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### **GEOGRAPHICAL INDICATIONS IN MALAYSIA AND INDONESIA: ENHANCING PROTECTIONS FOR ECONOMIC GROWTH AND CULTURAL HERITAGE**

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#### **ABSTRACT**

This study delves into the crucial relationship between products and their geographical origins, aiming to enhance consumer trust and promote market differentiation, with a particular focus on Malaysia and Indonesia as case studies. The study investigates the current protective measures for Geographical Indications (GIs) in these countries, highlighting existing issues in their legislation. Additionally, it seeks to identify avenues for possible improving the legal frameworks by drawing on shared experiences. To thoroughly explore these aspects, an extensive literature review was conducted, analysing key international agreements, including the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement and the Paris Convention, alongside relevant national laws governing GIs. Employing a comparative legal analysis, the research assesses the effectiveness of existing legal frameworks, enforcement mechanisms, and the economic implications of GIs in both nations. The findings reveal that GIs significantly could enhance product value, boost market competitiveness, and promote rural development. However, the study also uncovers possible challenges, including issues in legal protections, ineffective enforcement, and the necessity for improved regulatory structures. Drawing from these insights, several key recommendations are proposed to strengthen GI legislation in Malaysia and Indonesia. These include enhancing enforcement mechanisms, establishing effective redress systems for GI infringements, and increasing awareness among producers and consumers regarding the significance and benefits of GIs. Ultimately, this research offers essential insights into how GIs can serve as instruments for economic growth and cultural preservation while addressing the legislative gaps that hinder their potential in Malaysia and Indonesia.

**Keywords:** Geographical indications (GI), legal framework, economic development, Indonesia, Malaysia, intellectual property, cultural heritage.

## **INTRODUCTION**

Geographical Indications (GIs) have increasingly gained prominence as vital mechanisms for the protection of traditional products, the advancement of rural development, and the preservation of cultural heritage on a global scale. These indications establish a direct link between the quality and reputation of products and their specific geographic origin, imbuing them with a sense of authenticity and distinctiveness that resonates with consumer demands. Malaysia and Indonesia, two nations in Southeast Asia celebrated for their cultural diversity and vibrant agricultural landscapes, have recognized the importance of GIs in elevating their unique products to the international market.

Malaysia, with its rich cultural heritage and abundant natural resources, boasts a wide array of products intrinsically tied to specific geographical regions. From the famous “Langkawi” for its artisanal crafts to “Sabah Tea,” renowned for its premium tea leaves, Malaysia’s GIs symbolize the core of traditional craftsmanship and indigenous knowledge. Similarly, Indonesia, with its vast archipelago and fertile land, is home to a multitude of products rooted in distinct geographical origins. “Bali Coffee” and “Toraja Coffee” are exemplary Indonesian GIs that have earned international recognition for their unique flavours and superior quality.

Despite the significant economic and cultural potential of GIs, the legal frameworks for protecting these designations in Malaysia and Indonesia face several challenges. While both countries have legal structures that offer a certain degree of protection for GIs, shortcomings in enforcement and redress for infringements continue to hinder the full realisation of their potential. These deficiencies leave producers vulnerable to exploitation, while also undermining consumer confidence in the authenticity of these products.

To address these pressing issues, this study seeks to examine the current legal protections afforded to GIs in Malaysia and Indonesia, with a particular focus on identifying areas where improvements are necessary. By contrasting the legal systems of both nations and drawing from their respective experiences, this research aims to propose recommendations that will strengthen the overall legal safeguards for GIs. Through this analysis, the study aspires to contribute to the broader understanding of GIs, particularly within the contexts of Malaysia and Indonesia. The outcomes are expected to offer valuable insights for policymakers, industry stakeholders, and practitioners involved in the promotion and protection of GIs.

Ultimately, this study aims to bolster the legal frameworks surrounding GIs in Malaysia and Indonesia, thereby enhancing economic growth, fostering rural development, and safeguarding cultural heritage in both countries. The recommendations put forward will seek to ensure that the potential benefits of GIs are fully realized, contributing to the sustainability and global recognition of these distinctive products.

## **UNDERSTANDING GEOGRAPHICAL INDICATIONS**

Geographical indications (GIs) represent a specific category of intellectual property rights, delineating goods as originating from a defined geographical area, wherein their quality, reputation, or other intrinsic attributes are intrinsically linked to their origin. The protection of GIs is paramount for stimulating innovation and economic advancement, particularly within sectors such as agriculture, food, and handicrafts (WIPO, 2016). GIs are safeguarded under several international accords, including the

Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) within the framework of the World Trade Organization (WTO).

The TRIPS Agreement characterizes GIs as indications that identify a product as emanating from the territory of a member, where a specific quality, reputation, or other attribute of the product is fundamentally attributable to its geographical origin (TRIPS Agreement, 1994). This characterization encompasses both appellations of origin (AOs), which necessitate a precise connection between the product and its place of origin, and GIs that, although not requiring such a direct link, are acknowledged for possessing a reputation or quality due to their geographical provenance (European Commission, 2007a).

International treaties such as the Paris Convention and the TRIPS Agreement establish a baseline standard of protection for GIs, mandating member states to inhibit the use of GIs by unauthorized entities. The TRIPS Agreement also confers additional protection for wines and spirits, underscoring the significance of averting misleading uses of GIs and instituting a multilateral system for the registration of GIs for wines (TRIPS Agreement, 1994).

### **ECONOMIC VALUE OF GEOGRAPHICAL INDICATIONS**

Geographical Indications (GIs) play a pivotal role in enhancing the economic value of associated products by establishing a unique selling proposition (USP). This differentiation enables these products to distinguish themselves in the marketplace, thereby commanding premium prices. In response to intensifying competition, declining market prices, and evolving consumer preferences, the agricultural and food sectors are increasingly adopting alternative production and marketing strategies. Producers are transitioning from commodity markets, where they are price takers, to niche markets, where they can command higher prices and mitigate the impact of price volatility (Hayes et al., 2003). Consequently, GIs have emerged as a strategic tool for producers to create territorially differentiated niche markets, thereby improving market access and facilitating value creation.

The concept of GIs is underpinned by the economics of product differentiation, which underscores the importance of unique product attributes in capturing consumer interest (Moschini et al., 2008). GIs link products to their geographical origins, thereby transforming the territory into a distinctive attribute (Pacciani et al., 2001). This “socially constructed” differentiation is validated by external actors and forms the basis for market segmentation and monopolistic competition. GIs segment the production market and establish barriers to entry for producers outside the designated area, thereby creating a quasi-monopoly structure within the GI supply chain.

The legal framework supporting GIs grants producers property rights to the differentiated product, thereby preventing imitation and ensuring market exclusivity. This exclusion mechanism sustains differentiation and prevents erosion of the niche market. Additionally, GIs enable collective production and marketing, allowing small-scale producers to achieve the economies of scale necessary for investing in the differentiated product image (Barjolle and Chappuis, 2000). Successful differentiation necessitates that producers reach a scale of production that justifies the costs associated with establishing and maintaining the differentiated image, as well as owning the rights to the differentiated product (Hayes et al., 2003). GIs fulfil these criteria, providing a valuable differentiation tool that enhances market access and eliminates competition from similar products produced elsewhere.

Moreover, GIs have the potential to increase incomes through higher sales volumes and the capture of premium prices. The collective process of value creation embedded in GIs enhances the “immaterial dimension of food consumption” for consumers, leading to increased willingness to pay and consumer premiums (Reviron et al., 2009). Empirical studies indicate that consumers in developed countries are willing to pay a premium for products with GI labelling, with similar trends observed in developing countries (Berenguer, 2004; Tran, 2005). Thus, GIs present a promising strategy for producers to differentiate their products, enhance market access, and capture value. By leveraging the unique attributes of their regions, producers can create niche markets that command premium prices, ensure long-term sustainability, and enhance economic value through GIs (Reviron et al., 2009).

## **MALAYSIA'S AND INDONESIA'S GEOGRAPHICAL INDICATIONS**

Nations employ diverse strategies at the national level to safeguard GIs. Among these, Malaysia and Indonesia have adopted a *sui generis* system that entails GIs registration and specific protection criteria. Malaysia's Geographical Indications Act defines GIs as indicators identifying goods originating from a specific country, territory, region, or locality, where the goods' particular quality, reputation, or characteristic is intrinsically linked to their geographical origin. Similarly, Indonesia's Law No. 20/2016 on Marks and Geographical Indications protects GIs under a *sui generis* framework, defining them as indicators identifying goods and/or products as originating from a specific region, where factors of the geographical environment contribute to their reputation, quality, and characteristics.

The safeguarding of Geographical Indications (GIs) is essential in conserving heritage-laden products, fostering rural economic advancement, and preserving the essence of cultural traditions. GIs can significantly uplift local economies by anchoring unique products and artisanal methods, thus reinforcing a region's cultural distinctiveness. Additionally, GI protection assures consumers of product authenticity and quality, a factor crucial in distinguishing local goods from imitations. Nevertheless, the defence and enforcement of GIs face numerous impediments. A key issue lies in establishing effective mechanisms to curb counterfeiting and unauthorized usage. In nations such as Malaysia, GI regulations may lack stringent provisions for penalizing infringement, which can weaken the protective efficacy of GIs. While international frameworks, notably the TRIPS Agreement, outline GI protection, the practical enforcement on a national level remains inconsistent. Strengthening these legal safeguards is vital to unlocking GIs' potential in enhancing economic and cultural value.

## **LEGAL PROTECTION AND FRAMEWORK FOR GI PROTECTION**

This analysis adopts a doctrinal approach to thoroughly examine statutory provisions and recommended best practices in ensuring compliance and the effective protection of Geographical Indications (GIs). Malaysia and Indonesia have established comprehensive legal frameworks to safeguard GIs, acknowledging their significance within intellectual property rights. In Malaysia, the Geographical Indications Act 2022 (Act 836), and in Indonesia, Law No. 20/2016 on Marks and Geographical Indications, serve as foundational legal instruments for GI protection. These regulations define GIs, establish registration protocols, and implement enforcement mechanisms designed to prevent unauthorized use. Recognising the substantial economic and cultural value of GIs, both nations emphasize the importance of protecting these markers. As culturally and naturally rich developing countries, Malaysia and Indonesia see GI protection as critical for promoting economic growth and preserving cultural heritage.

This study explores the mechanisms of GI protection in Malaysia and Indonesia, noting both similarities and differences in their approaches. Each country has implemented registration systems that secure products associated with distinct geographical origins. In Malaysia, the Geographical Indications Act 2022 (Act 836), particularly Section 2, defines GIs as “indications which identify any goods as originating in a country or territory, or a region or locality within that country or territory.” Indonesia’s Law No. 20/2016, Article 1(6), similarly describes GIs as “a sign indicating the geographical origin of goods and/or products.” Both national definitions closely mirror the guidelines of Article 22.1 of the TRIPS Agreement, which defines GIs as indicators that identify a good’s origin in the territory of a member, or in a region or locality within that territory, with specific qualities, reputation, or other attributes fundamentally linked to its geographical origin (TRIPS Agreement, 1994). The Paris Convention further defines the protection scope for industrial property, encompassing “patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and repression of unfair competition,” as stated in Article 1(2). Article 10(1) of the Paris Convention additionally reinforces protections against deceptive indications concerning the origin of goods, enhancing safeguards against misleading practices in global trade.

Malaysia’s GI protection framework is informed by three major international agreements: the TRIPS Agreement, which establishes protection models based on unfair competition, trademark registration, and collective marks. At the international level, GIs gain additional protection through the Madrid and Lisbon Agreements, managed by the World Intellectual Property Organization (WIPO), and reinforced by the Paris Convention. The Paris Convention of 1883 outlines fundamental obligations for industrial property protection, including key provisions such as Article 9 (protection against unlawful mark use), Article 10 (prohibition of false source indicators), and Article 10bis (safeguards against unfair competition).

A pivotal development occurred with the TRIPS Agreement in 1994, which introduced new standards for GI protection. Article 22.1 of TRIPS provides a detailed definition, specifying GIs as identifiers of a product’s origin from a member country or a particular region within it, based on unique qualities, reputation, or characteristics intrinsically tied to that geographical source (TRIPS Agreement, 1994). TRIPS also contains several provisions regulating GIs; notably, Article 22.2 mandates that member states provide legal avenues to prevent public deception concerning product origins, addressing potential unfair competition. Article 23 of TRIPS specifically strengthens protections for wine and spirits by prohibiting the misuse of geographical indicators on non-originating products, even if the true origin is disclosed or terms such as “kind,” “type,” or “imitation” are used (TRIPS Agreement, 1994).

In adherence to TRIPS Articles 22 through 24, Malaysia enacted the Geographical Indications Act of 2000, which was subsequently replaced by the Geographical Indications Act of 2022. Section 2 of the 2000 Act defined a GI as a mark identifying goods as originating from a specific country, region, or locality, where the goods’ qualities, reputation, or characteristics are primarily attributable to that origin. This definition remains consistent in the updated Act. The recent amendments in Malaysia’s GI legislation were aimed at enhancing the country’s intellectual property standards and facilitating accession to the Marrakesh Treaty. This updated alignment with TRIPS further demonstrates Malaysia’s commitment to international IP norms, with the revised provisions operational as of 18 March 2022 (Cooray et al., 2023).

On the other hand, under Government Regulation Number 51 of 2007, Indonesia established a framework to define and administer Geographical Indications (GIs), providing technical specifications aligned with Article 56, paragraph 9 of Law No. 20 of 2016 (FAO, 2016; E.U., n.d.). This regulation

identifies GIs as “signs” associated with specific qualities or characteristics of goods tied to particular regions. These signs apply exclusively to tangible goods, such as agricultural products, handicrafts, and both raw and processed materials from agricultural or mining sources, but do not extend to services. The regulation delineates a certification process for GIs, ensuring that registered GIs receive continuous protection and legal certainty, contingent upon the maintenance of the product's distinctive qualities (Sudirman et al., 2023).

Central to the GI protection framework is the “Book of Requirements”, which details essential factors environmental, geographical, and human that contribute to the product’s distinctiveness. This document also includes regional mappings, historical and traditional backgrounds, and standardized methods for quality control. Developed by local communities, it outlines the quality benchmarks and standards necessary for GI-labelled goods (E.U., n.d.). Regulation 51/2007 further distinguishes between GI “owners” and “users.” Ownership, often held by local community groups, entails the responsibility of maintaining the GI's quality attributes. Meanwhile, GI “users” are producers who adhere to the specified standards and can register with the Directorate General of Intellectual Property Rights (DGIPR) (Sudirman et al., 2023).

In a broader context, Indonesia’s GI framework aims to promote both environmental conservation and economic development by safeguarding regional products, thereby encouraging economic activity, reducing urban migration, and fostering local employment. This initiative aligns with Law No. 20 of 2016 on Trademarks and Geographical Indications, wherein Article 1, Paragraph 6, defines GIs as “signs indicating the origin of goods and/or products” linked to natural and/or human factors that establish their reputation, quality, or unique characteristics (E.U., n.d.). Nonetheless, challenges remain—particularly around the subjective criteria for “reputation” in GI protection. Ambiguity in assessing reputation complicates the GI registration process, especially for goods that enjoy public favour but may not consistently meet high-quality standards (E.U., n.d.). Article 53, Paragraph 3, of Law No. 20 of 2016 further extends GI protection to include natural resources, handicrafts, and industrial products, with a mandatory registration requirement at the respective ministries before a GI can be legally recognized (E.U., n.d.). Responsibility for GI management is shared across national and local government levels, as set forth in Article 70 of Law No. 20 of 2016, which includes assisting with GI applications, promoting commercialization, providing educational resources, and enforcing legal protections through training, assessments, and legal action (E.U., n.d.; Sudirman et al., 2023).

Indonesia’s Ministerial Regulation No. 12 of 2019 enhances the GI framework with provisions for international GI registration procedures, incorporating structured protocols, monitoring mechanisms, and expert evaluations to manage applications from international stakeholders or agreements (Mirandah, 2020). Through the Ministry of Law and Human Rights, Indonesia emphasizes the role of expertise in GI regulation, underscoring the importance of specialized knowledge in ensuring rigorous protection for both domestic and foreign GI products (Mirandah, 2020). Moreover, certification systems are essential to the GI regimes in both Indonesia and Malaysia, maintaining the authenticity and quality standards of GI-designated products. In Malaysia, the MyIPO certifies GIs, verifying compliance with the GI protection criteria. In Indonesia, DGIPR oversees GI certification, affirming both the geographical origin and quality of the products, which fortifies GI credibility and aligns with international GI protection standards (Cooray et al. 2023; Sudirman et al., 2023).

**Table 1**

*An overview of Malaysia and Indonesia legislation on geographical indication with sui generis with number of GIs applied and GIs registered*

	Malaysia	Indonesia
<i>Sui generis</i> legislation	Geographical Indication Act 2000 (Act 602) and Regulations 2001. Replaced by the Geographical Indications Act 2022 (Act 836).	Law 15/2001 on trademarks, replaced by Law on trademarks and GIs 20/2016, Regulation on GIs, 51/2007 and Regulation on GIs 694/2019. Regulation of the Minister of Law and Human Rights Number 10 of 2022, which revises Regulation Number 12 of 2019 on Geographical Indications, alongside Government Regulation Number 90 of 2019, provides complementary guidelines.
Number of GIs Applied	143	169
Number of GIs Registered	118	167

*Source: From Malaysia MyIPO database as of November 2024 and Indonesia DGIPR as of November 2024.*

## REGULATORY CHALLENGES

The regulatory landscape surrounding geographical indications (GIs) in Malaysia and Indonesia encounters complex challenges rooted in legal, administrative, and socio-economic dimensions. Although the Geographical Indications Act of 2000 was introduced to harmonize Malaysia's intellectual property standards with international norms, numerous obstacles continue to impede the robust protection and utilization of GIs (Cooray et al., 2023). Initially, limited awareness of GIs' potential benefits among stakeholders hindered both effective implementation and engagement (San et al., 2017). In a parallel context, Indonesia's efforts to establish a functional GI framework encounter formidable challenges. The scarcity of skilled intellectual property professionals, especially those specialized in GIs, constrains the government's ability to adequately oversee and enforce GI regulations (Tandjung, 2017). This expertise gap underscores broader issues in raising public awareness, enhancing legal literacy around GIs, and integrating GI promotion more effectively into national policy (Tandjung, 2017).

One of the primary challenges in utilising GIs to drive economic value lies in the widespread lack of awareness and comprehension among producers, consumers, and policymakers. Despite the considerable potential of GIs to stimulate economic growth and safeguard cultural heritage, a significant number of stakeholders remain unaware of the advantages GIs offer or the strategies for effectively leveraging them. This knowledge gap can severely hinder efforts to promote and protect GIs, ultimately limiting their economic contributions.

Producers frequently lack a nuanced understanding of the GI registration process, the legal protections accompanying GI-certified products, and the specialized marketing strategies essential for maximizing GI value. This gap often leads to missed opportunities, especially for small-scale producers, who might otherwise distinguish their products, secure premium pricing, and achieve sustained economic growth. Without adequate awareness, these producers may overlook the inherent value embedded in their traditional practices and knowledge, resulting in the underutilization of GIs as an economic empowerment tool. Meanwhile, for consumers, a similar lack of awareness hinders the success of GI initiatives. Many consumers do not fully grasp the importance of GIs in ensuring product authenticity and quality. In the absence of consumer education on the advantages of purchasing GIs-labelled goods, market demand remains limited, consequently diminishing the economic viability of GI efforts. Consumer awareness is vital to fostering a market in which GI products are recognized and valued, thereby driving the economic success of these unique goods. In the same way, policymakers, too, occupy a crucial position within the GI ecosystem, and their lack of comprehension can lead to insufficient legislative frameworks and weak enforcement mechanisms. Policymakers must be well-versed in the socio-economic benefits of GIs, the complexities of GI protection, and the critical need for robust enforcement to prevent misuse and counterfeiting. Without this depth of understanding, policy development and resource allocation may fall short, restricting the economic and cultural benefits that GIs have the potential to provide.

Addressing this challenge requires comprehensive educational and awareness-raising campaigns targeted at all relevant stakeholders. Such initiatives should include detailed information on the benefits of GIs, the processes involved in their registration and protection, and the strategies for effective marketing and enforcement. By enhancing awareness and understanding among producers, consumers, and policymakers, it is possible to create an environment where GIs can be fully leveraged to enhance economic value and preserve cultural heritage. Overcoming the lack of awareness and understanding is essential for maximising the economic impact of GIs. Targeted educational efforts are necessary to ensure that all stakeholders recognise and utilise the potential of GIs effectively. This, in turn, will contribute to the sustainable economic development and cultural preservation that GIs promise.

## **ENFORCEMENT ISSUES**

The enforcement of Geographical Indications (GIs) plays a pivotal role in safeguarding the authenticity and value of region-specific products in both Malaysia and Indonesia. In Malaysia, MyIPO is tasked with enforcing GI rights, taking legal action against infringers, and collaborating with other governmental agencies to curb the influx and distribution of counterfeit goods. Indonesia's DGIPR oversees GI enforcement, coordinating with the Ministry of Trade and the National Police to protect GI rights through legal interventions. By instituting comprehensive legal frameworks and enforcement mechanisms, Malaysia and Indonesia aim to harness the economic potential of GIs while preserving cultural heritage. These actions underscore the significance of GIs as not only markers of product quality and authenticity but also as instruments for regional economic development and cultural preservation.

A primary challenge to fully realizing the economic potential of GIs lies in the enforcement of GI rights. The misuse of GIs and the spread of counterfeit products undermine the credibility and trustworthiness of GI-labeled goods, thus limiting their market value (Marie-Vivien, 2020). Weak enforcement mechanisms exacerbate these issues, compromising the exclusivity and distinctiveness that GIs are intended to offer. When producers or other entities misuse GIs—whether by falsely claiming GI status

or by distributing counterfeit products—it damages consumer confidence and disadvantages legitimate producers who adhere to GI-specific standards. Such infractions confuse consumers, dilute brand equity, and reduce the overall market value of authentic GI products (Marie-Vivien, 2020).

Indonesia's Law No. 20/2016 on Marks and Geographical Indications is structured to protect the unique attributes of products tied to particular geographic origins, promoting both economic growth and cultural heritage preservation. However, despite the law's robust legal foundation, enforcement mechanisms remain constrained. The DGIPR, responsible for GI oversight, often lacks sufficient resources to monitor and enforce GI rights effectively (Tandjung, 2017). The agency's enforcement challenges are complex, requiring extensive and ongoing monitoring to ensure only genuine GI-registered products reach the market. Such monitoring demands significant financial and human resources, which the DGIPR may not readily possess. Consequently, the agency's limited capacity to conduct regular inspections and audits weakens the efficacy of GI protections (Tandjung, 2017).

Further complicating GI enforcement in Indonesia is the need to address counterfeiting and unauthorized GI use. Effective enforcement not only requires identifying infringements but also necessitates robust legal action against offenders. Resource limitations within the DGIPR hinder its ability to pursue these cases with rigor, reducing deterrence and potentially encouraging more infringers to exploit GIs. Thus, while Law No. 20/2016 provides a solid legal foundation for GI protection, weak enforcement mechanisms significantly diminish its effectiveness. In many jurisdictions, GI legal frameworks lack adequate provisions for monitoring, enforcement, and punitive measures, resulting in insufficient deterrence and limited recourse for impacted producers. Without strong enforcement, the assurance of quality and authenticity that GIs are designed to provide is weakened, likely leading to decreased consumer trust and demand (Sudirman et al., 2023).

Addressing enforcement challenges in protecting Geographical Indications (GIs) demands a comprehensive strategy. A key element is the enhancement of legal frameworks, including the implementation of stricter penalties for GI infringements. This legislative strengthening can serve as a more effective deterrent against unauthorized use and counterfeiting. Additionally, equipping enforcement agencies with the necessary resources is essential to enable consistent and thorough monitoring of GI compliance. Furthermore, fostering partnerships between national and international bodies can significantly improve enforcement efforts, facilitating more efficient sharing of information and best practices for monitoring GIs across borders. Alongside these structural changes, raising awareness among producers about their rights and obligations under GI protections is crucial. Educating consumers on the value of purchasing genuine GI products not only helps protect the integrity of these designations but also supports the broader economic and cultural benefits that GIs offer. These combined efforts are essential for enhancing the reliability and economic potential of GIs, promoting both consumer trust and regional development.

## **CAPACITY BUILDING AND INSTITUTIONAL SUPPORT**

Developing nations such as Malaysia and Indonesia frequently encounter significant obstacles in their efforts to effectively promote and protect GIs. These challenges stem largely from inadequate institutional capacity, which encompasses the absence of specialized agencies, trained personnel, and the requisite financial resources dedicated to GI protection and promotion. Without sufficient capacity building and robust institutional support, it becomes exceedingly difficult to fully harness the economic potential that GIs offer (Rangnekar, 2004). The institutional capacity required for effective GI

protection and promotion involves several key components. Firstly, specialized agencies are essential for the administration and enforcement of GI laws. These agencies need to be equipped with the expertise to handle the registration process, monitor compliance, and take enforcement actions against infringements. However, in many developing countries, such agencies are either non-existent or underdeveloped, lacking the necessary infrastructure and authority to perform these critical functions (Rangnekar, 2004).

Moreover, trained personnel are indispensable for the effective functioning of these agencies. This includes legal experts who understand the nuances of GI legislation, as well as technical staff who can verify the authenticity and quality of GI-protected products. Unfortunately, the scarcity of such skilled professionals in developing countries poses a significant barrier to the effective management and enforcement of GI protections. The lack of training programs and educational initiatives further exacerbates this issue, leaving a void in the necessary human capital required for GI administration (Rangnekar, 2004).

Financial resources also play a crucial role in the protection and promotion of GIs. Adequate funding is necessary to support the operations of specialized agencies, conduct public awareness campaigns, and implement enforcement mechanisms. However, many developing countries face budgetary constraints that limit their ability to allocate sufficient funds to GI-related activities. This financial shortfall hampers the ability to undertake comprehensive measures that ensure the integrity and value of GIs.

The absence of adequate institutional support not only undermines the protection of GIs but also impedes their promotion. Effective promotion of GIs requires concerted efforts to educate producers, consumers, and policymakers about the benefits of GIs and the importance of preserving cultural heritage. This involves organizing workshops, seminars, and marketing campaigns that highlight the unique qualities of GI-protected products. However, without institutional backing and financial investment, such promotional activities are difficult to sustain, limiting the reach and impact of GI awareness initiatives. To address these challenges, capacity building and institutional strengthening are imperative (Rangnekar, 2004). Developing countries need to invest in establishing and empowering specialized agencies dedicated to GI protection. This includes providing training programs to build a cadre of skilled professionals equipped to manage and enforce GI laws. Additionally, securing sustainable financial resources is crucial for supporting the operations of these agencies and implementing effective promotion strategies.

International cooperation and support can also play a pivotal role in enhancing the institutional capacity of developing countries. Technical assistance and funding from international organizations can help build the necessary infrastructure and expertise for GI protection and promotion. Collaborative initiatives that facilitate knowledge exchange and best practice sharing among countries can further bolster the efforts of developing nations in this regard. Thus, lack of institutional capacity presents a significant challenge for developing countries like Malaysia and Indonesia in their efforts to promote and protect Geographical Indications. Addressing this issue requires concerted efforts in capacity building, institutional strengthening, and securing adequate financial resources. By enhancing their institutional capacity, developing countries can better leverage the economic potential of GIs, thereby fostering economic development and preserving their rich cultural heritage (Rangnekar, 2004).

### **Case Study 1: Sarawak Pepper**

Sarawak pepper, a distinguished GI product from Malaysia, is renowned for its unique flavour and aroma, attributes that are intrinsically linked to its geographical origin. However, despite its recognition as a GI, Sarawak pepper encounters significant challenges in international markets, primarily due to a pervasive lack of awareness among consumers regarding its unique qualities and provenance. This deficiency in consumer awareness hampers the market potential of Sarawak pepper, leading to constrained market opportunities and suboptimal pricing for producers (Semuroh & Sumin, 2021).

The intrinsic qualities of Sarawak pepper, which include its distinctive pungency and aromatic profile, are the result of specific environmental conditions and traditional cultivation practices unique to the region. These attributes, which differentiate Sarawak pepper from other pepper varieties, are not widely recognized by international consumers. The lack of consumer awareness about the GI status of Sarawak pepper means that its unique selling proposition remains underutilized, preventing producers from fully capitalizing on its market potential (Semuroh & Sumin, 2021).

In international markets, where consumer preference often dictates product success, the limited recognition of Sarawak pepper's unique characteristics translates into diminished competitive advantage. Consumers, unaware of the distinctive qualities conferred by the geographical origin of Sarawak pepper, may opt for more familiar or readily available pepper varieties. This market behaviour not only limits the reach of Sarawak pepper but also exerts downward pressure on prices, adversely affecting the economic returns for producers (Semuroh & Sumin, 2021). To mitigate these challenges and enhance the market position of Sarawak pepper, concerted efforts are required to raise consumer awareness about its GI status and unique attributes. Strategic marketing campaigns, highlighting the distinctive qualities and cultural heritage of Sarawak pepper, could play a pivotal role in educating consumers and fostering market differentiation. Furthermore, leveraging digital marketing platforms and engaging in international food fairs could provide avenues for wider recognition and appreciation of Sarawak pepper among global consumers.

### **Case Study 2: Kopi Luwak**

Kopi Luwak, a distinguished coffee from Indonesia, is renowned for its unique production process involving the digestion of coffee cherries by civet cats. Despite its acclaimed status and recognition as a GI, Kopi Luwak has encountered significant challenges due to the widespread proliferation of counterfeit products. The lax enforcement of GI rights has facilitated the fraudulent labelling of non-authentic products as Kopi Luwak, thereby deceiving consumers and adversely affecting genuine producers (Santika & Sh, 2018).

The issue of counterfeiting in the Kopi Luwak market underscores the critical need for robust enforcement mechanisms to protect GI rights effectively. The unique attributes and high market value of Kopi Luwak make it a prime target for counterfeiters, who exploit the lack of stringent regulatory oversight to mislead consumers and capitalize on the product's premium reputation. This not only erodes consumer trust but also undermines the economic viability of legitimate producers who adhere to the traditional and labor-intensive production methods that define authentic Kopi Luwak. (Santika & Sh, 2018). Weak enforcement of GI rights can lead to several detrimental outcomes. First, it diminishes the perceived value of the GI, as consumers become wary of the authenticity of products labelled as Kopi Luwak. This scepticism can result in decreased demand and lower prices, ultimately harming the economic prospects of genuine producers. Additionally, the influx of counterfeit products can lead to

market saturation, further eroding the exclusivity and premium status that GI protection is meant to confer. (Santika & Sh, 2018).

The case of Kopi Luwak illustrates the broader challenges faced by GI-protected products in markets with insufficient enforcement mechanisms. To address these issues, several measures can be implemented. Strengthening the legal framework to include more stringent penalties for GI infringements and enhancing the capabilities of regulatory and enforcement agencies are essential steps. Additionally, increasing collaboration between national and international bodies can help improve monitoring and enforcement efforts. Strengthening enforcement mechanisms, raising consumer awareness, and leveraging technology are critical to preserving the integrity and economic value of GI-protected products. By addressing these challenges, it is possible to safeguard the interests of legitimate producers, enhance consumer confidence, and support the sustainable development of regions reliant on GI-protected goods.

### **Case Study 3: Batik**

Batik, a traditional fabric from Indonesia, is recognized as a GI product, embodying significant cultural and economic value. However, the promotion and protection of Batik encounter substantial challenges primarily due to the lack of institutional support and capacity building. Many small-scale producers are hindered by insufficient resources and knowledge necessary for effectively marketing their products, which ultimately restricts their economic potential (Rahmah, 2017).

The recognition of Batik as a GI underscores its cultural heritage and unique regional attributes, distinguishing it from other textile products in the market. Despite this recognition, the full economic benefits of Batik as a GI remain unrealized. The institutional framework required to support the promotion and protection of Batik is inadequate, leading to gaps in capacity building initiatives that are crucial for empowering producers (Rahmah, 2017). Effective promotion and protection of GI products like Batik necessitate robust institutional mechanisms that can provide comprehensive support to producers. This includes offering training programs that enhance producers' understanding of GI benefits, marketing strategies, and legal frameworks protecting their products. Additionally, financial resources must be allocated to assist small-scale producers in accessing markets and improving product quality. The economic significance of Batik as a GI product lies in its potential to command premium prices and access niche markets that value its authenticity and traditional craftsmanship. However, without adequate institutional support, producers struggle to leverage these advantages. The lack of coordinated efforts to promote Batik and educate stakeholders on its value results in limited market opportunities and diminished economic returns for those involved in its production. (Rahmah, 2017).

According to Rahmah (2017) addressing these challenges requires a concerted effort from both governmental and non-governmental organizations to strengthen the institutional framework supporting Batik. This includes developing policies that provide financial incentives, establishing marketing cooperatives, and fostering collaborations between producers and market experts. By enhancing institutional support and capacity building, Indonesia can unlock the full economic potential of Batik, ensuring that its cultural heritage is not only preserved but also economically rewarding for its producers.

Batik holds significant cultural and economic importance as a GI product, its promotion and protection are impeded by inadequate institutional support and capacity building. To realize the full economic value of Batik, it is imperative to strengthen the institutional mechanisms that support its production and

marketing, thereby empowering small-scale producers and enhancing their economic prospects (Rahmah, 2017).

Enhancing economic value through Geographical Indications (GIs) necessitates addressing several critical challenges, including the lack of awareness and understanding, enforcement issues, and the need for capacity building and institutional support. By examining authentic cases such as Sarawak pepper, Kopi Luwak, and Batik, Malaysia and Indonesia can derive valuable lessons to overcome these challenges and unlock the full potential of GIs to enhance economic value.

The lack of awareness and understanding among producers, consumers, and policymakers remains a significant barrier to the effective utilization of Geographical Indications (GIs). Many stakeholders do not fully recognize the potential benefits of GIs or understand the necessary steps to leverage them effectively. For example, Sarawak pepper, a Malaysian GI product known for its distinctive flavor and aroma, faces substantial challenges in the global market. Limited consumer awareness about its unique qualities and regional origin constrains market opportunities and often leads to reduced prices for producers (Semuroh & Sumin, 2021). Addressing this gap in awareness requires broad-based educational initiatives, including targeted workshops, seminars, and campaigns to enhance the understanding and value of GIs among all stakeholders involved (Semuroh & Sumin, 2021).

In addition to awareness issues, enforcement challenges further impede the economic potential of GIs. Effective enforcement mechanisms are essential to prevent the misuse and counterfeiting of GI-labeled products, as weak enforcement diminishes both consumer trust and the economic value of GIs. Kopi Luwak, an Indonesian coffee famous for its specialized production process, illustrates this issue; counterfeit products labeled as Kopi Luwak have proliferated due to inadequate enforcement. Such false labeling deceives consumers and undermines the legitimacy of genuine producers, who then suffer economically (Santika & Sh, 2018). Strengthening enforcement measures and allocating sufficient resources for effective monitoring and legal actions are critical steps to safeguarding the integrity of GI products and preserving their market value.

Furthermore, capacity building and institutional support play a crucial role in the sustainable promotion and protection of GIs, particularly in developing countries like Malaysia and Indonesia. These countries often lack specialized agencies, adequately trained personnel, and financial resources for robust GI protection and promotion. For instance, Indonesia's Law No. 20/2016 on Marks and Geographical Indications provides a legal framework for GI registration and protection. However, enforcement is often limited, as the Directorate General of Intellectual Property Rights (DGIPR) may lack sufficient resources for comprehensive GI monitoring (Tandjung, 2017). Additionally, small-scale producers, such as those producing Batik, a traditional Indonesian fabric, frequently lack the necessary resources and knowledge to market their products effectively, which diminishes their economic potential (Rahmah, 2017). Building institutional capacity through targeted training, financial support, and the establishment of specialized agencies is therefore essential to fully harness the economic benefits of GIs (Rahmah, 2017).

Overall, overcoming these challenges requires a multi-faceted approach that addresses the challenges of awareness, enforcement, and institutional capacity. By learning from authentic cases such as Sarawak pepper, Kopi Luwak, and Batik, Malaysia and Indonesia can develop effective strategies to overcome these challenges. Strengthening educational initiatives, enforcement mechanisms, and institutional support will enable these countries to fully realize the economic benefits of GIs, promoting sustainable development and preserving cultural heritage.

## **THE IMPACT OF GEOGRAPHICAL INDICATIONS (GIS) ON LOCAL COMMUNITIES' DEVELOPMENT**

Geographical Indications (GIs) are increasingly recognized for their potential to enhance regional prosperity, particularly in less-favoured or remote areas. GIs have been promoted as a means to raise producer incomes and promote rural socio-economic development, especially in lower-income countries (Vitória et al., 2022). Several studies have examined the impact of GI products on regional prosperity, although most rely on case studies with limited empirical data. These studies often focus on institutional arrangements and how variations in these arrangements affect the likelihood of increased income remaining in the original product area (Török, 2020). A key goal highlighted by researchers is to ensure that higher GI income attaches to the producing area rather than further down the value chain. This has both a direct impact on the income level of GI farmers and an indirect effect on local employment, both of which are crucial considerations (Vitória et al., 2022). Additionally, attracting consumers to the producing area can lead to positive spill-over effects, interacting positively with tourism and handicraft production. Studies also point to non-economic benefits, such as maintaining traditional production methods and encouraging social interaction within communities (Török, 2020).

Analyses of various GIs in different regions have shown mixed results. While some products achieve high market performance and exports, their contribution to rural development may be limited. In contrast, smaller producers with strong production traditions may have better outcomes in terms of rural development contributions. For instance, studies on GI olive oil in Lesbos Island suggest that smaller producers may achieve higher incomes due to greater freedom in choosing supply chains, compared to larger bottlers who must satisfy international retailers (Vitória et al., 2022). The direct economic impact of GIs on regional prosperity is evident in several cases. For example, the GI status of Sarawak pepper in Malaysia has elevated the product's market profile, although challenges remain in maximizing its economic potential due to limited consumer awareness (Semuroh & Sumin, 2021). Similarly, Kopi Luwak from Indonesia has faced significant challenges related to counterfeit products, highlighting the need for stronger enforcement mechanisms to protect GI rights and maintain consumer trust (Santika & Sh, 2018).

Furthermore, the cultural and social dimensions of GIs are integral to their success. The promotion and protection of traditional products like Batik from Indonesia, which is a GI product with significant cultural and economic importance, face challenges due to insufficient institutional support and capacity building. Many small-scale producers lack the resources and knowledge to effectively market their products, thereby limiting their economic value (Rahmah, 2017). However, the introduction of GIs is not without challenges. Some studies suggest that pursuing extra-local markets may lead to changes in production processes, potentially eroding the former characteristics of regional distinctiveness (Vitória et al., 2022). This underscores the importance of considering the social-organizational context when implementing GI initiatives. Proper quality standards, clear valorisation of the producing area, and strong collective organization among GI producers are essential for GIs to positively contribute to regional prosperity (Vitória et al., 2022).

For instance, The European Economic Community (EEC) Regulation 2081/92 underscores the significance of protecting the “provenance” of products as a means to enhance rural development (Pacciani, 2001). This protection is believed to benefit the rural economy, particularly in less-favoured or remote areas, by increasing farmers' incomes and sustaining the rural population in these regions (Pacciani, 2001). The protection of Geographical Indications (GIs) is perceived as a strategy to promote niche marketing and product differentiation, particularly for products with strong historical and

symbolic ties to their place of origin. GIs transcend mere product identification with a place; they represent a form of intellectual property enabling social and industrial groups to safeguard and differentiate their products. This safeguarding can elevate the reputation of small local producers and enable them to compete against larger corporations by engaging directly with consumers (Török, 2020).

GIs are conceptualized as a form of collective monopoly right, empowering producers to distinguish their products in the market while simultaneously acting as a barrier to entry for competitors. The specifications outlined in GI registrations delineate how, where, and with what ingredients a product must be made. For eligible producers, GIs offer the opportunity to capture the value associated with the appellation (Hajdukiewicz, 2014). Furthermore, the protection of GIs serves to publicize the localities and regions associated with the products, thereby contributing to the promotion of these areas. Products labeled as “*produits de terroir*”, or products of local or regional land, hold significant market positions in countries like France, Italy, Spain, and Portugal (Bérard & Marchenay, 2006). This market segment is expanding as consumers increasingly prioritize the quality of foodstuffs over quantity. This shift is reflected in the growing demand for agricultural products and foodstuffs with identifiable geographical origins (Bérard & Marchenay, 2006).

Geographical Indications (GIs) are increasingly recognized as a tool for protecting and rewarding indigenous peoples' knowledge. Unlike some forms of intellectual property rights (IPRs) that cover the content of knowledge, GIs protect specific expressions and distinctive signs or symbols. This overlapping protection provides a comprehensive framework for safeguarding traditional knowledge (Coombe et al., 2014). For example, handicrafts can be protected where the technical content is safeguarded as a technical idea, the cultural value as a form of expression, and distinctive characteristics through marks or indications. Some countries favour GIs for protecting traditional knowledge due to their compatibility with customary practices of indigenous communities (Coombe et al., 2014).

However, conflicts exist between contemporary IPR systems and customary law and traditional cultural property rights. Indigenous communities may have similar concepts to property rights, but their informal innovation systems and cultural exchange practices clash with modern IPR norms and practices. GIs have specific features that make them more suitable for protecting indigenous knowledge compared to other IPRs (Coombe et al., 2014). Firstly, knowledge remains in the public domain, as no entity exercises exclusive control over the knowledge embedded in the protected indication. This mitigates concerns of commodification of traditional knowledge. Secondly, rights can be held in perpetuity as long as the link between the product and its origin is maintained. However, this raises questions about the permissible evolution of traditional practices over time (Coombe et al., 2014). GIs also provide protection consistent with cultural and traditional rights. They are collective rights owned by all producers who observe specified codes and produce within a demarcated geographical region. This limits the class and location of people who may use the protected indication, ensuring its cultural and traditional significance is preserved (Coombe et al., 2014). While GIs offer benefits such as avoiding adverse socio-economic effects of corporate control seen with patents and copyrights, they do not protect the knowledge or production process itself. Therefore, additional strategies are needed to protect traditional knowledge fully. Nonetheless, GIs play a crucial role in translating long-standing collective knowledge into livelihoods and income for indigenous communities (Rangnekar, 2004).

Protecting GIs not only benefits producers by allowing them to differentiate their products and capture value but also helps promote and preserve the cultural and geographical heritage of the regions associated with these products. While GIs have the potential to enhance rural development, their success depends on various factors, including the local context, quality standards, and collective organization

among producers (Rangnekar, 2004). It is crucial to address these factors to maximize the positive impact of GIs on regional prosperity. GI producers remain at the core of GI management; it is crucial to focus on building a collective organization of producers from the outset of the GI process. While state support is essential, including at the local, national, and international levels, the long-term success of GI products depends largely on the ability of local producers and processors to organize themselves. This includes drafting GI specifications, monitoring internal control, promoting the product, and raising consumer awareness (Rangnekar, 2004).

Moreover, building collective action should occur immediately after the GI process begins, whether before or after registration. Agreement among stakeholders of the value chain is crucial for the success of the GIs. Moreover, GIs registration should not be viewed as a one-off event but rather as a discursive and interactive process involving producers, applicants, retailers, and other stakeholders. Promoting the commercialization of GIs in ASEAN by improving the capacity of the productive sector and providing training in the use of GIs is central to the ASEAN IPRs Action Plan 2016–2025 (Rahmah, 2018, & Marie-Vivien, 2020). GIs are a valuable tool for promoting origin products in the globalized world. While Europe has had long-standing success with GIs, ASEAN and Asian countries are enacting *sui generis* GI legislations. However, many registered GIs in these regions are still underutilised. This may be due to the top-down approach to GIs protection in these regions, which contrasts with the producer-driven approach in Europe. Transitioning to a more producer-driven approach, similar to the European model, may help awaken these “sleeping beauties” and enhance the success of GIs in Asia and ASEAN. This could involve mandating the creation of a collective organization of producers/processors within a short period after GIs registration, if not at the time of registration, to ensure producers remain central to GIs management (Rahmah, 2018, & Marie-Vivien, 2020).

## CONCLUSION

The challenges faced by developing countries in leveraging the socio-economic benefits of GIs are multifaceted. While the European Union (EU) asserts that GIs protection can be globally successful, especially in developing nations (referring to Malaysia and Indonesia), realising these benefits is complex. According to Das (2009), despite India granting legal protection to 106 GIs since 2003, holders encounter significant hurdles in realizing GIs benefits. This situation underscores the need for appropriate legal frameworks and consideration of factors unique to developing nations (i.e. Malaysia and Indonesia) when assessing the socio-economic impact of GIs. Hedges (2009) emphasizes the distinction between legal protection and the actual accumulation of reputational capital, noting that the latter is crucial for developing countries. Bowen (2010) illustrates this with the example of Mexico's Tequila GI, which, despite legal definition similarities with France, failed to benefit local communities post-implementation. Thus, merely adopting stronger laws does not guarantee the socio-economic potential of GIs. Developing countries should avoid blindly copying developed nations' legal systems, as they may not align with local dynamics (Boisvert, 2006). GIs, as collective instruments of value creation, face challenges in ensuring fair benefit distribution among stakeholders. Moschini et al. (2008) and Reviron et al. (2009) demonstrate that not all producers benefit from GIs, with traders often capturing a larger share of economic benefits. This disparity highlights the importance of equitable benefit distribution, particularly in the context of developing countries (Gopalakrishnan et al., 2007; Kaplinsky and Fitter, 2001).

The equitable distribution of GI benefits depends on factors such as supply chain governance and the balance of power among actors. Jena and Grote (2010) stress that producers' involvement in benefit

sharing is pivotal for GI success. However, resource-poor producers often receive minimal benefits, especially in developing countries. Additionally, the distribution of benefits is influenced by who can own and use the GI. Gopalakrishnan et al. (2007) note that while Asian legal frameworks vary regarding GI ownership, most limit GI use to actual producers and traders to ensure regional benefits. To ensure effective marketing and distribution, it is crucial to create awareness of GIs' value among consumers. Alavoine-Mornas (1997) suggests that origin-based niche marketing may require extensive campaigns for consumer recognition. However, marketing and distribution complexities, coupled with lack of market knowledge, remain weaknesses in developing country GI supply chains (Albisu, 2002; CIRAD, 2009).

Maintaining consistent product quality is vital for GIs success. Addor and Grazioli (2002) highlight that implementing a GI can structure production methods and marketing to guarantee consistent quality. However, quality standards should not be so rigid as to stifle innovation (Barjolle and Sylvander, 2002). Developing countries entering international markets must balance product specificity with innovation to adapt to changing market demands (Bowen, 2010). In conclusion, realizing the socio-economic potential of GIs in developing countries requires addressing various challenges. These include equitable benefit distribution, effective marketing, quality control, and alignment with broader policy objectives. Developing clear action plans and supportive policies at national and international levels are crucial for consolidating the benefits of GIs (Vivas-Egui, 2001, as cited in Addor and Grazioli, 2002).

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