wake of Brazil's TRIPS commitments, treats GIs as one category within a unified IP system, alongside trademarks, patents, and industrial designs.

Brazil's legal framework recognizes two distinct forms of GIs: *Indicação de Procedência* (Indication of Source) and *Denominação de Origem* (Appellation of Origin). The former refers to geographical names associated with regions known for producing certain goods or services, while the latter applies when the qualities or characteristics of a product or service are essentially due to its geographical environment, including natural and human factors. This bifurcation mirrors international classifications but is applied with notable flexibility.

One of Brazil's most distinctive features is its inclusion of services within the scope of GI protection. This reflects a broader conceptual ambition to recognize the economic and cultural value of region-specific services, such as tourism, technology, and gastronomy. The registration of Porto Digital, a tech park in Recife, as an Indication of Source in 2012 exemplifies this approach. Brazil also permits individual applicants in cases where only one eligible producer or service provider exists in each region. This inclusive stance broadens access but also introduces regulatory complexity.

The National Institute of Industrial Property (INPI) serves as the central administrative body for GI registration and enforcement. INPI has issued Normative Instruction No. 095/2018 to provide procedural clarity, detailing the evidentiary requirements, application formats, and examination protocols. Applications must include technical specifications, geographical delimitation, production methods, control mechanisms, and documentation proving the reputation or origin-linked qualities of the product or service.

Despite these efforts, Brazil's GI regime faces significant challenges. The absence of a sui generis law means that GIs lack a distinct legislative identity, leading to fragmentation and ambiguity. The reliance on general IP principles often results in procedural delays and inconsistent interpretation. As of 2025, Brazil has registered only 119 GIs which is a modest

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figure given its vast agricultural and cultural diversity. This low uptake reflects both institutional constraints and limited producer engagement.

Awareness remains a major barrier. Many producers, particularly in rural and underserved regions, are unaware of the benefits of GI protection or find the registration process too complex and resource-intensive. There is also a lack of coordinated outreach and capacity-building programs to support applicants. Moreover, enforcement mechanisms are primarily administrative, with limited judicial oversight and weak penalties for infringement. This undermines the credibility and effectiveness of the regime.

Nonetheless, Brazil's model offers conceptual breadth and potential for innovation. Its recognition of services and individual rights positions it as a jurisdiction capable of adapting to emerging economic realities. The challenge lies in translating this flexibility into legal certainty and institutional coherence. A dedicated GI statute, clearer classification systems, and stronger enforcement protocols could significantly enhance the regime's effectiveness.

Brazil's experience underscores the importance of legal identity in shaping the trajectory of GI protection. While integration within a broader IP framework offers administrative efficiency, it risks diluting the distinctiveness and normative purpose of GIs. As Brazil continues to refine its approach, the goal should be to balance flexibility with clarity—ensuring that GIs serve as tools for cultural preservation, economic empowerment, and legal integrity.

CONCEPT

At the heart of any Geographical Indication (GI) regime lies a conceptual question: what precisely qualifies as a GI, and why does its origin matter? The answer varies not only across jurisdictions but also reflects deeper normative choices about the role of law in protecting cultural identity, economic value, and regional reputation. India and Brazil offer instructive contrasts in how they define and conceptualize GIs, revealing divergent legal philosophies and policy orientations.

India

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In India protection for Geographical indications are given to those goods where the characteristics are attributable to the location of the product. The Indian approach is grounded in a territorial logic. The law requires a demonstrable causal link between the product's qualities and its place of origin, and further stipulates that at least one stage of production, processing, or preparation must occur within that territory. This reflects a commitment to preserving the integrity of regional production systems and ensuring that GIs are not merely symbolic but materially grounded.

Primarily, India's insistence on collective ownership can be witnessed through the requirement of only associations of persons, producer groups, or statutory bodies may apply, which reinforces the idea that GIs are communal assets rather than individual entitlements. This aligns with India's broader legal tradition of recognizing community-based rights, particularly in the context of traditional knowledge and cultural heritage. The conceptual underpinning here is one of stewardship: the law protects not just the product, but the social and geographic ecosystem that sustains it.

Brazil

Brazil's conceptual framework is more expansive and structurally differentiated. Under Articles 176–178 of the Industrial Property Law (Law No. 9,279/1996), Brazil recognizes two distinct forms of GIs: *Indicação de Procedência* (Indication of Source) and *Denominação de Origem* (Appellation of Origin). While both are protected, they serve different conceptual functions. It has as a different system where the geographical indication is of two types (a) Indication of source and (b) appellation of origin. Even though both are given protection equally there are some differences in them. Indication of source includes those goods or services that is produced in a region, and they are known for producing those. This refers to identifying those goods or services originating from an area because that region is known to produce/provide that product or services. The existence of reputation of area for producing those goods or services is sufficient to classify them as indication of sources. Indication of source has weaker connection with the origin as they are not closely associated with natural and human factors.

With respect to appellation of origin, it refers to classifying those products or services where they get their characteristics, reputation and quality due to the geographical origin of the

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product or services. There is a casual nexus between the geographical area and the characteristics/quality of the product and service. Brazil's inclusion of services within the scope of GI protection marks a significant conceptual departure from India. The quality of the product and services are closely related to the origination and without which the product may not possess the same quality. There are no explicit provisions for duration of protection but there are articles which states that the protection is for indefinite duration. They are mostly governed by TRIPS agreements.

Brazil permits individual applicants in cases where only one eligible producer or provider exists. This flexibility challenges the assumption that GIs must be collectively owned and opens the door to more diverse forms of legal recognition. Conceptually, Brazil treats GIs as instruments of market differentiation rather than strictly as cultural commons. The emphasis is on functionality and economic relevance, even if that comes at the cost of definitional precision.

Comparative Reflections

The definitional divergence between India and Brazil is not merely semantic, it reflects deeper tensions between legal formalism and economic pragmatism, between cultural preservation and market access. India's model prioritizes territorial integrity and collective reputation, offering a structured and culturally anchored regime. Brazil's model, by contrast, embraces flexibility and functional breadth, allowing for a wider range of applications but risking conceptual dilution.

These differences have practical consequences. India's narrow definition and procedural rigor may exclude certain products or services that could benefit from GI protection, particularly in emerging sectors. Brazil's broader approach may facilitate registration but complicate enforcement and consumer understanding. The challenge for both jurisdictions is to balance legal clarity with economic inclusivity, ensuring that GIs remain credible, accessible, and effective.

From a comparative law perspective, these models illustrate the pluralism inherent in GI governance. There is no single "correct" definition, only contextually appropriate ones. What matters is how the legal system aligns its conceptual choices with its policy goals,

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institutional capacity, and socio-economic realities. In this regard, India and Brazil offer complementary lessons: one in disciplined stewardship, the other in adaptive innovation.

SCOPE OF PROTECTION AND SECTORAL COVERAGE

The scope of protection under a Geographical Indication (GI) regime is not merely a technical matter, it is a reflection of how a legal system conceptualizes economic identity, cultural value, and the boundaries of intellectual property. What types of products are eligible? Who may claim protection? And how far can the law stretch to accommodate evolving sectors? India and Brazil offer contrasting answers to these questions, shaped by their respective legal traditions, policy priorities, and institutional capacities.

India: Goods-Centric Protection and Cultural Anchoring

India's GI regime is deliberately narrow in scope. The Geographical Indications of Goods (Registration and Protection) Act, 1999 restricts protection to goods alone—specifically agricultural, natural, manufactured, handicrafts, and foodstuffs. Services are excluded by design. This limitation is not accidental; it reflects a policy choice to anchor GI protection in tangible, culturally embedded products that carry historical and regional significance.

The Act's classification system is relatively straightforward. Goods are categorized by class, and each GI is registered accordingly. This structure has enabled a diverse range of products to gain protection—from Coimbatore wet grinders and Pochampally ikat to Basmati rice and Nilambur teak. These registrations have helped preserve artisanal traditions, promote regional branding, and enhance market visibility.

However, the exclusion of services raises important questions. In an economy increasingly driven by intangible offerings—such as wellness tourism, culinary experiences, and digital craftsmanship—the inability to protect origin-linked services represents a missed opportunity. While the rationale may lie in evidentiary complexity and definitional ambiguity, the legal rigidity risks rendering the regime obsolete in emerging sectors.

Moreover, the Act's emphasis on collective ownership and producer associations, while normatively sound, can limit access for smaller or informal groups. The requirement to form a legally recognized association and navigate procedural hurdles may deter participation,

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particularly in regions with limited institutional support. As a result, the sectoral coverage of India's GI regime, though broad in goods, remains uneven in practice.

Brazil: Inclusive Typology and Sectoral Innovation

Brazil's GI framework is structurally more inclusive. Governed by the Industrial Property Law and Normative Instruction No. 095/2018, the regime recognizes both goods and services and permits individual applicants under specific conditions. This openness reflects a conceptual shift: GIs are not confined to physical products but extend to regionally distinctive services that embody local expertise and reputation.

The dual typology, *Indicação de Procedência* (Indication of Source) and *Denominação de Origem* (Appellation of Origin), allows Brazil to tailor protection based on the nature of the product and its link to the geographical environment. Indications of Source require regional reputation, while Appellations of Origin demand a stronger causal connection between the product's qualities and its origin. This flexibility enables a wider range of sectors to participate.

Notably, Brazil has registered services under its GI regime, including Porto Digital, a technology park in Recife known for its ICT services. This registration signals a willingness to adapt GI protection to contemporary economic realities, where regional branding is increasingly tied to innovation, knowledge production, and service delivery.

Brazil's sectoral coverage also includes wine, leather, coffee, and other high-value exports, often supported by regional cooperatives and industry associations. The recognition of Pinto Bandeira wines, for example, reflects a sophisticated understanding of terroir and viticultural identity, aligning Brazil's GI practice with global standards in the wine industry.

Yet, the breadth of Brazil's regime is not without challenges. The absence of a dedicated GI statute means that sectoral classifications are not always clearly defined, and procedural consistency can vary. Moreover, while services are eligible, the evidentiary burden remains high, and many potential applicants lack the technical capacity to meet registration requirements.

India and Brazil represent two ends of the spectrum in GI scope. India's model is preservationist, focused on safeguarding traditional goods through a structured and culturally

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anchored legal framework. Brazil's model is expansionist, embracing a wider array of sectors and applicants through a flexible, integrated approach.

These choices have implications for legal certainty, economic inclusion, and international competitiveness. India's narrow scope ensures definitional clarity and protects against overreach but may exclude valuable sectors. Brazil's broader scope fosters innovation and market relevance but risks conceptual dilution and administrative complexity.

From a policy perspective, both regimes could benefit from recalibration. India might consider pilot programs to explore service-based GIs, particularly in tourism and wellness. Brazil could strengthen its classification system and provide clearer guidelines for service registrations. In both cases, sectoral mapping, stakeholder consultation, and legal reform could enhance the responsiveness and reach of GI protection.

Ultimately, the scope of a GI regime is not static—it must evolve with the economy it serves. As global markets increasingly value authenticity, sustainability, and regional identity, legal systems must adapt to protect not only what is traditional, but what is emerging. India and Brazil, in their distinct ways, offer valuable lessons in how to navigate this evolution.

PROCESS OF APPLICATION

In India there is only one type of GI where those who are willing to produce those registered product shall register themselves as authorized users. The Geographical Indications of Goods (Registration and Protection) Act, 1999, is divided into part A and part B where the former deals with the GI registration and Part B deals with Authorized users' registration.

Section 11 deals with the GI registration, where the application shall be made by any association of persons or producers or any organisation or authority established by or under any law who will represent the interests of the producers, such an application shall contain the following

- a statement as to how the geographical indication serves to designate the goods as originating from the territory of the country
- the class of goods which will apply
- the geographical map of the territory where the goods originate

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- the particulars regarding the appearance of the geographical indication
- a statement containing such particulars of the producers of the concerned goods to be initially registered

The section also states that a single application can be made for the registration of different classes of goods. There are separate provisions regarding the registration of foreign GI in India.

In Brazil, with respect to appellation of origin we shall consider human and natural factors, characteristic and quality of the product which shall be attributable to the geographical location. Article 7 of the Normative Instruction No. 095/2018 deals with process registration. It specifies the application shall be made in model 1 of the application form and it shall attach the following technical specifications

- The geographical name
- Description of the goods or services
- Delimitation of the geographical area
- In case of Indication of goods, the description of the process of extraction, production, or manufacturing of the goods or provision of the services, through which the geographical name became known.
- In case of Denomination of Origin, the description of the qualities or characteristics of the good or service that occur exclusively or essentially due to the geographical environment, including natural and human factors, and its process of obtaining/provision of services.
- Description of the control mechanism for manufacturers or service providers
- Conditions and prohibitions of use of the Geographical Indication
- Any sanctions applicable to the infringement of the provisions in item

The application shall also be accompanied with Power of Attorney, Proof of payment of the corresponding fee and Evidence of eligibility of the applicant. Documents evidencing that the geographical name has become known as a centre of extraction, production or manufacture of the good or provision of the service and documents evidencing the influence of the

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geographic environment on the qualities or characteristic of the good or service, and it must include the descriptive elements which shall be provided with respect to IPs and DOs respectively. At the last they shall attach the instruments to delimit the area. Any Foreign geographical indication which has been recognized in their country, are eligible to apply for protection in Brazil as well by submitting relevant documents.

SYSTEM OF GI

India

Once the application for registration has been made, the same shall be put out for advertisement and they may ask for opposition from the public, the public may raise objection within 3 months. After receiving the opposition, notice of opposition shall be sent to the applicant and shall provide the counter statement and only after hearing both the sides, a conclusion can be made. Section 16 deals with registration after the completion of every procedure.

Brazil

After registration, the application shall be subjected to preliminary examination to verify whether the documents are submitted properly, where amendments can be asked to be made and the response to that shall be given within 60 days from their publication. Once the application has been rectified, the application shall be deemed to have completed the preliminary examination. The next step is to publish the application for the third parties to respond within 60 days from the date of publication. Both the third-party response and the response by the applicant shall be examined properly (Article 11 and 12). After preliminary examination, then the substantive examination shall take place during which clarification in the form of examination shall be sought, which must be responded within 60 days (Article 13). Article 14 deals with the decision for grant or refusal.

REGISTERED GIs

In India, only goods can be registered under GI

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- **Coimbatore wet grinders, registered in 2005** - This wet grinder was registered under class 7 and the product gets its uniqueness because of a particular stone that is available in the hills that are in Coimbatore and Erode district. 'These stones are semi granite in nature with a composition having small quantity of Silica and Mica which is available at a few feet below the surface level in and around Coimbatore and Erode districts'
- **Nicobari Tavi-Ngaich (Virgin Coconut Oil) of Andaman & Nicobar,2023** – Virgin coconut Oil which has been made by Nicobarese people which I used for energy booster, to support immune system and it is known for organic purity, health benefits, and traditional extraction methods.
- **Scotch Whisky,2009** – Scotch Whisky of Scotland has been around for 500 years, and it has been in the export market around 200 years. It is known for its strict and traditional methods of production.

Possible reason for low registration of GI in Brazil can be the lack of awareness about the benefits that are inherent to the protection like increase in the product/service value, the producers/providers of the product or services are often unaware of the benefits of intellectual property protection.

Brazil has offered protection for services. Till today only 1 service has been registered as a GI under Indication of source.

- **Porto Digital 2012**– It is a technological urban park located in Recife, Pernambuco (PE) where it provided Information and Communication Technology Services (ICT) including software development, maintenance, and support. This has been registered as an indication of source. The city is known to provide favourable environment for technological development and after the registration, there has been significant development of the city as a whole.
 - **The Vale do Sinos** -It has over a century of tradition in leatherworking. It is one of the oldest and most established leather clusters in Brazil, having developed its expertise over generations.
 - **The Association of Fine Wine Producers of Pinto Bandeira (ASPROVINHO)** – It is recognized for its unique contribution to Brazilian viticulture, particularly through
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the Pinto Bandeira Geographical Indication (GI). Pinto Bandeira stands out as a distinctive and prestigious wine-producing region because the region has cool nights and warm days, which favour slow grape ripening, ideal for producing grapes with excellent acidity and aromatic concentration

ENFORCEMENT MECHANISMS AND LEGAL REMEDIES

All these registered Geographical Indications are subjected to infringement, which may damage the reputation of the product/services, most importantly the consumers are provided with low quality products which is the imitation of those original products. Both the legislation has specified actions that amounts to infringement and punishment for the same. India and Brazil offer contrasting enforcement models where India with a more penal and judicially anchored system and Brazil with a predominantly administrative and deterrent-based approach. Both systems reflect distinct legal cultures and policy priorities.

In India,

Section 22 of The Geographical Indications of Goods (Registration and Protection) Act, 1999 provides the grounds for infringement,

1. Uses such geographical indication by any way that it suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the persons as to the geographical origin of such goods
2. Any act which constitutes an act of unfair competition including passing off in respect of registered geographical indication.
3. All acts of such a nature as to create confusion
4. false allegations to discredit the competitors
5. Uses another geographical indication to the goods which, although literally true as to the territory, region or locality in which the goods originate, falsely represents to the persons that the goods originate in the territory, region or locality in respect of which such registered geographical indication relates.

Section 39 deals with the penalty for applying false geographical indications where Any person who;

(a) falsifies any geographical indication

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(b) falsely applies to goods any geographical indication

(c) makes, disposes of, or has in his possession, any die, block, machine, plate or other instrument for the purpose of falsifying or of being used for falsifying, a geographical indication

(d) applies to any goods to which an indication of the country or place in which they were made or produced or the name and the address of the manufacturer or person for whom the goods are manufactured is required to be applied under section 71, a false indication of such country, place, name or address

(e) tampers with, alters or effaces an indication of origin which has been applied to any goods to which it is required to be applied under section 71

(f) causes any of the things above-mentioned in this section to be done

shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to three years and with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

Section 39 deals with penalty for selling goods to which false geographical indication is applied where it includes imprisonment for a term which shall not be less than six months, but which may extend to three years and with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees:

Section 41 provides penalty for enhanced penalty on second or subsequent conviction which is imprisonment for a term of less than one year or a fine of less than one lakh rupees.

One of the important and effective remedy available for the registered persons is forfeiture of goods which is provided under Section 46 of the act, it states that forfeiture on acquittal can be directed for value exceeding fifty rupees and in case of forfeiture on conviction the court may order for forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

Case Law:

- *Tea Board of India v. ITC Ltd.* (2011): The Tea Board alleged that ITC's use of "Darjeeling Lounge" infringed its registered GI for Darjeeling tea. The Calcutta High

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Court held that mere use of the word “Darjeeling” in a hospitality context did not constitute infringement, as it did not mislead consumers about the origin of goods. This case clarified the scope of GI protection vis-à-vis non-competing goods.

- *Scotch Whisky Association v. Golden Bottling Ltd.* (2006): The Delhi High Court restrained the defendant from using “Scotch” for Indian whisky, affirming that even literal truth (i.e., whisky made in India) could mislead consumers if the GI implied foreign origin. The judgment reinforced the principle of consumer perception in GI enforcement.

India’s enforcement model is judicially driven, with courts playing a central role in interpreting statutory provisions and granting remedies. While this ensures procedural fairness and legal clarity, it also entails delays, high litigation costs, and limited access for small producers. The absence of specialized GI tribunals further burdens the general judiciary.

In Brazil,

1. Article 192 of the industrial property law (law no. 9,279) deals with punishment for manufacturing, importing, exporting, selling, exhibiting or offering for sale or maintaining in stock a product that presents a false geographical indication, with Penalty includes detention of 1 to 3 months, or a fine
2. Article 193 deals punishment for using, on a product, container, casing, belt, label, invoice, circular, poster or on any other means of disclosure or advertisement, indicative terms, such as "type", "species", "kind", "system", "similar", "substitute", "identical", or the equivalent, without making clear the true source of the product. Penalty includes detention of 1 to 3 months, or a fine.
3. Article 194 deals with punishment of using a mark, commercial name, title of establishment, insignia, advertising expression or sign or any other form that indicates a source other than the true one or selling or exhibiting for sale a product carrying such signs. Penalty includes detention of 1 to 3 months, or a fine.

Brazil’s penal sanctions are relatively light, reflecting a deterrent rather than punitive philosophy. Enforcement is largely administrative, with INPI empowered to investigate, issue

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warnings, and revoke registrations. Judicial intervention is rare and typically reserved for complex disputes or appeals.

Brazil's model emphasizes administrative efficiency and sectoral engagement. However, the lack of judicial oversight and relatively mild penalties may undermine deterrence, especially in high-value sectors. The absence of a dedicated GI enforcement unit within INPI further limits proactive monitoring.

India and Brazil embody two distinct enforcement philosophies. India's model is judicially anchored, with detailed statutory provisions and strong penal remedies. It offers legal certainty but suffers from procedural delays and limited accessibility. Brazil's model is administratively streamlined, emphasizing deterrence and producer-led compliance. It is efficient but may lack the teeth needed to combat sophisticated infringement.

From a policy standpoint, both systems could benefit from hybridization. India might consider establishing specialized GI tribunals or fast-track procedures for small producers. Brazil could strengthen its penal provisions and introduce judicial review mechanisms to enhance accountability. In both jurisdictions, capacity-building for enforcement agencies, public awareness campaigns, and cross-border cooperation are essential to ensure that GI protection is not merely symbolic but substantively effective.

Ultimately, enforcement is the linchpin of GI credibility. Without it, the legal architecture collapses into formality. India and Brazil, despite their differences, share a common challenge: to make GI protection real, responsive, and resilient in the face of global market pressures.

SOCIO-ECONOMIC IMPACT AND REGIONAL DEVELOPMENT

The legal recognition of Geographical Indications (GIs) is often justified on socio-economic grounds: it is assumed to promote rural development, empower producer communities, and preserve cultural heritage. However, the empirical relationship between GI protection and socio-economic outcomes remains contested. The comparative experience of India and Brazil illustrates the limits of this assumption and exposes the structural conditions under which GIs may or may not deliver developmental benefits.

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India's GI regime is frequently cited as a model for cultural preservation and rural empowerment. With over 697 registered GIs as of 2025, the system has achieved numerical expansion. Yet registration alone has not translated into widespread economic transformation. The benefits of GI protection remain concentrated among organized producer groups with access to legal and market infrastructure. Artisanal communities, informal networks, and marginal producers often lack the capacity to leverage GI status into commercial advantage. The absence of coordinated marketing strategies, post-registration support, and integration with rural development schemes undermines the redistributive potential of the regime.

Moreover, the assumption that GIs inherently enhance product value is empirically fragile. In many cases, GI registration has failed to generate price premiums or expand market access. The Coimbatore wet grinder, despite its registration, remains a regionally confined product with limited brand visibility. The Nicobari virgin coconut oil, while culturally significant, has not achieved scale or export traction. These examples suggest that legal protection, without parallel investment in branding, certification, and distribution, is insufficient to alter economic trajectories.

Brazil's experience is similarly ambivalent. The regime's openness to services and individual applicants suggests a broader developmental ambition. The registration of Porto Digital as a GI for ICT services reflects an attempt to align origin-based rights with knowledge economies. However, the overall number of registered GIs, just 119, indicates limited uptake. The low registration rate is not merely a function of legal design; it reflects deeper structural constraints, including low awareness, weak institutional outreach, and fragmented producer organization.

Even where GIs have been registered, the socio-economic impact is uneven. The Vale do Sinos leather cluster and Pinto Bandeira wine region demonstrate localized success, but these are exceptions rather than norms. The absence of a national strategy to link GI protection with regional development, export promotion, or tourism policy has limited the regime's transformative capacity. Brazil's reliance on administrative enforcement and voluntary compliance further weakens the incentive structure for producers to invest in quality and reputation.

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The comparative evidence suggests that GIs are not inherently developmental. Their socio-economic impact depends on a constellation of factors: producer organization, market access, institutional support, and consumer awareness. Legal protection is a necessary but insufficient condition. Without complementary policies such as certification schemes, cooperative marketing, and infrastructure investment, GIs risk becoming symbolic markers rather than instruments of economic change.

Furthermore, the distributive effects of GI protection are rarely neutral. In both India and Brazil, better-resourced actors are more likely to capture the benefits, while marginalized groups remain excluded. The legal architecture, by privileging formal associations and technical documentation, reproduces existing inequalities. Unless deliberately designed to be inclusive, GI regimes may reinforce rather than redress socio-economic disparities.

In sum, the developmental promise of GIs is contingent, not automatic. The comparative experience of India and Brazil underscores the need for integrated governance: legal protection must be embedded within broader strategies of rural development, cultural preservation, and market integration. Absent such alignment, GIs risk functioning as legal ornaments—visible, celebrated, but economically inert.

CHALLENGES AND STRUCTURAL LIMITATIONS

The persistence of structural limitations within GI regimes undermines their normative coherence and practical utility. India and Brazil, despite divergent legal architectures, exhibit parallel deficiencies in institutional design, regulatory clarity, and producer engagement. These deficiencies are not incidental—they are embedded in the foundational assumptions of each system.

India's GI regime suffers from over-centralization and procedural rigidity. The requirement that applications be filed by associations or statutory bodies presumes a level of legal organization and institutional capacity that is often absent in artisanal and rural contexts. This design choice excludes informal producer networks and reinforces existing hierarchies within supply chains. The dual-register system, while conceptually sound, imposes additional administrative burdens without corresponding support mechanisms. The absence of

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decentralized enforcement units or regional facilitation centres further compounds access barriers.

Moreover, the regime's reliance on judicial enforcement creates a bottleneck. Courts are ill-equipped to handle the technical nuances of GI disputes, and the lack of specialized tribunals results in inconsistent jurisprudence. The procedural complexity of opposition, counterstatement, and hearing phases deters small-scale applicants. These structural features suggest a regime designed for legal precision rather than functional accessibility.

Brazil's challenges are structurally inverse but normatively similar. The absence of a sui generis GI statute creates definitional ambiguity and procedural fragmentation. The reliance on general IP law and administrative instructions results in inconsistent application and limited legal visibility. INPI's discretionary authority, while efficient, lacks transparency and judicial oversight. The absence of clear sectoral classifications and standardized evidentiary thresholds undermines predictability and investor confidence.

Producer engagement remains a critical weakness in both jurisdictions. In India, awareness campaigns are sporadic and poorly targeted. In Brazil, outreach is concentrated in export-oriented sectors, leaving domestic producers underserved. Neither regime has institutionalized capacity-building or technical assistance as a core component of GI governance. The result is a protection framework that is legally available but practically inaccessible.

Quality control and post-registration monitoring are also underdeveloped. India mandates inspection bodies but fails to enforce standards or provide funding. Brazil requires control mechanisms but delegates responsibility to applicants without institutional support. In both cases, the absence of robust compliance infrastructure erodes consumer trust and diminishes the reputational value of GIs.

Finally, neither regime adequately integrates GI protection with broader economic policy. There is no systematic linkage between GI registration and rural development, tourism, or export promotion. The legal regime operates in isolation, disconnected from the institutional ecosystems that could amplify its impact. This siloed approach reflects a failure of governance rather than a failure of law.

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In sum, the structural limitations of GI regimes in India and Brazil are not merely technical—they are symptomatic of deeper institutional misalignments. Legal protection, without administrative coherence, producer inclusion, and policy integration, remains a hollow promise. Reform must begin with a reconfiguration of institutional priorities: from legal formality to functional equity, from procedural control to participatory access.

CONCLUSION

This article has helped us to compare the GI system and policy of India and Brazil. We can conclude that Brazil is yet to develop their geographical indication system and protection. Some notable differences are that Brazil has increased its purview by including service under its ambit, which is excluded in India. In case of applicant only association of persons can register, and no individual can register in India, but Brazil has an explicit Article (5) which states that if there is only one eligible producer or service provider in that specific location who can use the Geographical Indication, that person or company is authorized to apply for the registration directly. One of my suggestions is for the Brazilian system to have more specified and sui generis system for Geographical indication, it would be more efficient to have explicit inclusion and exclusion of products or services provided in the legislation. And for India, it would be more effective to have strong enforcement and implementation mechanism.

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