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Eskaton Garden, Dhaka-1000

Policy Review/Policy Study/Policy Paper Preparation
on
Geographical Indication of Goods
(Registration & Protection) Act 2013



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Policy Review/Policy Study/Policy Paper Preparation

on

**Geographical Indication of Goods (Registration &
Protection) Act 2013**

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Submitted to

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Preface

The review paper intends to respond to the requirement according to the provision of the contract agreement signed between Bangladesh Regional Connectivity Project-1 (BRCP 1) and South Asian Network on Economic Modeling (SANEM) for conducting **“Policy Review/Policy Study/Policy Paper Preparation under the Bangladesh Regional Connectivity Project 1)”** in collaboration with International Development Association (IDA), The World Bank. The objective of this technical assistance project is to review the existing government policies related to trade to strengthen cooperation in trade, transport, and transit facilities and facilitate the economic empowerment of women traders. The ongoing context and challenges are compared with the existing policies. It has also analysed the best practices of regional comparators to promote and improve trade-related activities as well as the relevance of SHE trade with the existing policies. Finally, based on the findings, the recommendation for future policy has been identified.

Consultancy services for conducting the **“Policy Review/Policy Study/Policy Paper Preparation under the Bangladesh Regional Connectivity Project 1)”** was provided by the South Asian Network on Economic Modeling (SANEM), Bangladesh. The study team consists of four senior-level experts. The major objective of the study is to depict a clear picture of the current situation state of the implementation of the policies, and challenges for upcoming LDC graduation to provide suggestions for future policies. Furthermore, Reviewing and identifying the gaps in the existing policies were also aimed to be found for this study.

Various issues have been identified upon the careful review of the **“Geographical Indication of Goods (Registration & Protection) Act 2013”** which includes an overview of the objective of the Act, the current registration system for Geographical Indication of Goods, the protection mechanism of Geographical Indication (GI) goods, enforcement ability and implementation challenges, TRIPS issues and whether the Act is TRIPS compliant or not, post-LDC graduation challenges, gender perspective of the Act, and the need to further amend some significant provisions of the Act.

We hope that the policy recommendations would be helpful for the policymakers and other relevant stakeholders for the further development of the Act.

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It is indeed a great pleasure that Bangladesh Regional Connectivity Project 1 (BRCP-1), Ministry of Commerce has entrusted International Development Association (IDA), and the World Bank to carry out “Policy Review/Policy Study/Policy Paper Preparation”. The report of the study has been prepared based on a mixed methodology. The studies are 1) SME Policy 2019 2) Trademark Act 2009, and 3) Geographical Indication of Goods (Registration & Protection) Act 2013.

The policy papers contain the objective, scope, and methodology for the studies, current context, and challenges, deviation from the international practices, and the relevance of the policies to the SHE trade. The consultants also described the best practices of regional countries adapted to facilitate trade-related activities. In the end, the findings from the analysis and recommendations for the upcoming policy papers are portrayed.

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Dr. Selim Raihan

Executive Director, SANEM

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List of acronyms

<i>AO</i>	<i>Appellation of Origin</i>
<i>APEDA</i>	<i>Agricultural and Processed Food Export Development Authority</i>
<i>ASEAN</i>	<i>Association of Southeast Asian Nations</i>
<i>BBS</i>	<i>Bangladesh Bureau of Statistics</i>
<i>BJMC</i>	<i>Bangladesh Jute Mills Corporation</i>
<i>BLPA</i>	<i>Bangladesh Land Port Authority</i>
<i>BRCP</i>	<i>Bangladesh Regional Connectivity Project</i>
<i>BRRRI</i>	<i>Bangladesh Rice Research Institute</i>
<i>BSCIC</i>	<i>Bangladesh Small and Cottage Industries Corporation</i>
<i>BWCCI</i>	<i>Bangladesh Women Chamber of Commerce and Industry</i>
<i>COVID-19</i>	<i>Coronavirus disease</i>
<i>DAE</i>	<i>Department of Agricultural Extension</i>
<i>DFQF</i>	<i>Duty-free Quota-free</i>
<i>DNA</i>	<i>Deoxyribonucleic Acid</i>
<i>DPDT</i>	<i>Department of Patents, Designs and Trademarks</i>
<i>EPB</i>	<i>Export Promotion Bureau</i>
<i>EU</i>	<i>European Union</i>
<i>EVI</i>	<i>Economic Vulnerability Index</i>
<i>FAQ</i>	<i>Frequently Asked Questions</i>
<i>FGD</i>	<i>Focus Group Discussion</i>
<i>FTA</i>	<i>Free Trade Agreement</i>
<i>FY</i>	<i>Fiscal Year</i>
<i>GDP</i>	<i>Gross Domestic Product</i>
<i>GI</i>	<i>Geographical Indication</i>
<i>GNI</i>	<i>Gross National Income</i>
<i>GoB</i>	<i>Government of Bangladesh</i>
<i>HAI</i>	<i>Human Assets Index</i>
<i>IDA</i>	<i>International Development Association</i>
<i>IMF</i>	<i>International Monetary Fund</i>
<i>IP</i>	<i>Intellectual Property</i>
<i>IPR</i>	<i>Intellectual Property Rights</i>
<i>KII</i>	<i>Key Informant Interview</i>
<i>LDC</i>	<i>Least Developed Country</i>
<i>MoC</i>	<i>Ministry of Commerce</i>
<i>Moi</i>	<i>Ministry of Industries</i>
<i>MoCA</i>	<i>Ministry of Cultural Affairs</i>
<i>NBR</i>	<i>National Board of Revenue</i>
<i>NGO</i>	<i>Non-governmental organization</i>
<i>ODOP</i>	<i>One District One Product</i>
<i>PGI</i>	<i>Protected Geographical Indication</i>
<i>RTA</i>	<i>Regional Trade Agreement</i>
<i>SANEM</i>	<i>South Asian Network on Economic Modeling</i>
<i>SME</i>	<i>Small and Medium Enterprise</i>
<i>TCE</i>	<i>Traditional Cultural Expressions</i>
<i>TK</i>	<i>Traditional Knowledge</i>
<i>TRIPS</i>	<i>Trade-Related Aspects of Intellectual Property Rights</i>
<i>UK</i>	<i>United Kingdom</i>
<i>UMIC</i>	<i>Upper Middle-Income Country</i>
<i>UNCTAD</i>	<i>United Nations Conference on Trade and Development</i>

<i>UNESCO</i>	<i>United Nations Educational, Scientific and Cultural Organization</i>
<i>USA</i>	<i>United States of America</i>
<i>WB</i>	<i>World Bank</i>
<i>WBL</i>	<i>Women, Business and Law</i>
<i>WIPO</i>	<i>World Intellectual Property Organization</i>
<i>WTO</i>	<i>World Trade Organization</i>
<i>4IR</i>	<i>4th Industrial Revolution</i>
<i>8FYP</i>	<i>8th Five-Year Plan</i>

Executive Summary

Bangladesh Regional Connectivity Project 1 (BRCP-1) in collaboration with the International Development Association (IDA), and the World Bank is launched by the Government of Bangladesh (GoB) to facilitate trade and enhance regional connectivity. Component two of this umbrella project is being executed by the Ministry of Commerce (MoC). The primary objective of this component of the technical assistance project is to review the existing government policies related to trade, increase trade-related institutional capacity, ensure active and sustainable cooperation among the relevant stakeholders, and facilitate the economic empowerment of women traders. Also, as Bangladesh is on the verge of graduating from the LDC category in 2026, reviewing the existing trade-related policies is necessary for smoother post-graduation trade performance. Preparatory phases of graduation need effective formulation and efficient implementation of trade and trade-related policies.

As a part of this project, we have conducted a thorough review of the Geographical Indication of Goods (Registration and Protection) Act 2013 using a mixed methodology. This review paper has identified significant aspects of this Act, its implementation challenges, and its relevance to the current global trade and business scenarios. This review has also compared the Geographical Indication of Goods (Registration & Protection) Act of Bangladesh with some of the significant success cases in formulating and implementing similar Acts in the South-Asian and East-Asian countries.

Formulating and enacting an Act is exhaustive work and it needs rigorous study and continuous consultation with the stakeholders. Our primary findings point out that the provisions of the current Act are well thought out. However, there is a lack of coordination, enforcement ability, and monitoring, which eventually limits the effectiveness of the policy. The current Act also does not address the present changing trade and business dynamics (COVID-19 recovery, 4th Industrial Revolution, LDC graduation, 8th Five-Year plan, Perspective Plan 2021-2041). Some of the vital issues are not mentioned in the Act which needs to be addressed as Bangladesh is soon to be graduated from the LDC bracket in 2026.

Section two of this review paper gives an overview of the history and evaluation of the global as well as domestic formulation of the geographical indication (GI) law and policy. This section broadly discusses the economic and social aspects related to GI. In this section, global best practices are deliberated and the lessons that can be adopted for the betterment and up-gradation of the GI legislation in Bangladesh are portrayed.

Section three of this review identifies the relationship of the Act with the SHE trade. Women entrepreneurs have benefitted societies across the world since the beginning of time. But at the same time, the benefit of GIs is not properly transferred to the community people, especially women. Inclusiveness of the community must be ensured for local development through proper strategy and action plans.

Findings from KIIs and FGDs are discussed in Section four. Bangladesh enacted the GI Act in 2013, but the Act suffers from some major loopholes. The benefits of the GI tag cannot be fully extracted only through registration due to some challenges in the context of Bangladesh. Awareness of GI systems and knowledge of how to manage them is lacking in Bangladesh.

Under the Bangladeshi GI system, traditional knowledge (TK), traditional behaviours, and traditional products have received no direct mention. In the lack of a legal system to preserve TK and related items, the GI Act may be able to fill the gap. Bangladesh can also create special mechanisms for GIs originating in hilly and coastal areas, as well as GIs belonging to indigenous people. Bangladeshi GI Act has not defined the geographical area limit to determine the "genericide" of a GI with worldwide notoriety. Bangladesh should take advantage of the Doha Round negotiations by providing special protection to certain GIs in items other than wines and spirits. The government should publish a list of globally recognised GI products, such as "Jamdani," "Nakshi kantha", "Hilsa", "Mangoes from Rajshahi", and specific "Aromatic rice varieties". A specific name for GI that omits all the possible confusion and ambiguity about the protection is crucial to be addressed in the Act. The registration of the existing GI products can be extended to include processed products, based on reputation, as well as natural circumstances as a result of human interference. The registration process appears to be very complicated and lengthy compared to other Intellectual Properties (IPs). In a hostile and competitive domestic and global commercial market, time-consuming registration may assist a GI to become generic. The validity period of the authorised user of registered GI is not long. The term of the registration needs to be increased. The administrative body should be complemented by a judicial body in the appeal process. The Act is vague on the methods and procedures for shared cross-border GIs. Bangladesh can draft bilateral agreements with India for "Nakshi kantha", "Fazli Mango" and such other products. Bangladesi GI management system has taken no steps to promote GI product branding, either through signs, logos or labelling. The international market of GI products is highly competitive, where the authenticity of the product, as well as the consumable quality and health safety, must be ensured. The GI regime makes no mention of a GI Inspection system, which is necessary to ensure and maintain the GI goods' claimed quality. Inspection bodies are critical in ensuring that the producers do not reduce the quality of the items. The Bangladeshi GI law may have been improved if the statute had required inspection bodies. Partnerships between the state and private enterprises are required to create effective GI governance frameworks. Bangladesh may confront daunting hurdles in equitable benefit distribution among many stakeholders. Since an individual producer cannot apply for registration in his or her name, it remains ambiguous whether a real producer, extractor or manufacturer of GI goods is divested from being a beneficiary. The Department of Patents, Designs and Trademarks (DPDT) should be given more power to strengthen the enforcement mechanism and quality assurance. The registered proprietor of a GI in Bangladesh has to be an "association of persons or producers". Such a requirement often necessitates the formation of a new organization as well as the strengthening of existing organizations. Bengal has been famous for its "Golden Fibre" from ancient times. The international reputation of Bengal jute and jute-based products is unprotected. To prevent this kind of free-riding, we need to protect jute with the GI mechanism. The definition of the producer should be more specified and the relationship between the registered proprietor and authorised user should be made clearer in the Act.

The scope of the GI Act is very limited to include all aspects of GI products such as branding, awareness, quality control and benefit distribution. A GI policy or a comprehensive Intellectual Property Rights (IPR) policy with special emphasis on GI products can fill the gap in the GI registration process. Registration of the Bangladeshi GI products in the international WTO register would be difficult given that Bangladesh has a strong competitor like India and

that Bangladesh lacks historical evidence on the origin of these products. Given the limited economy of scale at present, necessary steps should be taken by the government to make GI products cost-effective.

Some specific recommendations have been suggested for a proper formulation and efficient implementation of the future GI Act in Section five. Some provisions of the existing Act must be revisited and tailor-made given the changing trade scenario, current status and bottlenecks.

The GI Act of Bangladesh serves the purpose of registering and protecting these products since 2013. To foster GI products more efficiently, the Act needs to be reformed. The new Act must address the issues that remained unclear in the existing legislation. This includes protection of traditional knowledge, provision for the indigenous community, quality control mechanism, strengthening organization and association bodies, cross-border GI protection, drafting bilateral agreements, additional protection scheme, registration of homonymous GI, judicial scrutiny in administrative decisions, narrower definition of generic GI, registration for the appellation of origin, post-registration mechanism, protection of processed products, use of the logo for better marketing, the relationship between registered proprietor and authorized user, and power of DPDT to cease or to take action when quality is compromised. Only then will Bangladesh be able to appreciate the benefits of GI protection.

1. Introduction

1.1 Background

A geographical indication (GI) is a symbol placed on commodities that have a specific geographical origin and have attributes, reputations, or features that are primarily linked to that location. A GI often comprises the name of the location of origin of the products. Agricultural goods often have traits that are impacted by unique geographical conditions, such as climate and soil, and are derived from their site of production. The recognition of a sign as a GI is a matter of national legislation. On November 10, 2013, the Geographical Indication of Goods (Registration and Protection) Act was passed by a gazette announcement. This Act establishes its mission, function, and particular requirements for GI product registration. It also defines the concept of GI items, product categorization according to the World Intellectual Property Organization (WIPO), and generic origin places, among other things. On March 3, 1991, Bangladesh ratified the GI-related Paris Convention. WIPO has so far listed ten Bangladeshi GI products.

As a part of the Government of Bangladesh's (GoB) attempt to liberalize trade, diversifying export items and export destinations, the Bangladesh Regional Connectivity Project 1 (BRCP-1) is initiated in cooperation with the International Development Association (IDA). The project is being jointly implemented by the Bangladesh Land Port Authority (BLPA), the National Board of Revenue (NBR), and the Ministry of Commerce (MoC). MoC is responsible to implement component two of the umbrella project. The primary objective of this technical assistance project is to improve trade-related institutional capacity to ensure active and sustainable cooperation among stakeholders related to trade and facilitate the economic empowerment of women traders.

The South Asian Network on Economic Modeling (SANEM), has been assigned to provide consultancy services for the selected activities of the technical assistance project, which is to review the existing trade-related policies to strengthen cooperation in trade, transport, and transit facilities. The policy reviews will also address the barriers faced by women traders in becoming more integrated into the global supply chains and trading opportunities. As part of the project, SANEM will review 22 policy documents and critically analyse each of the policies to demonstrate the compatibility, objectives, challenges, future aspects, and possible recommendations for further improvement.

1.2 Objectives and research questions

The broad objective of this study is to find out the necessary alterations, extensions, exclusions, and inclusions of the existing provisions of the Geographical Indication of Goods (Registration & Protection) Act 2013 so that the Act becomes compatible with the emerging challenges and to find out if the objectives of the Act are aligned with the present context.

The key research questions that the research team focused on answering particularly for this study are as follows:

- Is the Act ensuring efficient geographical indication concerning proper protection and registration?
- Is the Act compatible with the Covid-19 pandemic, 4th industrial revolution, LDC graduation, and 8th five-year plan?
- What kind of amendments are needed to be done in this 8-year-old Act to meet the emerging challenges?
- What are international best practices in a geographical indication that we can follow?
- What are the bottlenecks of the Act and what are the implementation challenges over there?
- How this Act can integrate the SHE trade to influence women entrepreneurs?
- Do we need a GI-related or IPR Policy besides the GI Act, of 2013 for the economic development of the community people?
- How to better maintain transparency among the relevant stakeholders including government, firms, labourers, and associations?

1.3 Scope and limitations

The Geographical Indication of Goods (Registration & Protection) Acts that Bangladesh still follows dates back to 2013. The scope of this policy review/policy study/ policy paper presentation lies in reviewing the Geographical Indication of Goods (Registration & Protection) Act 2013 and making necessary alteration recommendations to ensure the balance of the interests of inventors on one hand and the interests of the country and its public on the other hand. Another vital purpose of this study is to analyse whether the stated provisions of this Act are capable enough to cope with the current changing global trade scenario and possible future challenges (LDC graduation, UMIC graduation, 8th Five-Year plan, Second Perspective plan of Bangladesh, and Covid-19 Pandemic). The review will also look into the Geographical Indication of Goods laws of different countries (India and China) and advocate the important provisions that Bangladesh might adopt for its future Geographical Indication of Goods Act. This policy review paper will critically analyse the bottlenecks and implementation challenges, and provisions for mainstream women entrepreneurs and traders in the domestic value chain. Possible recommendations about inclusion, exclusion, revisions, alteration, and extension of the existing Act will make it more relevant to the present context of achieving protection of the inventions.

1.4 Methodology

Given the objectives and the key research questions of this study, the research team primarily followed mixed methodologies in presenting the deliverables. The methodology is based on two significant tasks in general:

- (i) Rigorous desk research of all relevant policy documents, literature, and secondary data was carried on to understand the existing state of GI-related works.
- (ii) Primary data collection and analysis by conducting Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs) with relevant stakeholders for the study.

Therefore, the research methodology can be categorised into desk research and primary data collection.

1.4.1 Desk research

The study conducted rigorous desk research focusing on the principal components of the study. The desk research includes a review of all relevant documents and existing literature on the issues, examining and analysing of the available secondary data, identifying potential policy gaps and differences related to GI, and analysing the difference between Bangladesh and the prevailing universal best practices. The research team focused on the following documents for desk review:

- Policy documents of Bangladesh include all GI-related and existing policies, acts, rules, ordinances, legislation, agreements, and a treaty providing a broader view and understanding of the gaps, coherence, and discriminatory provision if there is any.
- Related policy documents of other countries to comprehend why these countries are performing better in geographical indications.
- Relevant journal articles, research papers, reports, and newspaper articles.

Particularly the following documents were reviewed in desk research:

1. GI Act 2013 of Bangladesh (Bangla and English)
2. GI Rules 2015 of Bangladesh
3. GI Journals published by DPDT, GoB (1-11)
4. GI Application process, checklist, form, fee, and FAQ on the DPDT website
5. Geographical Indications: An Introduction (WIPO)
6. GI Act 1999 of India, GI Act 2000 of Indonesia, GI Act 2020 of Pakistan, GI Act 2003 of Thailand, GI Act 2000 of Malaysia, GI Act 1998 Singapore, and Trademark Act 2012 (EU)
7. The 8th Five-Year Plan (8FYP) of Bangladesh
8. TRIPS compatibility of Bangladeshi legal regime on geographical indications and its ramifications: A comparative review (Karim, 2018)
9. Cross-border GI Protection: Challenges and Ramifications for Bangladesh (Islam & Ansari, 2017)
10. Introducing Geographical Indications in Bangladesh (Islam & Habib, 2013)
11. Guidelines for Selecting Successful GI Products (Bramley & Bienabe, 2013)
12. An old issue of protecting GIs for culture: a new insight from the experience of India and Bangladesh (Zahur, 2017)
13. Challenges for 'Jamdani Saree' and 'Bangladesh Ilish', the two registered Geographical indications from Bangladesh in the post-registration epoch (Zahur, 2019)
14. Marketing of GI Products: Unlocking their Commercial Potential (Sharma & Kulhari, 2015) and many more relevant studies.

During the desk research, the research team followed the following steps-

- A thorough assessment of policy documents, which includes all relevant and existing acts, ordinances, legislation, agreements, treaty, and literature would help to detect policy bottlenecks and discrepancies.
- Developing the KII checklist based on the assessment of the stated documents.
- Complementing and comparing the preliminary analysis with the findings from the primary data.
- Reviewing the context and current trends in GIs, international status, and practices from UNCTAD, WTO, World Bank, and IMF databases.
- Analysis of the TRIPS agreement and amendments.

- Comparison of Bangladesh with other LDCs, developing countries, and developed countries.

1.4.2 Primary data collection

In collecting primary data, the research team followed a qualitative approach. Qualitative data are expected to provide in-depth information on social dimensions and characteristics. As part of the qualitative data, the team conducted some Focus Group Discussions (FGD) and Key Informant Interviews (KIIs).

Focus Group Discussion (FGD)

For this study, the research team conducted two FGDs comprising 6-8 participants. The participants of the FGDs were from the Department of Patent, Design & Trademark (DPDT), Ministry of Industry (Mol), and SME Foundation.

To smooth the discussion a semi-structured qualitative checklist for the FGD in line with the objectives of the study was prepared beforehand. All the FGDs were conducted in-person.

Key Informant Interview (KII)

The KIIs are helpful for an in-depth understanding of the policies, assessment of projects, and identifying gaps. For this particular study, the research team carried out a total of nine KIIs, with informants from the best possible diversified background.

The modes of the KIIs were face-to-face interviews, virtual meetings, and telephone interviews, depending on the pandemic situation and the convenience of the key informants. A detailed list of the interviewees is provided in the annexe section of this report. To smooth the interview with the key informants, a KII checklist was prepared. The checklist was customized based on the expertise of the target informant and his/her work areas related to the specific objective of the study.

1.5 Evaluation and analysis

All the gathered data and information were evaluated and analysed at this stage. This process included:

- Identifying the gaps in existing information through rigorous desk research.
- Exploring the gaps in the provisions of the Act.
- Investigating the potential provisions of the existing Act.
- Analysis of primary data through FGDs and KIIs to evaluate the actual activities of the implementing organization and its actors in the present scenario.
- Identifying the weaknesses and implementation challenges of the existing Act from stakeholders' experiences, through KIIs and FGDs.
- Comparing international best practices with the current provisions of the Act.
- Providing possible legal recommendations about changes, alterations, exclusion, and extension of the current Act through consultation with legal experts, and recommendations of key informants and FGD participants.

1.6 Organization of the paper

The policy review paper follows the later mentioned structure. The paper starts with a brief introduction part that consists of the background of the study, broad and specific objectives of the study, scopes and limitations of the review, a thorough methodological process, and evaluation and analysis of data and other documents. The context and current challenges of the policy are discussed in Chapter Two. This chapter briefs the scenario of the existing policy, trade-related provisions, and bottlenecks of existing provisions. The chapter also focuses on the geographical indication policies of different countries and how our policy deviates from that. In Chapter Three, the relevance of this policy to SHE trade is depicted. This chapter also illustrates whether the current provisions of the existing policy support gender inclusiveness in trade or not. The findings from the qualitative interviews (KIs and FGDs) are presented in Chapter Four. Chapter Five suggests necessary recommendations and ways forwards to make it a compatible and strong policy considering several issues such as LDC graduation of Bangladesh, changing global trade patterns, World Trade Organization (WTO) guidelines, etc. Finally, this paper marks its end with a concluding remark in Chapter Six.

2. Context and challenges of the Geographical Indication of Goods (Registration & Protection) Act, 2013

2.1 History of the Geographical Indication Act

GI may be used for a wide range of goods, including natural, agricultural, and manufactured goods. Consumers understand GIs to signify the origin and quality of items. Many of them have built important reputations that, if not properly safeguarded, may be distorted by dishonest business operators. The unauthorized use of GI is harmful to consumers and legal manufacturers. Consumers are duped into believing they are purchasing a genuine product with specified attributes and characteristics when, in fact, they are purchasing an imitation. Legitimate producers are robbed of significant business, and their products' established reputation is harmed.

For a good to be deemed GI (Bramley & Kirsten, 2007), three characteristics must be met:

1. The indication must identify a good and can be nongeographical names, symbols, words, or phrases.
2. The good must necessarily possess "given quality", "reputation", or other characteristics that are primarily attributable to the designated geographical area.
3. The indicator must specify the intended geographical area.

2.1.1 International initiatives

In response to the ever-expanding transboundary trade and commerce in geographically indicative items, international procedures for the protection of GI have been in place since the later part of the nineteenth century. However, geographical indication protection through suitable legislative procedures was not a new phenomenon in the domestic market. Several international instruments exist to safeguard geographical indicators. The Paris Convention (1883) was the first international treaty to contain Indications of Source or Appellations of Origin. It gives protection against direct or indirect use of a false indication of the source of goods and/or unfair competition. Article 1(2) of this convention states: "The protection of industrial property has as its object patents, utility models, industrial designs, trademarks,

service marks, trade names, indications of source or appellation of origin, and the repression of unfair competition". "The Madrid Agreement (1891)" for the Repression of False or Deceptive Indications of Source of Goods specifies Indication of Source. It protects GI by applying the implementation of border measures and preventing the dilution of GI into generic terms. The Madrid Agreement provides protection against misleading GI. "The Lisbon Agreement (1958)" provides protection for Appellations of Origin (AO) goods and their international registration among its signatories. It facilitates the international protection of AOs through a single registration procedure. Article 1 provides that once a GI is registered at the International Bureau of WIPO, it is protected in other member countries. Article 3 of the Lisbon Agreement states that the member countries must prohibit imitations under their respective domestic laws. Geneva Act (2015) of the Lisbon Agreement allows the international registration of GIs, in addition to AOs, and permits the accession to the Lisbon Agreement by certain intergovernmental organizations.

The WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement (1994) is the most recent agreement that protects GI for its members. According to TRIPS, GIs have to be protected to avoid misleading the public and to prevent unfair competition.

Article 22.1 of the TRIPS Agreement defines geographical indications as *"Indications which identify a good as originating in the territory of a member [of the World Trade Organization], or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin"*

Article 22 of the TRIPS agreement, without specifying the legal means, only sets the minimum standard for the protection of GI, leaving plenty of room for members to draft GI protection regimes under their municipal systems while taking into account the socioeconomic conditions of their respective countries¹. In accordance, many countries around the world including Bangladesh have enacted GI laws for the protection of their agricultural and traditional products. In terms of GI, the TRIPS agreement and the Paris Convention for the Protection of Industrial Property have the same goal. The goal of GI is to protect customers from deceptions and to safeguard specific items against theft. Since the TRIPS agreement's ratification, international protection of GI has become a crucial problem because GI is increasingly acknowledged as a marketing tool in the global economy (Uddin, 2012).

GIs are members of the intellectual property (IP) family, along with copyright, patent, and trademarks, with trademarks, can be interpreted as GIs' elder brother (Ali, 2013). Geographical indications are protected by a variety of principles under international treaties and national legislation, including –

- Special laws for the protection of GIs or AOs
- Trademark laws in the form of collective marks or certification marks
- Consumer protection laws or
- Particular laws or decrees that recognize individual GIs

¹ The Daily Star, 6 August 2013 (<https://www.thedailystar.net/news/gis-protection-where-do-we-stand-legally>)

2.1.2 Geographical indication vs trademarks

A trademark is a sign used by a company to differentiate its goods and services from those of other enterprises. It grants the owner the right to prohibit others from using the trademark. A trademark is frequently a fancy or random name or device. A GI informs consumers that a product is produced in a certain location and has features unique to that location. It may be used by any producer who produces their products in the geographical area indicated by a geographical indicator and whose products have certain characteristics. In contrast to a trademark, the name used as a GI is typically established by the name of the place of production. Trademark registration can be challenged if it can be demonstrated that the trademark contains or consists of a GI, according to the GI legislation of Bangladesh. Before the GI Act of 2013, the Trademarks Act of 2009 was the sole law that applied to GIs in Bangladesh.

2.1.3 Geographical indication vs appellations of origin

The distinction between GI and Origin of Indication is critical in understanding the link between GI and quality attributes. Indications of origin or indications of source do not offer the requisite relationship between the origin of the product and its quality, reputation, or other attributes, whereas GI under Article 22.1 does. The appellation of Origin (AO) is significantly tighter than Geographic Indication (GI). In the case of AO, the quality and qualities of commodities are solely or primarily related to the geographical environment, which includes both natural and human causes. For AO, the product should be produced and processed and prepared within the delimited area. For GI, the product should be produced and/or processed and/or prepared within the delimited kind of GI. The term "geographic indication" includes "appellations of origin". We may conclude that all AOs are GI in this sense.

2.1.4 Geographical indication as intellectual property

Under Articles 1 (2) and 10 of the Paris Convention for the Protection of Industrial Property, GIs are covered as an element of Intellectual Property Rights (IPRs). GIs of goods are defined as an aspect of industrial property that refers to a GI relating to a country or a location located within the country or place of origin of that product. Unlike other IPs, GI is a public property owned by the state to give benefits to the producers or collective organization of producers of the concerned goods. Therefore, it is not a subject matter of assignment, transmission, licensing, pledge, mortgage or such other agreement. The producer of a GI good is an authorized user of that GI in respect of a registered GI². GIs lack some of the typical features of other branches of IP, such as promoting innovation; instead, they encourage product conformance within a certain geographical region and foster sustainability and growth of tradition, which is usually passed down through generations (Zahur, 2017). The sign is the subject matter of protection under the GI system. The GI system does not safeguard either the product or the manufacturing technique (the contribution of traditional manufacturers). GI indirectly rewards and recognizes the contributions of communities.

2.1.5 Geographical indication for protecting traditional knowledge

Products recognized by a GI are frequently the result of traditional knowledge (TK) and techniques passed down from generation to generation by a population in a certain place.

²Mondaq, 21 May 2021 (<https://www.mondaq.com/india/trademark/1070894/intellectual-property-rights--geographical-indications>)

Similarly, certain items recognized by a GI may reflect distinctive features of a region's traditional artistic heritage, known as traditional cultural expressions (TCEs)³. This is especially true for tangible things like handicrafts, which are manufactured from natural materials and have traits derived from their geographical origin. GIs do not directly protect the subject matter commonly associated with TK or TCEs, which under traditional IP systems stays in the public domain. GIs, on the other hand, can be utilized to indirectly help their protection, for example, by conserving them for future generations.

2.1.6 Different systems of protection

TRIPS agreement does not specify a specific GI protection scheme, and member nations are free to create their own GI protection system. As a result, numerous GI protection schemes have become popular over the world, owing to differences in legal regimes. GIs are commonly protected either under the “Sui-generis” system (as seen in the EU, ASEAN countries and India) or under “Trademark law” (as is seen in Australia, New Zealand, Japan, USA, etc.). In general, trademark protection is found in countries that follow common law (Anglo-Saxon) while sui-generis protection is found in countries that follow civil law (Roman Law). Unlike other forms of IPs like patents and copyright; the registration of GIs under the sui-generis system does not bring any reward. The reward is dependent on the promotion of the GI brand which is needed at both national and international levels. huge cost and time are involved on the part of the state to promote the GI. Under the sui-generis protection system, no individual or firm exercises monopoly control over the knowledge embedded in the GIs.

Sui-generis protection has more consequences for rural development since it improves farmers' position in the supply chain by enforcing tight quality controls and encouraging farmer organization. On the other hand, trademark law's protection mechanism encourages corporate branding of GIs and does not limit the amount that may be made (Ali, 2013). To safeguard agricultural GIs, the majority of countries select the sui-generis method. The majority of Bangladesh's GIs are agricultural and handicrafts in nature. However, due to the lack of distinct GI laws, the government protected its GIs under the trademark Act until 2013. This system has very little or no implication on its GIs. After passing the GI Act 2013, Bangladesh now applies the sui-generis system of protection of her GIs.

2.1.7 Origin and background of GI legal framework in Bangladesh

For a variety of reasons, GI protection has become an increasingly critical concern in several states, with worldwide implications emerging. Its relevance has grown in recent years, with several opportunities in both developed and developing countries, notably in the agro-food industry. Bangladesh's economy is mostly reliant on agriculture and is one of the least developed Asian countries. Aside from local consumption, agricultural goods account for a significant portion of exports. Furthermore, the government has taken an active role in several bilateral and multilateral trade accords. Joining WTO also requires compliance with the TRIPS Agreement's responsibilities. The necessity for suitable legal structures to safeguard GIs may thus be seen from both a local and an international viewpoint. The establishment of a legal framework would secure the availability, acquisition, extent, and enforcement of GI property rights.

³World Intellectual Property Organization
(https://www.wipo.int/geo_indications/en/faq_geographicalindications.html)

Some Bangladeshi location-based goods, such as Jamdanee, Fazli mango, and Nakshi Kantha, were recognized as GIs in India in 2012 under Indian GI law. Because these items are widely considered symbols of Bangladeshi national identity, the fact that these names had been registered as Indian GIs on the Indian GI Registry raised concerns about other countries misappropriating Bangladeshi cultural uniqueness. This incident, in particular, created discontent among Bangladeshi stakeholders in location-based goods. The Jamdanee weavers and other concerned groups complained that this was cultural misappropriation. This incident may have influenced the enactment of the Bangladeshi GI Act in 2013 (Zahur, 2017).

2.2 Introducing GI Act in Bangladesh

Earlier, Bangladesh formulated an ordinance named Geographical Indications of Goods (registration and protection) Ordinance 2008, which identified 66 products as the country's GI products. Of them, three were fisheries, eight vegetables, 14 agricultural products, 48 food items and 18 other products including Jamdanee Saree, Fazli mango and Nakshi Kantha⁴.

Previously, the Cabinet Division approved the Draft GI Act 2012, however it was not introduced in Parliament as a Bill. Instead, the Draft Act was returned to the Ministry of Industries, where it was slashed by the Department of Patents, Designs, and Trademarks (DPDT) for some inexplicable reason. DPDT cut nearly 38 parts from the Draft GI Act 2012 and drafted the 2013 Act. The elements that did not make it to the GI Act will ultimately include in the GI Rules, which were enacted in 2015 (Hyder & Nayem, 2015).

On November 10, 2013, the Geographical Indication of Goods (Registration and Protection) Act was passed by a gazette announcement. This Act establishes its mission, function, and particular requirements for GI product registration. It also defines the concept of GI items, product categorization according to WIPO, and generic origin places, among other things. On March 3, 1991, Bangladesh ratified the GI-related Paris Convention. WIPO has so far listed ten Bangladeshi GI products.

This Act defines the application procedure, the role and functions of the Registrar, the first authorizing authority, and so on. This Act also stated that a separate GI Unit shall be formed in the DPDT office, complete with sufficient skilled manpower and other essential measures. This Act also specified the application methods, notifications, complaint procedures, registration length, renewal process, and particular rights following GI registration and approval. It also refers to the Trademark Act of 2009, which eliminates the conflict between the two acts. Suspension or revision of registration if the GI product registration terms and conditions are violated, as well as particular penalties specified in this Act. The emphasis may be placed on executing and strengthening the existing structure, which can assist elevate market value, improving brand image, and producing revenue. In this context, good product quality and an effective certification system may be adopted. The GI Act clearly states that faking any GI or fraudulently tagging GI to commodities would result in a minimum six-month jail sentence and/or a Tk. 50,000 fine. To preserve the substance of the legislation, close

⁴CPD Press report, 18 June 2014 (<https://cpd.org.bd/press-reports-geographical-indication-jamdani-bangladesh-cpd-dialogue/>)

surveillance is required. There might be a clause in the Act that assures a time-bound approach and encourages people/business entities to apply for GIs such as One District One Product (ODOP).

This Act is now being revised, and this evaluation will aid in conceptualizing categories for modifications in this Act, as well as incorporating a provision for a distinct GI unit. GI products must be promoted in both domestic and international markets, with a specific emphasis placed on women entrepreneurs. It is critical to recognize that these products must be promoted in both domestic and international markets.

2.3 Geographical indication of goods in Bangladesh

The draft GI protection law in the year 2012, primarily identified 73 goods as GIs belonging to various categories- 52 food items and 21 non-food items. Bangladesh has already lost its famous products like Nakshi Kantha for failing to pass the law in due time. According to India’s Geographical Indications Registry, Nakshi Kantha (produced in West Bengal) was registered as a GI product from India in 2008. Bangladesh also faced obstacles in registering Fazli Mango and Jamdane as these were already registered in India as GI in 2009: Fazli Mango (produced in Malda district of West Bengal) and Jamdani Saree as “Uppada Jamdani” (produced in Andhra Pradesh state). However, Bangladesh registered Jamdane with the name “Jamdane” later after passing the GI Act, 2013. On the other hand, DPDT enlisted “Fazli Mango of Rajshahi” in GI Journal no. 10 to be certified as a GI product, but later Chapainawabganj gave an objection. Therefore, Rajshahi's move to secure a GI certificate for its Fazli Mango is currently suffering a setback after Chapainawabganj claimed this renowned fruit as its own⁵.

In recent years, there has been a surge in interest in GI goods. GI, like patents, trademarks, and industrial designs, is a type of IP. The WTO Agreement on TRIPS is the worldwide framework for all intellectual property rights, including GI. The requirement for Members of the WTO to protect GI goods under the TRIPS Agreement has spurred this focus because GI goods are regarded as valuable instruments in marketing strategy and public policy.

Table 1: GI Products of Bangladesh

Product name	Reg No	Reg year	Application No	Application date	Class	Applicant’s Name
Jamdane	01	2016	GI 01/2015	01.09.2015	25	Bangladesh Small and Cottage Industries Corporation
Hilsa of Bangladesh	02	2017	GI 02/2016	13.11.2016	29, 31	Department of Fisheries, GoB
Khirsapat Mango of Chapainawabganj	03	2019	GI 03/2017	02.02.2017	31	Bangladesh Agricultural Research Institute
Maslin of Dhaka	04	2020	GI 30/2018	02.01.2018	24, 25	Bangladesh Handloom Board, GoB
Silk of Rajshahi	05	2021	GI-27/2017	24.09.2017	25	Bangladesh Sericulture Development Board

⁵The Daily Star, 17 December 2021 (<https://www.thedailystar.net/business/economy/news/tussle-over-fazli-mangos-origin-2919416>)

Product name	Reg No	Reg year	Application No	Application date	Class	Applicant's Name
Shatranji of Rangpur	06	2021	GI 34/2019	11.07.2019	27	Bangladesh Small and Cottage Industries Corporation
White Clay of Bijoypur	07	2021	GI 05/17	06.02.2017	01	Netrakona Deputy Commissioner's Office
Kataribhog Rice of Dinajpur	08	2021	GI 06/2017	06.02.2017	30	Bangladesh Rice Research Institute
Kalijira Rice of Bangladesh	09	2021	GI 07/2017	07.02.2017	30	Bangladesh Rice Research Institute
Black Tiger Shrimp of Bangladesh	10	2022	GI 32/2019	04.07.2019	29, 31	Department of Fisheries, GoB

Source: DPDT, GoB

Ten traditional products of Bangladesh "Jamdane", "Hilsa of Bangladesh", "Khirsapat Mango of Chapainawabganj", "Maslin of Dhaka", "Shatranji of Rangpur", "Silk of Rajshahi", "Kalijira Rice of Bangladesh", "Kataribhog Rice of Dinajpur", "White Clay of Bijoypur", and "Black Tiger Shrimp of Bangladesh" have been registered as GI products (Table 1). On November 17, 2016, the government recognised Jamdane as Bangladesh's first GI product under the GI Act 2013. Some more products are waiting in the process to be certified such as Fazli Mango of Rajshahi, Agar of Moulvibazar, Gangetic Koi from Chachuri Beel of Norail, etc.

2.3.1 Jamdane

Jamdane is a fine 'maslin' textile. Jamdane is a domestically and globally recognized cloth with geometric or floral motifs. Throughout the body of a Jamdane saree are multi-coloured linear or floral designs. The patterns are generally geometric and designs can contain items other than flowers, such as plants and living species like fish. The Jamdane is meticulously woven by hand on an old-fashioned loom, and it can take up to a year to make a single saree. Nearly 40 types of equipment are used for making a Jamdane piece, some notable pieces of equipment are Taant (Loom), dokti (sley), Maal dori (rope), Maku (shuttle), Chakku (scissor), Noksha (Design Bobbin), Chata (Bamboo Stick), Tolpao (paddle), Biter Bhaar (Weight), Shana (yarn holder), Muni (yarn tighter), Nachni dori (dancing rope), Narod (beam and yarn holder) (Ahmed, 2020). According to studies, the word "Jamdane" is unique to Bangladesh since the geo-ecological, climatic, and human factors of Dhaka are ideal for its production. River Shitalakhya and its geo-climatic settings with a perfect environment confirmed Jamdane production (Ahmed, 2017). Steps of weaving were reliant on the veracious level of humidity and moisture, otherwise, lack of humidity could be a cause of warp breakage, thus Jamdane was only possible to produce and maintain in this region. The ancient craft of Jamdane weaving in Dhaka has been recognized by UNESCO in December 2013 as an intangible cultural heritage of humanity (Islam & Habib, 2013). Bangladesh has 10,053 Jamdane handlooms, according to Bangladesh Handloom Census 2018⁶. Jamdane exports of Bangladesh increased from US\$4.84 million in 2008-09 to US\$10.41 million in 2010-11, including India⁷.

⁶Annual Report, Bangladesh Handloom Board (http://www.bhb.gov.bd/site/view/annual_reports/-)

⁷The Daily Star, 13 July 2014 (<https://www.thedailystar.net/protection-of-jamdani-33014>)

2.3.2 Hilsa of Bangladesh

Hilsa is the national fish of Bangladesh and is famous in the Indian sub-continent. The best quality of this fish is caught from the river Padma in Bangladesh. The overall Hilsa production in Bangladesh in FY 2020-21 reached over 5.50 lakh tonnes (Ministry of Fisheries and Livestock, GoB). It contributes about 12% of the total fish production and about 1.15% of the GDP⁸. Bangladesh is the world's leading producer of Hilsa as Bangladesh produces 80 per cent of the world's Hilsa⁹. Bangladeshi Hilsa fish is famed for its incomparable flavour, which is owing to its uniquely soft oily texture, delicious flavour, and great mouth feel. Bangladesh gets a lot of money by exporting Hilsa Fish to India and other places where Bangladeshis dwell such as the USA, UK, and Australia (Yusuf & Burhan, 2015). The water salinity of Bangladesh's Chandpur area, where the Padma River meets the Bay of Bengal, ranges from 18 to 30 per cent, making it ideal for Hilsa breeding.

2.3.3 Khirsapat Mango of Chapainawabganj

Bangladesh produced 12,22,368 Metric tons of mango, according to the Bangladesh Bureau of Statistics (BBS) which is 25% higher than the previous fiscal year (Yearbook of Agricultural Statistics 2020). Chapainawabganj contributes around 15% of the total mango production in the country. Khirsapat is one of the most-grown mango varieties in Bangladesh. Besides sweet taste and flavour, less fibre and small seeds have made this variety popular. Khirsapat mango has been cultivated commercially in five Upazilas of Chapainawabganj district for a long time.

2.3.4 White Clay of Bijoypur

White Clay (Sada Mati) of Bijoypur under Durgapur Upazila in Netrakona district is known as a very valuable and rare mineral resource. This clay is commonly used for making ceramic utensils, tiles, sanitary wares, and glass. The biggest feature of this soil of excellent quality is that it is naturally rich in kaolin or aluminium. Many also call it China Mati (China Clay). This mineral resource area is a mountainous region of the Garo Hills. This plain was discovered in 1957 by the Bangladesh Department of Geological Survey. By cutting the hill, this plain was created from a very deep level. The extraction of soil began in 1968. Later, an environmental organisation filed a case in the court alleging eviction of tribals and environmental disasters in the name of sample extraction. Due to this, the excavation of the plain in the mineral resource area of Bijoypur has been completely stopped since April 2016¹⁰. Although excavations are currently closed, the previously excavated areas still have clear soil layers of various colours that attract tourists.

2.3.5 Kataribhog Rice of Dinajpur

Kataribhog rice is a special aromatic rice in Bangladesh. Dinajpur cultivates several varieties of aromatic rice, such as Kataribhog, Jirakatari, Badshabhog, Kalojira, Begunbichi, Chinigura, Kalonienia, and Radhunipagli. However, the cultivation of the local variety of aromatic paddy in the district has declined by about 73% in the last six years¹¹. Kataribhog rice can only be

⁸The Independent, 5 November 2021 (<https://www.theindependentbd.com/post/269918>)

⁹The Daily Star, 31 March 2022 (<https://www.thedailystar.net/health/food/news/bangladesh-produces-80-the-worlds-hilsas-fisheries-minister-2994811>)

¹⁰The Financial Express, 8 August 2021 (<https://thefinancialexpress.com.bd/national/white-clay-of-netrakona-gets-gi-recognition-1628391712>)

¹¹The Business Standard, 17 September 2021 (<https://www.tbsnews.net/economy/cultivation-local-aromatic-rice-declines-dinajpur-303619>)

grown in specific areas of Dinajpur- Sadar, Chirirbandar and Kaharole Upazilas once a year, according to officials of the Department of Agricultural Extension (DAE) in the district. Kataribhog is cultivated on 1,400 hectares in Dinajpur¹². The agro-ecological condition of Dinajpur is favourable for the cultivation of this variety. According to the farmers, its aroma decreases if this variety is cultivated outside Dinajpur.

2.3.6 Kalijira Rice of Bangladesh

Kalijira rice is the heirloom aromatic rice of Bangladesh and is known as the “Prince of Rice”. It is the indigenous, traditional aromatic rice of Bangladesh. The Kalijira rice is small in appearance and black in colour, making it look a lot like Kalijira spice. That is why the name of the rice is Kalijira. However, after removing the husk, the colour of the rice is white. Although the origin of Kalijira rice is the Mymensingh region situated on the banks of the river Brahmaputra, this rice later spread to the whole of Bangladesh due to its unique taste, aroma and quality (GI Jornal No. 6). According to the data of Gene bank of Bangladesh Rice Research Institute (BRRI), its germplasm was first collected in 1973 from Balaganj in Sylhet district. Later in 1974, it was collected from different parts of the country including Mymensingh.

2.3.7 Shatranji of Rangpur

Nisbetganj is a village on the banks of the river Ghaghat on the outskirts of Rangpur city, west of the cantonment. Mr Nisbet, a British citizen, was the Collector of Rangpur District in the 1840s. Pirpur was the name of Nisbetganj during the time. A thick, coarse, and multi-coloured carpet known as Shatranji was manufactured in Pirpur village during the time. Mr Nisbet aided in the development of Shatranji's quality, as well as the promotion and extension of the industry, and arranged for significant product marketing. The village is called Nisbetganj because of his significant contribution to the industry's quality development and marketing system. Shatranji was prominent in this area already in the 11th century, according to history. Shatranji was used at the court of Mughal Emperor Akbar. It was regarded as a sign of nobility in the palaces of kings and emperors of the time. During the British reign, Shatranji became so famous that it spread all over the world, including to India, Burma, Sinhala, Indonesia, Thailand, and Malaysia. This product is made without the use of any machinery. Shatranji is manufactured by counting the number of strands prepared by tugging the yarn on the ground using just bamboo and rope by hand. Shatranji from Rangpur is sold to 37 countries in Europe, North America, and Asia. Karupanya Rangpur Limited, a non-governmental organization, has built up five plants to produce Shatranji at the moment. These factories now employ around 4,000 people. Shataranji made in Rangpur is bringing in an average of US\$4 million every year to the country.¹³

2.3.8 Silk of Rajshahi

There are mainly three varieties of silks: Mulberry silk, Eri silk, and Tassar silk. At present mulberry silk is made in Bangladesh which is the finest and is, therefore, the most valuable. Silkworms form silkworm cocoons in 20 to 22 days from saliva excreted from the mouth after eating mulberry leaves. Yarn is made from the cocoon and silk cloth is made from yarn. Rajshahi Silk is a brand name for silk fabric made from the cocoons of silkworms. During the Nawab's reign, there was considerable improvement in silk production in Greater Bangladesh.

¹²Business Outlook, 25 January 2022 (<https://businessoutlookbd.com/2022/01/25/rice-farmers-delighted-at-kataribhogs-price-hike/>)

¹³Rangpur district, Bangladesh National Information Window (<http://www.rangpur.gov.bd/>)

Now, approximately 6.50 lakh people work in this industry in Bangladesh, and around 80% of them are poor rural women (Bangladesh Sericulture Development Board, 2020). In 1914, a separate department was established for the development of silk in Bangladesh. From 1960-61, 22 silk extension and exhibition centres for the extension of silkworm cultivation were established, and the Rajshahi silk factory was established for the production of silk products and training on improved silk varieties and technology. Bangladesh Sericulture Board was established in 1977. Until then, sericulture activities were conducted under Bangladesh Small and Cottage Industries Corporation (BSCIC). The Bangladesh Sericulture Development Board is an autonomous body under the Ministry of Textiles and Jute. Its head office is located in Rajshahi. The board was formed through the amalgamation of three organizations – Bangladesh Sericulture Board, Sericulture Research and Training Institute and Sericulture Foundation¹⁴.

2.3.9 Maslin of Dhaka

Maslin, a pre-colonial Bengal textile brand name, notably in the Dhaka region, was made from 'carpus fibre' in specific weather and was perfectly plain, even, thin, and transparent. During British colonial rule, Bengali weavers gained an international reputation for their Maslin, which was woven using locally sourced cotton and marketed as 'Dhakai Maslin'. Maslin of the highest quality was manufactured from 'phuti' cotton, which was farmed in select areas along the Shitalakhya River. After the Battle of Palashi in 1757, Dhaka's Maslin industry began to deteriorate. The loss of sponsorship from Mughal emperors, nawabs, and other senior officials contributed to Dhaka Maslin's demise. The industrial revolution in England, which brought modern technologies to manufacturing, was the major reason for the Maslin industry's downfall and eventual extinction¹⁵.

In October 2014, Prime Minister Sheikh Hasina directed the Ministry of Textiles and Jute to take measures to revitalize the Maslin industry. The main task of the research team was to match the Maslin yarn's DNA with the DNA of 'phuti carpus' plant. But they had neither a sample of muslin fabric nor of a 'phuti carpus' plant. The research team found the 'phuti carpus' in Gazipur, Bagerhat, Lalmonirhat, Kurigram and Rangamati districts. After that, they collected some samples of cotton, seeds, leaves, flowers and branches of the plant. And they found a connection between drawing pictures and a tree in Kapasia of Gazipur. Then the team cultivated the plant in the fields of the botany department of Rajshahi University. The team collected the Maslin samples with some vital information from the Victoria and Albert Museum in London. They got two weavers in Narayanganj, Rubel Mia and Md Ibrahim, who could weave the Maslin saree, after providing some technical training sessions. Through in-depth research, the team took six years to revive this traditional fabric. The research team has woven six Maslin sarees following the design of a sample saree made in 1710 provided by the Victoria and Albert Museum. The government provided Tk 131 million for this project and the project aims to launch the maslin saree in the market by 2023¹⁶.

However, it is confusing that 'phuti carpus', which were historically farmed in the area along the Shitalakhya River of Dhaka Division, later was revived on the premises of Rajshahi

¹⁴Bangladesh Sericulture Development Board (<https://silkbsdb.com/>)

¹⁵Banglapedia, 2021 (<https://en.banglapedia.org/index.php/Muslin>)

¹⁶Prothom Alo, 1 January 2021 (<https://en.prothomalo.com/bangladesh/good-day-bangladesh/muslin-belongs-to-bangladesh>)

University. Therefore, the registration of Maslin required more careful deliberation, according to the key informants. More strategic thinking was needed in the mapping of Maslin based on its raw materials and technics.

2.3.10 Black Tiger Shrimp of Bangladesh

Black tiger shrimp (“Bagda Chingri” in Bengali), grown in the southern coastal belts in brackish water, is the latest product that got the GI certificate. According to fisheries statistics of Bangladesh 2019-20, Bangladesh produced 67,046 Metric tons of black tiger shrimp in FY 2019-20 which is increasing at an annual growth rate of 2.38. The country earned 1,988 crore taka in the same FY by exporting black tiger shrimp. The production of black tiger shrimp in Bangladesh is almost 1.5% of total fish production and around 28% of shrimp and prawn production (Department of Fisheries, GoB).

2.4 Brief overview of the GI Act, 2013

The Geographical Indication of Goods (Registration & Protection) Act, 2013 consists of 10 chapters, and 46 sections. It is Act no. 54 (LIV) of the year 2013. The Act aims to make provisions for the registration and protection of Geographical indication of goods and for providing necessary support for the operation. Some significant features of the Act are as follows:

- Definition of GI provides under section 2 of the Act.
- According to section 4 of the Act, The Geographical Indications Unit at the DPDT under the Ministry of Industry (Mol) is the GI registration and superintendent authority in Bangladesh.
- According to section 5 of the GI Act, 2013 Registrar of the office of DPDT will be the registrar of the office of GI goods and he or she shall execute all activities regarding GI matters.
- To register a product, the association or the co-operative for a product (institution, government body, or authority created or registered under existing laws and representing the interests of GI manufacturers) will have to apply; apparently, no individual can register a product.
- The registration of GI goods shall remain valid for an indefinite period unless it is cancelled or otherwise invalidated as per the GI Act of Bangladesh.
- Aside from the registration of GI products or goods, related persons or associations may be registered as authorized users of GI. Therefore, the Act has provided two types of registration - one is for GIs and another for authorized users.
- According to section 16 of the GI Act, 2013 terms of the registration of authorized users shall be 5 years subject to renewal for a further period of 3 years each time. The validity of such registration shall be counted from the date of application.
- According to section 29 of the Act, punishments for false use of registered GI of others are at least 6 months which does not exceed 3 years imprisonment or a fine of 50 thousand taka which does not exceed 2 lac taka or both.
- Punishment for fraud uses of similar GI of others is at least 6 months which does not exceed 3 years imprisonment or a fine of 50 thousand taka which does not exceed 2 lac taka or both. This is stated under section 30 of the Act.

- Punishment for false GI goods production, transportation and marketing are the same as above. This is stated under section 31 of the Act.
- There was no law before 2013 in action for protecting our geographically originated or produced goods.

The Act is summarized in Table 2.

Table 2: Brief overview of the GI Act, 1911

Chapter	Title of the chapter	Section	Related provisions
I	Preliminary	Section 1	Short title, application, and commencement
		Section 2	Definitions of 17 terms related to the Act
		Section 3	Act to override
II	Geographical Indication Unit	Section 4	Geographical Indication Unit
		Section 5	Manpower of Geographical Indication Unit
III	Protection of Geographical Indication of Goods	Section 6	Protection of Geographical Indication of Goods
		Section 7	Registration and protection of homonymous geographical indication of goods
		Section 8	Prohibition of registration for certain geographical indications of goods
IV	Registration of Geographical Indication of Goods	Section 9	Application for the Registration of the Geographical Indication of Goods
		Section 10	Registration as Authorized User
		Section 11	Refusal of application
		Section 12	Advertisement of Application
		Section 13	Objection to Registration
		Section 14	Counter-statement and reply by the applicant
		Section 15	Registration of geographical indication of goods
		Section 16	Duration, Renewal, etc. of Registration
		Section 17	Register of geographical indication of goods
		Section 18	Rights conferred by registration
V	Special Provisions Relating to Trademarks	Section 19	Prohibition to assign, transfer, etc.
		Section 20	Special provisions for Convention States
VI	Cancellation of Registration	Section 21	Restrictions on registration of trademarks as geographical indication of goods
		Section 22	Protection to certain trademarks
VII	Power of Registrar	Section 23	Cancellation or modification of registration
		Section 24	Correction of Register
VIII	Appeal	Section 25	Power of Registrar
		Section 26	Evidence before the Registrar
IX	Offence and Trial	Section 27	Appeal
		Section 28	Infringement of Protected Geographical Indications
		Section 29	Falsifying or falsely Applying Geographical Indication and punishment
		Section 30	Use of deceptively similar geographical indication and punishment
		Section 31	Punishment for the production, transport, storage and sale of false geographical indication of goods
		Section 32	Punishment for marketing without renewal
		Section 33	Punishment for the breach of conditions of registration
		Section 34	Punishment for forgery of entries of the registrar
		Section 35	Punishment for the second or subsequent offences
		Section 36	Forfeiture of goods
		Section 37	Offences committed by a company or an institution
Section 38	Cognizance of offence		

Chapter	Title of the chapter	Section	Related provisions
		Section 39	Punishment for abetment of offence committed outside Bangladesh
X	Miscellaneous	Section 40	Implied warranty on sale of imprinted geographical indication of goods.
		Section 41	Authorized user to be included as a party in certain proceedings
		Section 42	To show origin, etc. of the geographical indication of goods
		Section 43	Admission of customary business practices, etc.
		Section 44	Fees and surcharge
		Section 45	Power to make rules
		Section 46	Publication of Authentic English text

Source: *Geographical Indication of Goods (Registration and Protection) Act, 2013*

2.5 GI goods application and registration process in Bangladesh

2.5.1 Geographical indication unit

The DPDT under the MoI administers industrial property matters. DPDT is affiliated with the WIPO. DPDT is funded by the GoB and the revenue it earns from the application fees and other charges is considered Government revenue and the DPDT cannot use any fraction of its income. The government provides the DPDT with all its expenditures and takes back the earnings. So, it does not retain any operating surplus. According to the Act, a geographical indication unit under the DPDT is opened, with the chief of the unit being the registrar. This is the GI registration and superintendent authority in Bangladesh and executes all activities regarding GI matters. This unit is staffed with qualified personnel and is provided with the required infrastructure to carry out its duties. The new setup has resulted in increased expenses. The likely cost of sustaining a GI system, on the other hand, had never been calculated before the system was adopted. As a result, it's impossible to say whether a GI plan will be useful or burdensome over time at this point (Zahur, 2019).

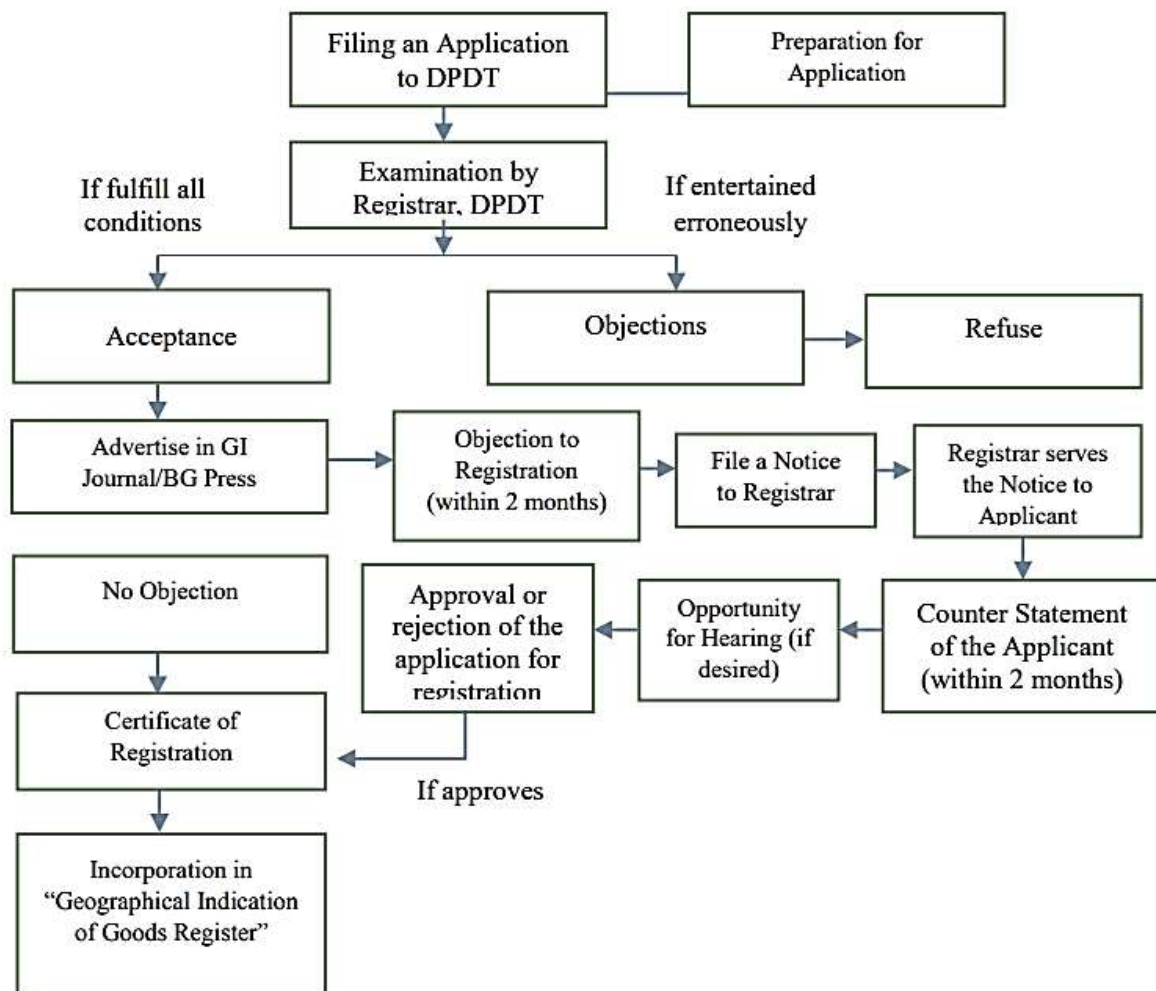
2.5.2 GI registration procedure

The GI Act of Bangladesh outlines legislative norms and processes for the protection and registration of Bangladeshi GIs in Chapters III and IV. According to Bangladeshi legislation, GI goods must be registered, and applications can only be submitted by any association, institution, government body, or authority created or registered under existing laws and representing the interests of GI manufacturers. The application must be submitted in the prescribed form GI form-1 (available at DPDT) if the proposed GI falls in one class or the prescribed form-2 if the proposed GI falls in more than one class, with fees of ten thousand taka, according to section 9 of the GI Act 2013 and rule 4 of the GI Rules 2015.

To register for GI products in Bangladesh, the specific entity must submit an application to the Registrar of the DPDT, which allows them to specify how they desire to make payments. If the application for the registration of a GI of goods was filed incorrectly, the Registrar may reject it after providing the petitioner with a reasonable chance to be heard. If the Registrar is satisfied that the applicant has met all of the conditions in filing up the application for registration of a GI of goods, he must publish the notification of an application for registration of a GI of goods in a specified manner. However, after two months of receiving notification of an application for registration, any person, organization, or authority may file a notice of

objection to the Registrar regarding the registration of the GI of goods. The Registrar must then submit a copy of the notice of objection to the GI registration applicant. Within two months of receiving the notification, the applicant may write a counter-statement to the Registrar stating the arguments on which he bases his evidence. The Registrar will next offer both parties an opportunity to be heard if they so wish. After hearing the parties and considering the facts, the Registrar may approve or reject the application for GI registration.

Figure 1: Process of GI Registration in Bangladesh



Source: Matin, 2018

If there are no objections to the GI registration or the Registrar is satisfied that the application for registration of the GI of goods has met all of the requirements, he must register the GI of goods and provide the applicant with a certificate of registration with the necessary seal. The registration of the aforementioned GI of products is valid from the date of application for registration. The Registrar must save all information on the registration of geographical indications of commodities in the "Geographical Indication of Goods Register" as an official record.

2.6 Trade-related provisions: current state and bottlenecks

Bangladesh has been exporting to more than 160 countries in the world. All the GI products except White Clay of Bijoypur are being exported to different countries besides meeting domestic demands. GI products are solely our own products which means that they can be produced independently without the need of importing raw materials from foreign countries. However, the global trade pattern, pattern of economic growth, political economy, demand-supply coordination, and use of technology have undergone remarkable changes as of 2021. Although Bangladesh concentrates more on the national protection of GIs, the function of GIs in international trade is significantly greater than in domestic trade. Because information asymmetry is more acute when customers and producers are situated in distant regions.

2.6.1 Economic challenges and opportunities of GI tag

The protection and management of GIs, both at the national and international levels, come at a high expense in terms of administration and enforcement (Dange, 2010). Maintaining significant administrative and other ancillary costs will be difficult for Bangladesh. Unless GI goods are shown to be economically feasible, the overall protective scheme may end up being ineffective (Zahur, 2017).

The GI Act 2013 might have the potential to offer a comprehensive framework for rural development, as the Act is relevant to and encompasses the issues of economic competitiveness, stakeholder equity, environmental stewardship, and socio-cultural values. GI Act is a useful tool to drive an integrated form of market-oriented rural development that may further facilitate equitable participation among the majority of the stakeholders. Furthermore, the Act conveys specific characteristics that allow producers to differentiate their products through the product differentiation strategy and come out of the vicious commodity trap of several similar and undifferentiated commodities or goods trading primarily based on price (Khondkar, 2014). Consumers regard GI labels as a guarantee of quality, and they are prepared to purchase the products with the notion that they are helping the local economy¹⁷. GIs ensure the producer's economic rights are protected as well as a commercial advantage. If the producer is registered as an authorised user, he can use the rights and use the GI to promote his product and benefit from the goodwill established and sustained by the GI (Matin, 2018). The registration of traditional GIs is an essential method for preventing biopiracy and other unfair practices (Islam & Habib, 2016).

The owner of the GI products is the government body or association itself, not any individual or company. However, the registration gives certain benefits to the GI tag's authorised users—the community that produces that product. Given that the majority of GIs fall into the agricultural and artisanal product categories, they have huge implications for rural development. GIs provide a mechanism for rural producers to reach niche markets and reap the associated premium to improve their living conditions in a rural development environment. Farmers or producers differentiate their products in the niche market of GIs from those in the ordinary commodities market, and consumers believe that the items in the niche market are of higher quality. A study revealed that 51% of respondents were willing to spend between 10% and 20% more for a GI product than for a non-GI product in the EU (Giovannucci et al., 2009). Some GI-denominated goods have been shown to fetch a price

¹⁷European Commission, 'The Traders: How to best exploit GIs in National, Regional and International Markets', in *Workshops on Geographical Indications, Development and Use of Specific Instruments to Market Origin-based Agricultural Products in African-ACP Countries* (2013) 22.

premium (Das, 2008; Seetisarn & Chiaravutthi, 2011; Ribeiro & Santos, 2004). The level of the premium is determined by a variety of factors, including market size, degree of competition with alternatives, and customer perceptions of the relationship between an indication and product qualities (Bramley et al., 2009). This financial incentive may help communities that have preserved the required knowledge to develop the reputation of GI-denominated goods to survive (Zahur, 2019). As a result, countries that want to improve the economic situation of farmers have a tremendous motivation to protect and develop GIs (Ali, 2013). People also would desire to visit the place where a certain product originates, which would result in increased economic activity in that area, according to the name of the place in the product.

Because GIs naturally draw upon products such as agriculture, fisheries, handicrafts, and other artisanal products, the trade advantage resulting from GI protection tends to be pro-poor. This is in contrast to other forms of IP, such as patents and trademarks, where the beneficiaries are primarily wealthy individuals (Jena & Grote, 2010). As a developing country with a substantial agricultural sector, GI law can be a useful tool for economic development and bettering the livelihood of skilled craft practitioners (Rangnekar, 2010).

2.6.2 Cross-border GI protection

Although TRIPS' definition of GIs assumes a GI's exclusive territoriality inside the territory of each member, it is feasible that a GI's area of origin may include areas from two or more nations. The problem of cross-border GI protection is raised in this case. A cross-border GI comes from an area that encompasses regions, territory, or localities in two or more nations, and where a certain quality, reputation, or other attributes of the good is primarily related to its geographical origin stretching across those countries. There is no clear provision in TRIPS defining the precise legal status of geographically or culturally shared cross-border GIs. Furthermore, TRIPS is silent on how to determine the specific geographical origin of a GI where two or more nations have competing claims over the GI.

The economic interests of a least developed country (LDC) like Bangladesh are badly harmed in other neighbouring countries due to the lack of any uniform policy regime to assure cross-border GI protection. Several GI items that are traditionally and physically linked with Bangladesh, such as the Jamdani saree, Fazli mangoes, or Nakshi kantha (embroidered quilt), are uniquely claimed by India by registering them under the Indian sui-generis GI protection system. Thus, India's registration of several well-known Bangladeshi products and handicrafts has created a possible danger to Bangladesh's GI protection (Karim, 2016).

In response, Bangladesh enacted GI Act in 2013, sui-generis legislation to register and protect the GI goods in the country. The Act, however, is silent on the methods and processes for sharing cross-border GIs. There is a legal vacuum in cross-border GI protection in South Asia, particularly between Bangladesh and India, in the lack of any statutory measures, bilateral or regional mechanisms, or mutual consent between neighbouring nations.

It is difficult to provide cross-border protection of GI in nations where the same GI is protected as a trademark, collective mark, or certification mark. However, this will not pose a problem for Bangladesh and India as both countries follow the sui-generis system of protection. In a given circumstance when two or more nations want exclusive control over any GI, such a country must file an application for cancellation of rival GI protection under the domestic legal

system of a foreign country after obtaining GI registration at home. A homonymous GI has a similar nomenclature that is spelt or pronounced similarly but may be qualified for separate protection. It may be protected as a homonymous GI in both nations, provided that such usage does not mislead consumers and that it meets the requirements of a GI. However, the procedure of homonymous GI registration is complicated since the identical product quality, features, and other criteria may not be accessible in both GIs. This may also lead to unfair competition. The Geneva Act under the Lisbon Agreement paves the way for a joint application and single registration geographical area of origin consisting of a trans-border geographical area. Therefore, Bangladesh should be a signatory of the Lisbon Agreement. This would be extremely beneficial for Bangladeshi GIs to be protected in foreign jurisdictions, which would otherwise be impossible owing to cost and other pertinent aspects (Islam & Ansari, 2017). However, this will necessitate the investment in infrastructure and human capacity building in DPDT to have the proper institutional capacity in that regulatory establishment (Yusuf & Burhan, 2015).

Only a shared understanding between neighbouring nations, mutual discussions, and political agreement would allow GIs to be protected to the greatest extent possible across borders (Islam & Ansari, 2017). Recognizing joint ownership of conflicting claims of two or more nations over any GI product through an institutional structure is the most realistic alternative for ensuring joint protection of GIs and accelerating commercialization in third-country. However, implementing this system in the South Asian setting is extremely challenging since it requires two or more nations to agree on a shared cultural idea of a GI and to deal with GI rights in other countries. The notion of joint registration of GI appears to be particularly hard in South Asia because of a lack of social, political, and diplomatic agreement in a cross-border environment.

2.6.3 TRIPS compatibility of GI Act, 2013

Bangladesh, as a WTO member, has begun to restructure its legal structures to become a TRIPS-compliant country. Bangladesh has implemented sui-generis legislation as well as a rule for the preservation of geographical indicators as part of this shift. Because Bangladesh is about to be elevated from the LDC category, TRIPS compatibility with Bangladesh's GI legal regime is a major concern. It's also crucial for Bangladesh to navigate the uncharted territory of leveraging its geographical indications (Karim, 2018). GI Act of 2013 largely mimics the TRIPS framework for GI protection, with minor additions to broaden the scope of GI protection (Zahur, 2019). Table 3 presents the TRIPS compliance with the GI Act 2013.

Table 3: TRIPS compliance with the Bangladesh GI law

Issue	TRIPS	GI Act 2013	Compatibility
Protection mechanisms of GI	No obligation is conferred to member States to ensure protection in the following exceptions: Goods that are not, or cease to be protected in their country of origin, or which have fallen into disuse in that country.	Certain goods will not be protected because they are not, or ceases to be protected in their country of origin, or which have fallen into disuse in that country. Their registration is prohibited to avoid deception or confusion among the consumer, or it is against public morality.	The provisions of the Bangladeshi Law in this regard are fully compatible with TRIPS.
Provisions on trademarks	Provides guidelines and manoeuvres for State parties	Empowers the Registrar of GI, either of his motion or by an	GI law of Bangladesh has been TRIPS-

Issue	TRIPS	GI Act 2013	Compatibility
with GI implications	to determine the relationship between trademarks and geographical indications and also restricts or invalidates the trademarks which potentially mislead the consumers.	application of interested parties, to reject or invalidate the registration of a trademark, if it is related to GI, and does not represent a true place of origin or used in a manner that may mislead the public	compliant legislation concerning the interface and basic provisions between trademarks and geographical indications. Also, both in TRIPS and GI Act 2013, trademarks are transferrable while GI is not and both can be inherited by the successors in business.
	Exempts those trademarks which have relation to GIs and have been “applied for or registered in good faith” or where the trademark rights “have been acquired through use in good faith” either before implementation of TRIPS provisions or before geographical indication is protected in its country of origin.	Trademarks which have relation to GIs, shall not be affected by this law if acquired or registered in good faith before the enactment of GI Law or before an application for registration under GI Law	
Preventing misleading public and unfair competition	It imparts an obligation on its members to provide legal mechanisms to prevent the designation or presentation of goods in a manner that is misleading to the public. It further requires that States must adopt the legal means to prevent any use of goods that constitute an Act of unfair competition.	It incorporates adequate provisions to prevent misleading the public and unfair competition through accommodating the same elements and substances for determining “unfair competition”. The law also prescribes punishment for misleading the public, passing off, and unfair competition.	Bangladesh GI legislation complies with the requirements of the TRIPS Agreement on the issues of preventing misleading public and unfair competition
Homonymous GIs	It enshrines the provisions for the protection of homonymous GIs, albeit specifically for wines and spirits.	Section 7(1) of the Bangladeshi GI Act, 2013 provides scope for registration and protection of homonymous GIs. Section 7(2) delineates that in the case of homonymous GIs of similar categories, every producer shall be accorded equal treatment and protection.	Bangladeshi Law is silent on the specific category of goods whereas TRIPS explicitly protects wines and spirits. Therefore, the presumption could be drawn that any class of homonymous GI may be protected under the GI legal framework of Bangladesh
	TRIPS has given the flexibility upon the shoulder of the member States to determine the practical conditions that are essential to distinguish one homonymous GI from another.	GI Law of Bangladesh has explicitly put any obligations on the Registrar to determine any practical terms to differentiate between the similar classes of homonymous GIs.	

Issue	TRIPS	GI Act 2013	Compatibility
	<p>It declares that the use of similar names must not be deceptive (must not mislead the consumers) and must not also create any Act of unfair competition.</p>	<p>Prohibits the use of any GI (which may presumably be applicable for homonymous GI as well) in any manner which may mislead the public</p>	<p>Law of Bangladesh on putting differentiating terms and conditions may result in confusion and complications in protecting similar types of GIs.</p> <p>Bangladesh GI legislation complies with the requirements of the TRIPS Agreement.</p>
<p>Extension debate</p>	<p>TRIPS agreement accords a two-tier system of protection for geographical indications. It provides a common standard of protection for all GI products other than wines and spirits. In common standard, members must prohibit by appropriate legal means the use of such GI only when it tends to mislead the public and/or constitutes an Act of unfair competition. In contrast, it gives extended protection to wine and spirit by stipulating the prohibition of any use of wines and spirits products by translation or expression such as “kind,” “type” and “style” even in the cases when the true place of origin is indicated in the product.</p>	<p>GI Law of Bangladesh has tactfully avoided the divisions between wine and non-wine products in the domestic sphere. Bangladesh has taken no “differentiated policy” in respect of GI products being within the ambit of TRIPS.</p>	<p>This would not violate the obligations of a TRIPS member State. Because it is an axiom that TRIPS has established a minimum threshold of protection but does not set any maximum limits, thus, a higher level of protection for non-wine products does not hamper TRIPS compliance.</p>
<p>Enforcement mechanisms</p>	<p>it delineates the enforcement mechanisms including administrative and judicial remedies that need to be provided by the state parties in their domestic legal regimes. It envisages that aggrieved parties must have procedures for judicial review and appellate authority against administrative decisions.</p>	<p>GI Law of Bangladesh empowered the Registrar of GI with certain powers and functions in dealing with GI-related issues. The decisions of the GI Registrar are typically deemed to be administrative. Any aggrieved party may apply to the government against the order or decision of the Registrar within 60 days from receiving any such decision. The decision of the government in this regard shall be final. Thus, the overall mechanism for legal remedy lacks judicial supervision as such. In other words, a person aggrieved cannot</p>	<p>The review procedure of administrative order or decision as provided by the Law is compatible with TRIPS requirements. However, it is unclear how the governmental appellate body would be constituted and how it will resolve the appeal.</p>

Issue	TRIPS	GI Act 2013	Compatibility
		go to any judicial body against the decision of the administrative authorities.	
	It entails that the procedures for judicial remedies in case of infringement or prevention of infringement must be fair and equitable, must not be unnecessarily lengthy or complicated, and must not create barriers to legitimate trade.	GI Law of Bangladesh stipulates that no suit or complaint may be maintainable in the appropriate courts unless (a) a written complaint is lodged by Registrar or any other persons empowered in this regard and (b) a notice has been served by aggrieved persons to the Registrar or any other persons assigned within 30 days from the commission of the alleged offence. The aggrieved party cannot go directly to the court unless endorsed by Registrar.	The procedures of legal remedies for aggrieved persons in Bangladesh GI law, although judicial remedies need to be accessible, reasonable not cumbersome and costly according to TRIPS.

Source: Adapted from Karim, 2018

GI Law of Bangladesh is TRIPS-compliant in general. Despite TRIPS compliance, there are several gaps in Bangladesh's GI legislation that require future legislative attention. The Registrar of GI has unique powers and is considered the final authority in evaluating whether or not a particular GI should be registered. The lack of judicial forums to challenge the decision of the Registrar, who is primarily an administrative body, is a flaw in Bangladesh's GI Law. To preserve a balanced and fair system, administrative activities should ideally be scrutinised by a judicial authority. Furthermore, ambiguity in the membership and functions of the appeal authority, which would oversee the Registrar's acts, could be detrimental to the overall enforcement mechanism. Furthermore, Bangladeshi law does not provide any terms or requirements to distinguish between the various categories of homonymous GIs. This could cause confusion and issues when it comes to protecting comparable types of GIs. Beyond TRIPS compatibility, Bangladesh may confront daunting hurdles such as quality control and supervision, administrative cost containment, and equitable benefit distribution among many stakeholders. (Karim, 2018)

2.6.4 GI Act, 2013 for Trade Facilitation

GI tagging is essential in the world trade situation since it aids in the preservation of a certain product's global reputation and global value created in a particular region. Increased global trade liberalization necessitates better GI and IPR enforcement through multiple FTAs (Free Trade Agreements) and RTAs (Regional Trading Agreements) for items manufactured solely in certain areas. This will encourage peaceful cohabitation among ethnic groups as well as a greater appreciation of local products, knowledge, and traditions. Because a 'multilateral GI registration system' has yet to be developed under WTO, GI tags must be registered country-by-country if they are to be meaningful; except for wines and spirits, of course¹⁸. For example, if someone sells counterfeit Jamdanees, he might be prosecuted since the product has a GI tag in Bangladesh. However, if a merchant in India sells the counterfeit Jamdanees in Sudan, nothing can be done because Jamdanees' GI tag is not recognized in Sudan.

¹⁸<https://www.thedollarbusiness.com/magazine/geographical-indication-tags---are-gi-tags-helping-india-s-exports-/45759>

Products with GI tags prohibit illicit usage, ensure authenticity, reinforce buyer confidence, and increase financial advantage for companies by exporting the products. The price of a GI product rises on the international market as exports rise. The export portfolio could be made more diverse and competitive by recognizing new products with GI tags and finding more export destinations. The government needs to find ways to have more products GI tagged to appraise their value in exports.

For example, there are 417 registered GI goods in India as of now, with around 150 GI tagged items being agricultural and food products, and more than 100 registered GI products being within the category of the Agricultural and Processed Food Export Development Authority (APEDA) scheduled products (Cereals, Fresh Fruits and vegetables, processed products, etc). While Darjeeling Tea and Basmati Rice are two popular GI-tagged agricultural products of India with ready markets around the world, there are a plethora of GI-tagged products in various parts of the country that have a niche but loyal customers and need to be properly marketed to reach more potential buyers. APEDA has facilitated trial shipments into new markets around the world for GI products. In 2021, notable shipments of GI products included Naga Mircha (King Chilli) from Nagaland to the UK, Black Rice from Manipur and Assam to the UK, Assam Lemon to the UK and Italy, three GI varieties of Mango (Fazli, Khirsapati, and Laxmanbhog) from West Bengal, and one GI variety of Mango (Zardalu) from Bihar to Bahrain and Qatar.¹⁹

The Indian government has prioritized integrating farmer producer organizations, food producer corporations, and exporters with foreign business groups to establish a GI-tagged agricultural export centre in Varanasi. A great position at the departure area of Lal Bahadur Shastri International Airport, Varanasi, has been designated to enable GI branded product marketing. The exporters were informed about the potential GI products for exports in the virtual buyer-seller meetings with potential importing countries arranged by APEDA. APEDA also arranged in-store promotional programs (dispatch of GI-tagged samples) in importing countries in collaboration with foreign merchants to boost exports.

2.6.5 Market access opportunities for GI products

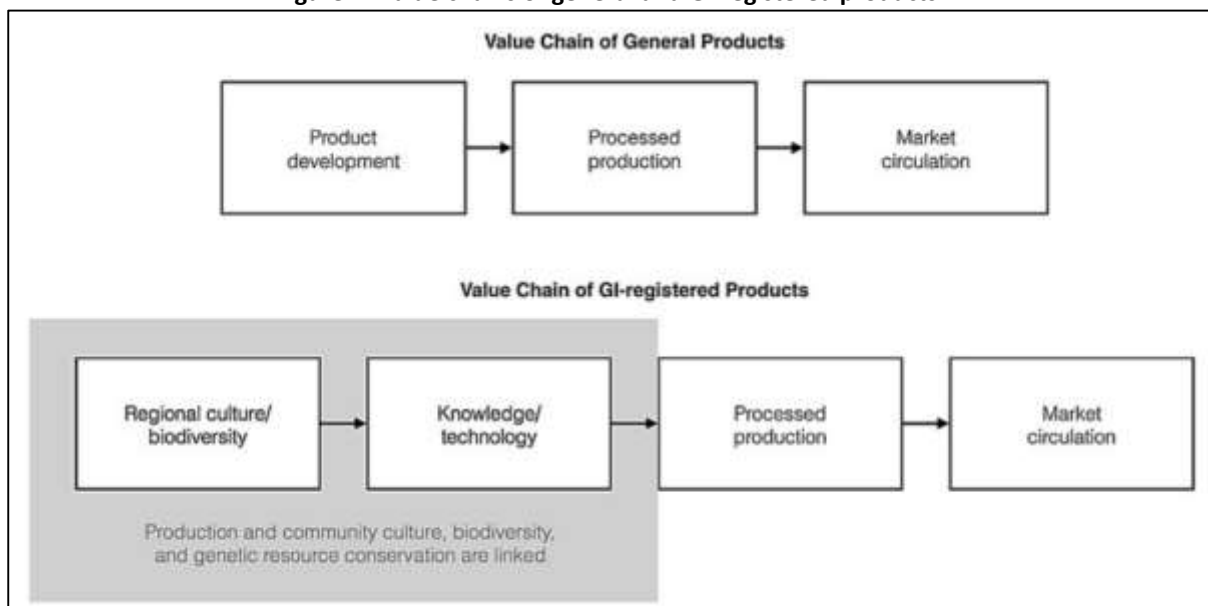
The GI tag is extremely crucial in building brand equity for producers that are unable to invest in branding due to a lack of marketing skills, infrastructure, and legal knowledge. GIs function similarly to brands or certification labels in that they strive to overcome market failure caused by information asymmetry (Teuber et al., 2011). Consumers benefit from GIs since they assist in distinguishing between genuine and counterfeit products. This role is what brings GIs closer to the idea of branding. Obtaining monopoly leadership in the international market is one of the most essential features of the GI Act (Matin, 2018). However, consumer dissatisfaction as a result of information asymmetry may jeopardise the Act's entire objective, putting producers' interests at risk.

GIs serve as a powerful differentiating tool by establishing collective monopolies. They are a market access barrier for items having a geographical indication, allowing manufacturers to

¹⁹PIB Delhi, 17 March 2022 (<https://pib.gov.in/PressReleasePage.aspx?PRID=1806816>)

generate a competitive advantage compared to that of a trademark. GIs' economic significance is mostly determined by the economics of differentiation and speciality marketing. Given the causal relationship between a product and its origin, GI imposes a monopolistic market structure, resulting in a proprietary right for those permitted to utilize it. This monopolistic feature partitions the production market and builds barriers to entry on two levels for producers. Therefore, these collective monopolies restrict competition from identical items produced elsewhere by limiting entry and acting as a trade barrier. Many distinctive items from developing nations have strong reputations, which are frequently linked to their health advantages, excellent quality, and other unique characteristics tied to the country or region of origin. Protecting this reputation through a GI-type system might help farmers and businesses improve market access. (Bramley et al., 2009).

Figure 2: Value chains of general and GI-registered products



Source: Kohsaka & Uchiyama, 2021 (Adapted from Larson, 2010)

However, GIs aren't known for selling themselves. To realise the benefits of the GI Act, significant marketing strategies are required. What's vital after registration is that customers' awareness must be raised regularly (Matin, 2018). The cultural benefits of GIs are contingent on effective market capture of GI goods against similar but less well-known non-GI goods (Zahur, 2019). The economic potential of the registered GIs is dependent on effective post-registration mechanisms, such as quality control, price regulation, and fair competition, among other things (Zahur, 2019).

In most circumstances, GIs are registered with an aesthetically appealing logo in other countries. When GI-denominated products are offered to places beyond language barriers, a logo with a visual impact might instantly grab the attention of naive buyers. This was not taken into consideration in the GI registration of Bangladesh. Consumers see no indication of the registered GI on the product and packaging. However, combining a logo with other marketing tactics could have improved market penetration. Additional information offered by vendors, such as the story behind the products, can go a long way toward convincing customers to buy GI-labelled products (Zahur, 2019).

The “Additional protection” scheme of the Act should be used to protect Bangladeshi GI that has worldwide notoriety. Bangladesh should benefit from the Doha Round negotiations by providing special protection to specific GIs in products other than wines and spirits (Islam & Habib, 2013).²⁰

2.6.6 Implementation challenges of GI Act, 2013

Successful GIs contribute to a country’s economy, culture, and community development. However, factors outside of the GI scheme are responsible for reducing the commercial benefits of GIs. A solid environment and governance might help a given GI to grow faster. Otherwise, the potential benefits of GIs would remain a theoretical rhetorical exercise and a practical impossibility. Several craftspeople, domain specialists, and entrepreneurs are not realising their full potential due to a lack of emphasis, support, and instruction on creative talents and heritage-related economies. Despite market demands, consistent and long-term investment sources are lacking. Lack of desire to accept innovative technology, low government investment, high bank interest rates for starting a new enterprise, and, most critically, political instability all hinder any type of action or development strategy (Ahmed, 2020). An effective ecosystem for fostering GIs is badly needed.

A vital implementation challenge of the GI Act in Bangladesh is that Bangladesh lacks the **necessary database and historical evidence** for GI products. The records required for GI registration are not kept. Entrepreneurs in the private sector have the expertise, passion, and organizational skills to gather such information. Producers of a specific GI product may create a GI management group and acquire the needed product information/specifications through their Association. They might enlist the assistance of experts/product-specific research institutions to determine product attributes to facilitate GI registration (Yusuf & Burhan, 2015).

There must be a producer organization to apply for GI registration. The majority of organizations in Bangladesh are **weak institutions**. Producer associations or structured associations must be reinforced. Capacity building is required for these entities so that they can design product standards, apply for registration, and monitor via inspection. Making small or disorganized producers of GI goods organized enough to comprehend the relevance of GI and apply for GI is a difficulty. Producer associations/manufacturers must be persuaded of the economic benefits of GI. This is because manufacturers will only apply for GI registration and endure the fees of the official procedure if they believe the advantages outweigh the expenditures, as GI registration is not mandatory. Moreover, most GI stakeholders are unaware of the legislative laws and processes for obtaining GI registration. As a result, convincing potential GI product producers of the economic and commercial benefits of GI would be a difficult task for the regulatory body (Yusuf & Burhan, 2015).

According to the **implementing body** of the GI Act 2013, the DPDT office runs with insufficient manpower. Moreover, there is a lack of selection of appropriate representatives in the GI Unit, who should have the adequate legal knowledge, significant experience in dealing with GI and legislative academic background for dealing with the proper implementation of the

²⁰Article 23 of the TRIPS Agreement provides additional protection to GIs only in cases of wines and spirits which means they should be protected even if there is no risk of misleading or unfair competition.

Act. To have a functional GI regime, management must train a pool of officials and provide them with hands-on experience in GI registration, examination of GI applications (including how to verify product descriptions and specifications), preparation of GI Journals, and detailed knowledge on how to determine/guide benefit sharing, and maintenance of the GI register (Yusuf & Burhan, 2015). Moreover, the DPDT should be given more power to strengthen the enforcement mechanism and quality assurance. At present, DPDT has limited jurisdiction when the quality of GI goods is not maintained, that matter is dealt with by the law enforcement agencies who may not have adequate knowledge of that.

Environmental degradation can Act as a potential threat to several agricultural GI products while industrialization can be held responsible to lose the essence of handicraft GI products.

Bangladeshi GI law does provide for some measures guaranteeing **quality control in the post-registration phase**. GI Rule 9 of 2015 suggests that the applicant group should identify an 'Inspection Body' which is responsible for quality control of the products within the GI. However, these mechanisms have proved to be inefficient in maintaining the quality of GI-tagged products. The circumstance may have been improved if the statute had required the establishment of inspection bodies. These inspection bodies are critical in ensuring that the producers do not reduce the quality of the items. To guarantee that such a requirement does not discourage disadvantaged communities from registering, the minimum infrastructure requirements should be maintained low as long as the inspection is carried out properly. Alternatively, the government should consider offering monetary or infrastructural assistance to these communities to safeguard the GI's quality. Even while inspection bodies for many GI-tagged items have been established, they are still unable to prevent infringements. This is because the operation of these entities is unregulated, and they are not held accountable unless a complaint is filed with the tribunal. The act must include legislative measures that regularize the number of times inspections must be performed and establish a statutory body to which these entities must submit timely reports. Any existing entity including government bodies may be assigned this role as long as it is well-equipped and there is no conflict of interest.

2.6.7 Case study: Basmati

The US patent office awarded an American company, RiceTec Inc, a patent in September 1997 to designate aromatic rice harvested outside India named 'Basmati'. RiceTec Inc. has little success in entering the worldwide Basmati market with brands such as 'Kasmati' and 'Texmati' labelled Basmati-type rice. However, RiceTec's 'Basmati' patent rights allowed them to not only name their aromatic rice Basmati in the US but also label it 'Basmati' for export. This has serious consequences for India since it would lose access to the US import market as well as major markets like the EU, the UK, the Middle East, and West Asia.²¹

Because Basmati rice is historically produced in India and Pakistan, it was argued that issuing a patent to RiceTec violated the TRIPS agreement's GI Act. RiceTec's use of the brand name 'Basmati' for rice that was derived from Indian rice but not produced in India, and thus not of the same quality as Basmati, would have violated the idea of GI and deceived customers. The

²¹Case no: 493 (India-US Basmati rice dispute), TED Case Studies (<http://mandalaprojects.com/giant-project/basmati.htm>)

patent allowed RiceTec to sell its rice under the brand name 'Basmati', reducing India's and Pakistan's worldwide market share, especially since the rice cultivated in the US could be marketed at a lower price than Indian and Pakistani varieties. Two Indian organizations objected to the patent to protect India's interests- the Centre for Food Safety, an international NGO that campaigns against biopiracy, and the Research Foundation for Science, Technology, and Ecology, an Indian environmental NGO that filed legal petitions in the US, and the Centre for Scientific and Industrial Research. They wanted trade protection for the Indian Subcontinent's Basmati rice and Thai Jasmine rice. They urged that US rice standards be amended to stipulate that the word 'Basmati' may only be used for rice produced in India and Pakistan, and 'Jasmine' for Thai rice. After compiling evidence, the Indian government publicly challenged the patent in June 2000. The patent was questioned because the plant varieties and grains are already a staple in India, and the usage of the word 'Basmati' generates geographic confusion. Around 75% of US rice imports come from Thailand, with the remaining coming from India and Pakistan, both of which grow rice that cannot be produced in the US. All of this concluded in RiceTec having a patent specific to only a few claims that could not harm Basmati rice produced in India, and RiceTec losing the right to use the word 'Basmati' when branding rice types generated via their research (Mukherjee, 2008).

The RiceTec case demonstrated not just the TRIPS Agreement's inability to provide equitable market access, but also the necessity for an internationally recognised regulation that will universally safeguard GIs. In the RiceTec case, the Indian government also argued that Basmati rice should be protected in the same way that wines and spirits are protected under TRIPS Article 23. However, it was rejected because it lacked support from TRIPS requirements. Moreover, TRIPS do not obligate other countries to recognise GI on traditional items of the country of origin. However, with the adoption of a particular law, India would be in a stronger position to avoid biopiracy and the resulting economic loss (Bansal, 2021).

Following the challenges with patents that India has had in recent years, the need of implementing laws for biodiversity conservation, piracy control, and IP protection legislation that conforms to international rules has been recognized. It was widely assumed that RiceTec Inc. obtained a patent on Basmati only due to weak, non-existent Indian legislation and the government's philosophical position that natural items should not be protected. India and Pakistan have decided to work together to address the situation to build a solid case against RiceTec Inc. Following the Basmati rice problem, India passed the Geographical Indications of Goods (Registration and Protection) Act in 1999. Basmati rice has been designated as a GI product in both India and Pakistan. With the separate IP offices, India registered this fine variety of rice as Indian Basmati in 2016, while Pakistan registered it as Pakistan Basmati in 2021.

The India-Pakistan conflict started in September 2020, when India asked for exclusive GI rights for Basmati rice in the EU. In July 2018, India requested that Basmati be classified as a Protected Geographical Indication (PGI) by the European Commission. The PGI is a sort of GI for the agricultural, agro-food, and wine industries in the EU that also grants non-European countries exclusive rights. On September 11th, 2020, this registration application was published in the Official Journal of the EU, and it can be contested within three months after publication, with a reasoned statement of opposition due within two months of the notice.

Because India's GI registration in the EU will have an impact on Pakistani exporters, Pakistan vows to actively oppose the application.

Though the EU first granted the application, Pakistan objected and filed a counter-petition, claiming that Basmati rice is a Pakistani product as well. The Indian claim to the EU was disputed in December 2019, with Pakistan's main point being that Basmati Rice was a joint product of India and Pakistan. However, international rules require that a product be protected by the country's GI standards before it may be registered on the global market. As a result, Pakistan approved the Geographical Indications (Registration and Protection) Act, 2020 in March 2020, allowing it to challenge India's claim to exclusive rights to Basmati rice. The importance of the GI label for its Basmati boosted Pakistan's claim in the EU. As the EU has accepted the petition, the dispute is now at a consultation stage.²²

Remarkably, the EU recognized Basmati as a joint product of India and Pakistan in 2006, keeping the market open for both countries selling Basmati rice. According to reports, the two countries may eventually agree to a shared right of exclusivity for Basmati rice in the EU market. This would ensure the export of Basmati rice from both countries in the EU.

The Indian government succeeded against RiceTec in the UK, where the registration of 'Texmati' as a trademark was opposed, and in Greece, where the registration of 'Jasmati', 'Texmati' and 'Kasmati' as trademarks was challenged. The word 'Jasmati' was coined by two rice varieties found in Asia, Jasmine and Basmati. In Thailand, a new hybrid rice variety known as Jasmati was introduced. Concerns were raised following the rice's release that consumers might mistake it for both Jasmine and Basmati rice. This fear was heightened when the results of a poll done in the US revealed that half of Jasmati rice customers believed it was connected to Asian rice varieties.²³

Given the high premium that Basmati, an export-oriented product, fetches in the international market, there have been frequent disputes over granting the protected status to rice that may have been bred from Basmati varieties and has the same qualities, but isn't grown in the historical Basmati-growing belt. The lack of legal protection for Basmati even within India made it possible for such biopiracy to occur.

2.7 Changing nature of the world trade and relevance of the GI Act, 2013

GI tagging is crucial while facing the challenges arising from the changing trade scenario in the world with multilateral agreements and LDC graduation. In the international trade environment, GI tagging is essential since it helps to maintain the global reputation and worth of a certain product produced in a specific area. Bangladesh would be able to protect traditional domestic commodities that rely on the intellectual ingenuity and traditional knowledge of domestic producers under the GI Act of 2013, which previously fell outside of Bangladesh's conventional IP protection. Bangladesh has region-specific handicrafts, fruits,

²²The Financial Express, 26 June 2021 (<https://thefinancialexpress.com.bd/views/getting-products-gi-tagged-1624722272>)

²³The Hindu Business Line, 4 October 2021 (<https://www.thehindubusinessline.com/opinion/why-gi-tags-will-earn-you-respect-in-global-trade/article36826600.ece>)

sweets, tea and other household products for which the GI Act can be made relevant to combat the misleading use or unfair competition.

2.7.1 LDC graduation challenges

Least developed countries (LDCs) often have low levels of export capacity and productivity, as well as a low level of value-added content in their export products. Many LDCs rely on commodities, which are subject to large worldwide price swings. Despite the obstacles that LDCs confront, rural communities have a variety of goods that are intrinsically related to their cultures, customs, and natural biodiversity. These items have untapped potential. Benefiting from such natural resources may include taking measures to establish excellent recognition and a strong reputation for certain items in the eyes of customers and purchasers. GIs are instruments that producers in LDCs may use to unlock the potential of their products and open new doors to trade and more shared prosperity. To be effective, GIs must be integrated into a larger trade promotion strategy. UNCTAD assists LDCs in selecting regions and product combinations to assess the potential of GIs as rural development instruments for poverty alleviation²⁴. It also raises awareness about GIs among policymakers, advises Geneva-based WTO delegates on strategies to advocate for GIs in multilateral negotiations, and assists small producers in rural communities in adding value and increasing the export potential of their products through the use of GIs.

Bangladesh was recommended for graduation from the LDC category after meeting all three requirements, including per capita GNI, human assets index (HAI), and economic vulnerability index (EVI). In the triennials of 2018 and 2021, Bangladesh achieved accomplishment in all three criteria. Graduation from the LDC category is unquestionably a significant step forward in a country's long-term development. Bangladesh is expected to leave the LDC category in 2026. Bangladesh's exit from the LDC status will have a mixed set of implications. Bangladesh will lose all of the freedom it has had under WTO and TRIPS standards once it graduates. To enjoy the maximum advantage of the LDC graduation, Bangladesh should put in place appropriate regulatory and institutional forces to make the most effective and strategic use of the relevant TRIPS provisions.

After graduating from the LDC bracket, Bangladesh will need to ensure compliance with the TRIPS agreement as well as other international treaties related to IPR for protecting GIs. As GI Act in Bangladesh is not significantly old, it has been prepared in 2013 by complying with TRIPS mostly. However, strong enforcement and application of existing IP laws including the GI Act for protection must be ensured by the government.

2.7.2 COVID-19 pandemic

Bangladesh is facing its most serious macroeconomic problem in a decade. According to the International Monetary Fund, the world is heading towards a recession. Currently, the COVID-19 epidemic is spreading its tremendous ramifications all across the world, with the poorer countries bearing the brunt of the impact. Globalization has provided several benefits to many nations throughout the world, including Bangladesh, yet the benefits of globalization will be harmed as a result of the COVID-19 pandemic. Bangladesh is still recovering from the

²⁴United Nations Conference on Trade and Development (<https://unctad.org/topic/least-developed-countries/geographical-indications>)

interruption to its supply chain caused by the Covid-19 pandemic. There is a theory that rising inflation was the cause of increased demand following the recovery of the coronavirus pandemic. The supply chain has been disrupted for all traded goods due to COVID-19 and the GI products are not an exception in that case.

2.7.3 4th Industrial Revolution

For the fourth time in history, the world is seeing another industrial revolution marked by fast technical advancement and the rise of automation in many industrial activities. The changing pattern of human-technology interaction as a result of the Fourth Industrial Revolution (4IR) will undoubtedly have an impact on the economy. GI goods are the result of traditional knowledge that does not welcome new technologies in their production process. However, the wave of technology and automation due to the 4IR may invade the traditional process of production, which might act as a potential threat, especially to artisan GI products. For example, many of the corrupted weavers sell and export false or counterfeit Jamdanees (machine-made) to local and international markets (Matin, 2018). These types of Jamdanees may be made in a matter of hours, but traditional Jamdanees might take up to 3-4 months to prepare. The quality of the machine-made Jamdanees is not up to par, but the appearance of the sarees is nearly the same, and they are accessible at a low cost.

2.7.4 8th Five-Year plan and the Perspective plan (2021-2041)

As IPR protection improves, businesses from developed nations should have more motivation to invest in and operate in developing-country markets, as per the 8th Five-Year Plan (8FYP). However, these characteristics of the IPR match with the patent, designs and trademarks, but not with the GI goods. GI is a special kind of IP that demands a specific mention in the 8FYP due to its economic potential. The 8FYP of Bangladesh does not explicitly mention any specific focus on GI protection.

As part of the 8FYP, Bangladesh will prioritize IPR enhancement. It is crucial to implement an industrial strategy that optimizes its ability to contribute to economic growth while limiting the hazards of waste and rent-seeking. To be WTO-compliant, Bangladesh's industrial strategy must be comprehensive rather than sector-specific; that is, there must be a determined attempt to shift toward more general policies to promote industrial growth. This can be taken as an indirect indication of GI, as the proposed industrial strategy must include the notion of GI to make it comprehensive.

2.8 Country comparison: Deviation from the international good practices

In this section, we'll examine the GI legislation of a few comparative countries that have had a lot of success in recent years. A timely GI Act should be designed to contribute to the country's economic progress. Amending a law necessitates the completion of various legal procedures while also taking a significant amount of time. Well-crafted legislation, on the other hand, can have a significant impact on the regulatory process. It will be beneficial to do a critical examination of Malaysian and Indian GI legislation to learn from them.

2.8.1 Malaysia²⁵

The Geographical Indications Act and Regulations, 2022 of Malaysia have come into force on 18 March 2022 and repealed the Geographical Indications Act, 2000 and Regulations, 2001. This Act has been chosen for this study because of two reasons: this is a sui-generis law which makes it comparable to Bangladesh and this is a very new Act that might encompass all the current economic realities.

Table 4: Overview of Malaysia's Geographical Indications Act, 2022

Key provisions	Highlights	Takeaways
Examination of Geographical Indications	<ul style="list-style-type: none"> The Act stipulates that Geographical Indication (GI) applications will undergo examination by the Registrar. The Registrar shall search for any earlier geographical indications or earlier trademarks. Should the Registrar issue a provisional refusal, the Applicant may submit arguments to attempt to overcome the provisional refusal by way of a written submission or hearing. 	A comprehensive examination process that includes the search of earlier GIs and trademarks.
Grounds for Refusal of Registration	<p>During the examination process, the Registrar shall refuse the registration of a GI if:</p> <ul style="list-style-type: none"> GI does not fulfil the definition as provided under Section 2 of the Act GI identifies goods that do not fall within the prescribed category of goods GI is identical to any customary term in the common language of the goods as claimed GI is contrary to public order GI is not protected or ceased to be protected in the country of origin The goods do not originate in the location as indicated in the application for GI GI may mislead the public as to the true place of origin of the goods GI is likely to cause confusion with an earlier GI which is identical or similar GI is likely to cause confusion with a registered trademark which is identical or similar (this can be overcome with consent by the registered proprietor of the trademark) GI is likely to cause confusion with a similar or identical well-known trademark 	
Opposition Procedures for Geographical Indications	<ul style="list-style-type: none"> The opposition procedures for GI are identical to the opposition procedures for trademark, wherein a Notice of Opposition and statement of grounds of opposition is required to be filed within two months from the date of publication of the GI to the Registrar, along with payment of the prescribed fee. The applicant then files a counterstatement accompanied by a statement of the grounds of counterstatement within two months from the date of receipt of the notice of opposition and payment of the prescribed fee. The Registrar will, upon considering the evidence and written submissions from both the Applicant and 	Incorporates judicial body in the appeal process. The court has jurisdiction to try any of the offences set out under the Act.

²⁵Geographical Indications Act 2022 of Malaysia (<https://www.myipo.gov.my/wp-content/uploads/2022/03/GEOGRAPHICAL-INDICATIONS-2022-ACT-836.pdf>)

Key provisions	Highlights	Takeaways
	<p>Opposing party, make its decision on whether to refuse, register or register with condition, amendment, modification or limitation of the GI.</p> <ul style="list-style-type: none"> • Appeals are to be made to the Malaysian Court from the Registrar’s decision. 	
Cancellation of GI	<ul style="list-style-type: none"> • The power to rectify and invalidate a GI now vests with the Court instead of the Intellectual Property Corporation of Malaysia (MyIPO). • A GI can now be cancelled if: <ul style="list-style-type: none"> ○ It was registered in breach of the grounds for refusal ○ It obtained registration by fraud or misrepresentation ○ It is not being used or ceased to be protected in the country of origin ○ It is not being maintained by the registered proprietor – no commercial activity or interest in the GI ○ It has become a common name of the goods in Malaysia due to its non-use of it as a GI 	Invalidates GI if not maintained by the registered proprietor, this can ensure the quality of the good.
Transfer of Registration	<p>Under the Act, registered GIs are transferrable to another party, provided:</p> <ul style="list-style-type: none"> • The party is entitled to file an application for the registration of geographical indication; and • The proprietor gives consent in writing for the registered GI to be transferred to him 	Enables the transfer of GI rights
Offences	<p>The Act includes offences for the following:</p> <ul style="list-style-type: none"> • Falsely applying registered GI to goods – if a GI is applied without the consent of the registered proprietor and the goods are not the genuine goods of the registered proprietor, person authorized by the registered proprietor or person who has the right to use the GI or the goods are not in accordance with the quality, reputation or characteristics as specified in the Register. • Importing or selling goods with falsely applied GI as above • Submission of false information to the Geographical Indications Office or false entry in the Register • Falsely representing GI as registered – falsely represents that a GI is a registered GI or makes a false representation as to the goods for which a GI is registered. • Disobedience to Summons or Refusal to give Evidence 	
Amendments to the Trademarks Act 2019 in relation to the Geographical Indications Act 2022	<ul style="list-style-type: none"> • As the Geographical Indications Act 2000 has been repealed, the Trademark Acts 2019 inevitably has to be amended. The amendments are about collective and certification marks consisting of geographical indications. • In a nutshell, the Act reflects a comprehensive geographical indication registration system, covering a wider scope of protection for GI proprietors. This ensures that their rights are adequately protected. • In many ways, the provisions resemble those in the Trademark Act 2019, especially in terms of the powers of arrest, search, and seizure. 	GI and Trademark, have sufficient intersections, which makes it necessary for the two Acts to be amended and prepared simultaneously to address the

Key provisions	Highlights	Takeaways
		cross-cutting issues.
GI Logo	<ul style="list-style-type: none"> Automatic once the product is registered as GI. 	Logos can be an effective marketing tool.
Period of registration of geographical indication	<ul style="list-style-type: none"> A registered geographical indication is given ten years (10) of protection from the date of filling and is renewable for every ten years 	

Source: Authors' compilation from various sources

2.8.2 India²⁶

The Geographical Indications of Goods (Registration and Protection) Act was enacted in 1999 and has come into force in September 2003 (hereafter called GI Act). This Act provides for the registration and better protection of geographical indications relating to goods in India.

Table 5: Overview of India's Geographical Indications of Goods (Registration and Protection) Act, 1999

Key provisions	Highlights	Takeaways
Objectives	<ul style="list-style-type: none"> It is to prohibit unauthorised persons from misusing geographical indications and to protect consumers from deception, Particular law governing the geographical indication of goods in India which could well enough to cover the concern of yielders of such goods, and To encourage and promote exports of the goods bearing India Geographical Indication. 	Export promotion can be an important objective of the Act.
Appeal	<ul style="list-style-type: none"> Filing appeal against Registrar's decision to the Intellectual Property Appellate Board established under the Trade Mark legislation. 	The administrative body should be complemented by the judicial body in the appellate board.
Contents of application	<ul style="list-style-type: none"> A description showing how the geographical indication helps to show the goods as coming from the particular region of the country or territory; Providing a geographical map of the area or region in which goods are produced; The categories of goods; Details of producers; An affidavit of how the applicant claims to denote the interest in the GI; The standards benchmark for the usage or other features of the GI; The particulars of unique features; The written description of the suggested boundary; The growth attributes regarding the GI relevant to the application; Three certified copies of the map of the territory, region or locality; Details of special human skills associated, if any; Location and the full name of the organisation and association of person; 	<p>The application checklist should include:</p> <ul style="list-style-type: none"> A description showing how the GI helps to show the goods as coming from the particular region of the country or territory. An affidavit of how the applicant claims to denote the interest in the GI. The standards benchmark for the usage or

²⁶The Geographical Indications of Goods (Registration and Protection) Act, 1999 India (<https://legislative.gov.in/sites/default/files/A1999-48.pdf>)

Key provisions	Highlights	Takeaways
	<ul style="list-style-type: none"> • Number of producers; and • Details of examination structures, if any, to monitor the use of the GI. 	<p>other features of the GI.</p> <ul style="list-style-type: none"> • Details of examination structures, if any, to monitor the use of the GI. • Details of special human skills associated, if any.
Registration Process	<ul style="list-style-type: none"> • Filling an application and a number is allotted on the receipt of the application. • After that, the application goes to the examiner for scrutiny. • Examiner scrutinises the application to verify whether it satisfies the conditions of the GI Act and the Rules. • If any deficiencies found through a preliminary examination will be communicated to the applicant by the Examiner. • The deficiencies need to comply with the limit mentioned in the communication sent by Examiner to Applicant. • After the compliance with the deficiencies, the Registrar will constitute a Consultative Group of experts to ensure the accuracy of the details provided in the statement of the case. • Submissions of the applicant would be accepted after the issuance of the Examination Report. • The application will be admitted and published (within three months of approval) in the Geographical Indications Journal. If no further objection is raised. • Any person may, within three months, oppose the registration of an application for GI after the publication of a Geographical Indication in the Geographical Indications Journal. • After applying and paying the prescribed fee to the Registrar, this objection • The period may be extended by a period not exceeding one month. • The Notice of Opposition/Objection can only be filed before the Registrar of Geographical Indications. • If no opposition/objection is filed within the specified time or where an opposition/objection is filed, it is rejected. The submission time is over, and the Registrar registers the geographical indication in Part A of the Register. • The Registrar shall give a certificate sealed with the seal of the Geographical Indications Registry to each applicant and the authorised users after the registration of a geographical indication. The date of filing of the application will be considered the date of registration. 	<ul style="list-style-type: none"> • The opportunity for hearing on the objection after preliminary examination. • Registration certificate sealed with the seal of the Geographical Indications Registry to each applicant and the authorised users after the registration of a GI.
Duration of registration	<p>The validity of a registered geographical indication is ten years and can be renewed from time to time on payment of the renewal fee.</p> <p>The registration of an authorised user shall be for a period of ten years or for the period till the date on which the registration of the geographical indication in respect of which the authorised user is registered expires, whichever is earlier.</p>	A reasonable period of validity for the authorised users.
Prohibition of registration of certain	For registration, the GI must fall within the extent of the definition of the expression “geographical indication” as provided under Section 2 (1) (e) of the Act. In addition, such a GI should	

Key provisions	Highlights	Takeaways
Geographical Indications	<p>not fall in the purview of prohibiting acts contained in Section 9, which are as follows:</p> <ul style="list-style-type: none"> • the use of which will likely deceive or confuse; or • the use of which will be opposed to any law which is in the force at that time; or • which includes or contains disreputable or offensive matter; or • which constitutes or contains any element likely to hurt the religious sensitivities of any group or community of the citizens of India; or • which will contrarily be disentitled to safeguard in a court; or • which are confirmed to be nonexclusive names or indications of goods and are, hence, not or discontinued to be guarded in their country of origin, or which have come into disuse in that country; or • which, although belongs to another territory, region or locality in which the goods originate, dishonestly represents to the persons that the goods originate in another territory, area or locality, whatever the case may be. 	
Offences and penalties	<p>Chapter VIII of the Act describes specific acts as offences punishable by confinement or with a fine, or both.</p> <ul style="list-style-type: none"> • The penalty for falsification of GIs and the situations in which a person uses false GI are mentioned in Section 39. • Selling goods to which false GI is used as described in Section 40. • Increased penalty for succeeding convictions for falsifying, falsifying GIs or selling goods with false GIs. • Falsely representing a GI as listed in Section 42. Misrepresenting the GI as Registered, which has not been registered, is an offence. • Inadequately describing a place of business as related to the GIs Registry as listed in Section 43. • Falsification of records in the Register as listed in Section 44. • No offence in some cases as given under Section 45. • Immunity of certain persons employed in the day-to-day activities of the business as provided under Section 46. • Procedure where the invalidity of registration is appealed by the accused as given in Section 18. • Cognizance of certain offences and the powers of the police officer for search and seizure. • Punishment for abetment in India of acts done out of India 	
Power to make rules	<p>In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters regarding application forms and particulars, fee structure, index of classification of goods, manner of advertisement etc. and any other matter which is required to be, or may be, prescribed.</p> <p>Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the</p>	Mentioning the important contents to be added to the rules and the process of making any modification of rules.

Key provisions	Highlights	Takeaways
	rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule	

Source: Authors' compilation from various sources

3. The GI Act, 2013 and relevance to SHE trade

3.1 Gender inclusiveness of GI Act 2013

The Geographical Indication of Goods (Registration and Protection) Act, 2013 of Bangladesh is considered to be gender-neutral or non-discriminatory. Neither any discriminatory provisions are included nor any women-friendly ones, as it is TRIPS complied. However, the World Bank in 2020 stated in their report on Women, Business and Law (WBL) has provided a comparative framework for assessing the effect and in-depth impact of laws and regulations on female economic activities. Firstly, the existing gender disparity in the country's laws has a significant effect on women's economic activities. Secondly, it was stated that out of 190 countries, only 8 of them have achieved full gender parity across laws identified as crucial for women's economic empowerment. Thirdly, the study showed that lower-income and lower-middle-income countries have the least gender equality in laws (Congrave et al., 2020). The scope of the GI Act is too limited to make it gender-inclusive. However, a GI policy or a comprehensive IPR policy can fill this gap by transferring the benefits of using the GI tag to the local women of the community that produces that GI product.

The law does not involve itself in the context of social and gender relations of production. However, the following are certain aspects that can be addressed or studied during future amendments or modifications of the Act.

3.2 GI tag benefits for women entrepreneurs

To address the SHE trade relevance and empower women, the Act may put greater emphasis on products that involve women in the majority of the proportion of the production line. Products like desi ghee in India and shea butter in Ghana are products that are historically been exclusively produced through feminine activities that are not considered for the GI even though they seem eligible and have all the requirements and characteristics to be chosen as a GI product. These products have major potential benefits to the economy and will further strengthen their position if it receives GI recognition. Similarly, in the weaving business, where Jamdane is a GI-labelled product, young women with relatively poor skills make up a large portion of the workforce. But the engaged women in the production of various sectors are vulnerable to low wages, weak collective bargaining opportunities, lack of equal pay for work of equal value, long and unpredictable working hours, safety concerns and exploitation inside and outside the workplace. They are less valued in weaver society since they work for poor wages, lack education, and have limited marketing and design knowledge. The extent of applicability of the labour law of Bangladesh should also be clearly understood by the stakeholders to ensure decent work for the women involved in the production of GIs,

according to the key informants. Many initiatives are desperately needed to enhance the position of female workers not only in the weaving sectors but also in the other sectors that consist GI tagged products.

3.3 “One District One Product” initiative

The concept of "One District One Product" (ODOP) evolved from Japan's "One Village, One Product" program, which proved successful and was later adopted by several nations throughout the world. The Export Promotion Bureau's (EPB) ODOP program may be used to promote GI goods. Items designed under the ODOP initiative will be made entirely of local products, making them intimately tied to GI. ODOP program can create employment opportunities at the local level by enhancing the skills of the local producers. The program aims to identify the core competence and comparative advantage of each district and make the district a global hub of research, management of logistics, manufacturing, quality assurance etc. in the area of the identified product. The GoB for the first time identified three products to develop under the ODOP program in 2009- agarwood of Moulvibazar, clay tiles of Satkhira, and rubber of Chittagong Hill Tracts, one of which is a GI-certified product now²⁷. This ODOP program can be revived in line with the GI goods as there is a huge demand for GI products in the global market and Bangladesh has the potential to cater to the demand. However, the country is now unable to capitalize on its potential due to a lack of skill to maintain the international standard and a lack of efficient interaction with the export market. Export Policy 2015-18 includes strengthening the ODOP program to produce price-competitive products depending on area-based domestic raw materials. The ODOP project will also take steps to increase the quality of the products and will also broaden the export portfolio of the country. Women are frequently overlooked in economic analyses of globalisation and international market trends, and this is reflected in the GI framework. The products manufactured by women should get international recognition. ODOP project can be an important addition to the betterment of the women entrepreneurs at the local level in each district.

3.4 Addressing SHE trade in GI Act 2013

The preamble of Council regulation 2081/1992 addresses the promotion of commodities having certain unique characteristics that could be cause benefit to the rural economy. In particular, more attention should be given to less-favoured or remote areas by enhancing the incomes of farmers or producers and by retaining the rural population of such areas. To obtain GI recognition, the product specification is crucial but there is no mention of who produces the commodities or has been historically involved in the production of the product. The application that recognizes a GI product shows no reference to whether the product is produced mainly by female producers or male producers. Therefore, the application form of GI products can include a section that recognizes the gender perspective or male-female ratio in the production process.

If GIs are to realise their full potential as a valid tool for implementing innovative, more just forms of community-based and quality-oriented production by leveraging international

²⁷The Daily Star, 15 September 2009 (<https://www.thedailystar.net/news-detail-106053>)

market exchanges and new consumption trends, concerns must be openly discussed not only in academic circles but also in national and worldwide political settings (Parasecoli, 2010).

4. Findings from KIIs and FGDs

GI products tend to command a premium brand price, and they serve to create local jobs, which may help to reduce rural exodus. Furthermore, GI products frequently have significant spill-over impacts, such as in tourism and gastronomy. Geographical markers can add value to a place by marketing it as a whole, not just by creating jobs and increasing money. In this aspect, GIs may help to establish a "regional brand". Bangladesh enacted the GI Act in 2013. However, the Act suffers from some major loopholes. Moreover, the benefits of the GI tag cannot be fully extracted only through registration due to some challenges in the context of Bangladesh. These findings from KIIs and FGDs are discussed in this section.

4.1 Knowledge gap and lack of awareness about GI

Knowledge among all the stakeholders about the GI tag is crucial thing to reap the full benefit of it. Awareness of GI systems and knowledge of how to manage them is lacking in Bangladesh. Moreover, consumers also have low awareness of GI products. GI registration system must be supplemented by proper awareness-raising programs so that both the consumers and producers can understand what is the true purpose of GI registration, what should be done to reap the economic benefit of GI, why GI registration is not enough for branding, how to build effective marketing strategy of GI products, and what measures should be taken to check the authenticity and maintain the quality of GI products.

4.2 No provision for protecting traditional knowledge

Under Bangladesh's GI system, traditional knowledge, traditional behaviours, and traditional products have received no direct mention. As a result, it is unclear if TK and associated products are protected under our GI framework. TK, TCE and associated assets, such as medicinal plant varieties and traditional medical procedures can be protected by the GI system from misleading and deceptive business activities. In the lack of a legal system to preserve TK and related items, the GI Act may be able to fill the gap. They can also help indigenous communities by making it easier to commercialize TK and TCEs and promoting TK-based economic growth. Indigenous communities can use GIs to differentiate their products and profit from their commercialization, strengthening their economic position. Thus, the Act shall provide rules for the protection of the unique goods of the indigenous communities. The Act might create some GI-HOTSPOTS, for example, by providing particular protection to GI coming from specific places.

For example, the EU's GI legislation has created unique protection measures for GIs found in mountains and on islands. Bangladesh can also create special mechanisms for GIs originating in hilly and coastal areas, as well as GIs belonging to indigenous people (Islam & Habib, 2013). Products such as *Manipuri saree*, *Austagram Cheese* and many others have the potential to be registered as GI products. If these products achieve the status of GI, then it will further develop the quality of products and improve the life of the indigenous people. Specific provisions for indigenous populations are required to safeguard their TK and TCE.

4.3 Wider explanation of the term 'generic'

The Act expressly excludes a GI from the protection that has become generic. The TRIPS Agreement does not employ the term "generic" to preclude a GI from protection; instead, it uses the terms "cease to be protected" and "have fallen out of disuse". Bangladesh appears to have failed to make use of the TRIPS Agreement's flexibility. The term "genericide" as provided in the Act has a broader meaning than the terms provided in the WTO TRIPS Agreement. The modalities for "genericide" have been widely employed in the Act's definition, both for geographical and subject matter elements.

For example, the Bangladeshi GI "Jamdane" has also been claimed by India under the name "Uppada Jamdane". According to reports, the word "Jamdane" is unique to Bangladesh since the geo-ecological, climatic, and human factors in Dhaka are ideal for its production. If we had legislation provisioning that Bangladeshi GIs would be considered "generic" if they become generic within the territory of Bangladesh, India could have not claimed such (Islam & Habib, 2013). Simply put, the Act has not defined the geographical area limit to determine "genericide" making a GI with worldwide notoriety vulnerable to "genericide". From a subject-matter perspective, having used the modalities "designation of goods" and "place of origin" conjunctively, the Act has made both AOs and GIs vulnerable to "genericide".

4.4 Additional protection for certain GI goods

To protect GIs with worldwide notoriety, they should be registered under the "additional protection" scheme of the Act. A GI registered under such a scheme would be prohibited from being used with phrases like "kind", "kind", "style", "imitation", and other similar expressions. The government has the authority to declare some products to be protected under the extra protection regime. Any such list has yet to be published in the Official Gazette by the government. The government should publish a list of globally recognised GI commodities, such as "Jamdani", "Nakshi kantha", "Hilsa", "Mangoes from Rajshahi", and specific "Aromatic rice varieties". Bangladesh should take advantage of the Doha Round negotiations by providing special protection to certain GI items other than wines and spirits.

For example, if we once register the GI "Jamdane" under the additional protection scheme, we would be able to invoke a declaration from the court that "Uppada Jamdane" is a misnomer since it is confusing and deceptive concerning the GI "Jamdani" which exclusively belongs to Bangladesh. Our case would be based on the interpretation of section 22(3) of the Indian GI Act, 1999, which states that GIs with enhanced protection are protected from the use of similar GIs accompanied by phrases like "kind", "style", "imitation", or other similar expressions. The GI "Uppada Jamdani," for example, is made up of two words: "Uppada" and "Jamdane". The latter term "Jamdane" imitates a well-known GI from Bangladesh. If we apply sui-generis to Article 22 (3) of the Indian GI Act, we have a strong case against "Uppada Jamdane" (Islam & Habib, 2013).

4.5 Vague idea about the extent of protection

Selecting a specific name for GI that omits all the possible confusion and ambiguity about the protection and is sufficient to explain the extent of protection is crucial to be addressed in the

Act. For example, because of the name "Jamdane", it is unclear if the protection applies to any item made with Jamdane fabric or if a registered GI can only be used for sarees and other garments. Infringement may arise as Jamdane is now being used to make home-décor items too, which are not even garments. A special note should be added in the GI Journal too to specify the extent of protection of GI goods.

Processed and manufactured foods make up the majority of GI-protected foods. The registration of the existing GI products can be extended to include the processed products that are manufactured from the former product, based on reputation, as well as natural circumstances as a result of human interference. For example, as the GI journal suggests, only fish varieties found in natural environments are covered by the GI. Nature alone is responsible for the uniqueness of this fish type. Human intervention, specifically fishermen, is the intermediary to customers and does not directly contribute to reputation. If the Hilsa sector expands to make processed food from Hilsa fish employing traditional culinary methods and art, the registration could be extended to processed items in the future, resulting in a higher price in foreign markets.

4.6 Modifications needed in the provision for registration and protection

The registration process appears to be complicated and lengthy compared to other IPs. In a hostile and competitive domestic and global commercial market, time-consuming registration may assist a GI to become generic. As a result, the registration process should be made visible, efficient, and quick, with superfluous procedures eliminated. On the other hand, the validity period of a registered authorised user of GI is not long. The initial period of protection of the authorised users appears to be shorter than that of other South Asian countries such as India and Pakistan. This period of protection needs to be increased for the benefit of the producers. The GI Act 2013 offers protection of authorised users for only 5 years. If legislators meant for this clause to ensure the consistent quality of a specific product before renewal, it should be applauded. However, the protection period of authorised users to be increased to at least 10 years is suggested. Because, unlike patent law, we have a competitive advantage over GIs because of the rich tradition in Bangladeshi localities.

4.7 Designing an Appellate Board

In section 27, the Appeal Body should include members from legal background along with the administrative members to ensure judicial scrutiny in the appeal process. It is also recommended that the absolute authority of the government in taking final decisions should come under judicial scrutiny. Here, the forum of the aggrieved person to redress his/her grievance before the court is being legally restricted that goes against the constitutional mandate of guaranteeing equal protection of law. According to the Act, the decision of the administrative body (being constituted by the government) is final and the law does not allow the aggrieved to appeal against the decision of the government. However, there always remains the scope of the judicial review of any action of any authority, be it executive or Judiciary, under Article 102 of the Constitution (writ jurisdiction), and this would be no exception to this rule.

In India, for example, the IP Appellate Board entertains appellate jurisdiction from the proceeding of the Registrar. The Appellate Board headed by a Chairman is composed of Benches comprising two members of whom one technical and one judicial. The Appellate Board has been designed in such a way that it predominantly comprises personnel from a legal background. However, in Bangladesh, an appeal from any person aggrieved by an order or decision of the Registrar under this Act goes to the representative of the government who may not happen to be from a legal background. Bangladesh should also design its IP Appellate authority following the Indian model to ensure transparency, expediency and expertise. Bangladesh can also establish a separate appellate body like Thailand, where the Geographical Indications Commission works as an appellate and expert body (Islam & Habib, 2013).

4.8 Intervention of the Registrar in the cognizance of an offence

According to section 38, no court shall take cognizance of an offence under this Act, unless (a) the complaint is made in writing by the Registrar or any officer authorised by him; or (b) any person aggrieved or seeking relief from any grievance, gives notice of justice to the Registrar or any officer authorised by him within 30 (thirty) days of the commission of the offence. The necessity of this compulsory involvement of the Registrar should be relaxed to reduce administrative complexity while seeking the judicial remedy of an offence from the court, according to legal experts. Any person aggrieved or seeking relief from any grievance should be able to go directly to court without giving notice of justice to the Registrar or any officer authorised by him. The administrative intervention by the Registrar not only curtails the access to justice of the aggrieved person but also violates the right to fair trial stipulated under the constitution of Bangladesh.

The concerning point here is that both the registrar and the appellate authority (the government) are from the executive branch of the state. So while making the decision of the executive final, the law curtails the scope of judicial scrutiny.

4.9 Aligning GI with bilateral, plurilateral and international agreements

Foreign GIs as classified in official government notifications are similarly given equal protection under the Bangladeshi GI Act. The Act, however, is vague on the methods and procedures for shared cross-border GIs. The Act does not specify how to seek registration for the shared cross-border GI. There is a legal vacuum in cross-border GI protection in South Asia, particularly between Bangladesh and India, because there are no legislative measures, bilateral or regional agreements, or mutual consensus between neighbouring nations. Bilateral agreements are those where two States or two trading partners (usually customs territories) may agree to protect each other's GIs under an agreement. These agreements can be separate treaties or form part of a wider trade agreement. There are many examples of this type of agreement, especially in the wine and spirits industries. Many of these were formed in the mid-twentieth century, yet they remain a popular means to protect GIs, as demonstrated by the number of agreements reached in recent years that aren't confined to wine and spirits.

Bangladesh can draft bilateral agreements with India for “Nakshi kantha”, “Fazli Mango” and other products having similar names. “Nakshi kantha”, a form of folk art from Bangladesh and West Bengal, India, is a manufactured or embroidered quilt. “Nakshi kantha” is not solely an Indian invention, Bangladesh has a similar heritage in this area. Bangladesh and India can jointly claim GI in “Nakshi Kantha”, much as India and Pakistan have done with “Basmati rice”. “Fazli mango” can be another jointly protected GI of Bangladesh and India. Bangladesh should therefore adopt necessary rules in its GI system to accommodate cross-border challenges to promote the national economy through an efficient GI regime. The legislation should empower the relevant ministry to make bilateral treaties on GIs when there is cross border connotation of a product. The rules thereunder should prescribe the method of how associations can apply for registration of GIs in case the necessity arises for cross-border registration of the product.

In a situation where two or more countries claim exclusive rights over a GI, the home country must apply to have competing GI protection cancelled under the foreign country's internal legal structure after obtaining GI registration. For example, in response to India's registration of the “Uppada Jamdane” saree from the village of Uppada in Andhra Pradesh as a GI product, the BSCIC, a state-run corporation, filed a lawsuit—the recipient of GI for “Jamdane” saree in Bangladesh has to make an application under Section 27 of the Indian GI Act of 1999 for the cancellation of “Uppada Jamdane” from the official register in India since the name “Jamdane” is exclusively being claimed by Bangladesh and is also recognized by the UNESCO as the heritage of Bangladesh. We must seek registration of our GIs in the foreign jurisdiction where they are threatened. Bangladesh must also designate an international watchdog to oversee the appropriation of Bangladesh's GIs. Bangladesh should establish a national authority to provide legal and technical assistance to local GI owners seeking to register their GIs in foreign countries.

As a WTO member, Bangladesh is obliged by the national treatment and most-favoured nation principles enshrined in the Bangladeshi GI Act, which allows for cross-border GI protection. The Act must include a clear mechanism for securing registration of shared cross-border GI for this purpose. Alternatively, it can sign bilateral or plurilateral agreements with neighbouring countries to impart and ensure GI protection in third countries. Bangladesh is not a signatory to the Lisbon Agreement on International IPRs, which was recently updated to include the international registration of GIs. Thus, fighting for the security of GIs across international borders would not be cost-effective for Bangladesh. In addition to improving its GI regime, Bangladesh can join the recent Geneva Act of the Lisbon Agreement which provides for a uniform registration system for AOs and GIs.

4.10 Insufficient branding of GI products

The use of logos and marks for branding GI products is an important marketing tactic for helping them find their specific market. Bangladesh's GI management system has taken no steps to promote GI product branding, either through signs, logos or labelling. The international market of GI products is highly competitive, where the authenticity of the product, as well as consumable quality and health safety, must be ensured. GI Act should introduce more mechanisms to provide this. Given the broad geographic scope of various GIs

in Bangladesh, the government should mandate a common emblem for all relevant GIs, not only for specific products.

The use of barcodes to track authenticity has been noticed in international good practices. Although this level of sophistication can be compromised, Bangladesh still needs to ensure the placement of logos to be used in Bangladeshi GI-registered products through the legislation. Enacting this will be difficult in the case of agricultural products compared to handicrafts as agricultural products are mostly sold without packaging. This will increase costs which will be resulted in losing the market due to increased prices. Therefore, another alternative measure can be the use of certification checks and marks by the producers to indicate to the users the authenticity of the product.

4.11 Lack of proper quality control mechanism

Consumers regard GI labels as a guarantee of quality. However, only the registration of GI and the use of a tag cannot ensure the quality of the product. Bangladeshi GI law does provide for some measures guaranteeing quality control in the post-registration phase. GI Rule suggests that the applicant group should identify an 'Inspection Body' which is responsible for quality control of the products within the GI. However, these mechanisms have proved to be inefficient in maintaining the quality of GI-tagged products. The GI regime makes no mention of a GI Inspection system, which is necessary to ensure and maintain the GI goods' claimed quality. The circumstance may have been improved if the statute had required the establishment of inspection bodies. These inspection bodies are critical in ensuring that the producers do not reduce the quality of the items. Even while inspection bodies for many GI-tagged items have been established, they are still unable to prevent infringements. This is because the operation of these entities is unregulated, and they are not held accountable unless a complaint is filed with the tribunal. The Act must include legislative measures that regularize the number of times inspections must be performed and establish a statutory body to which these entities must submit timely reports. The rule needs to define the modality of how the quality inspection body may function. A separate organization in every division to manage the GI system can be created to ensure the quality of GI products. To make sure quality is always maintained, the GI unit can be extended under DPDT with a specific focus on quality-control experts.

4.12 Need for private sector engagement

While private stakeholders or the state may begin a GI application, the establishment, inspection, and enforcement of a GI application/registration necessitate the engagement of the state via the public administration or the judiciary. Partnerships between the state and private enterprises are required at the national, regional, and local levels to create effective and comprehensive GI governance frameworks.

In the early stages of establishing GIs, the involvement of the state is more significant. State involvement became less significant as the private sector grew stronger and more capable of directly defending its interests, allowing GI-related projects to be begun from the bottom up by producers. Similarly, the state will no longer be required to be completely active in the realm of quality control standards, since these controls and quality certification may be

competently executed by third-party private certifying bodies that have already been certified by the state and its agencies. Private independent inspection bodies are frequently seen to be better suited and able to oversee product quality. Furthermore, when private groups are in charge of quality control, the expenses of these controls are borne by manufacturers, making the system less expensive for the general public. Nonetheless, the state retains responsibility for examining GI applications and registering GIs by analysing GI standards. After establishing the GI ecosystem, the government must step back and the private sector must take up the responsibility to make the system survive in the long run. Therefore, private investment is crucial when the honeymoon period ends, according to the key informants.

4.13 Problem in equitable benefit distribution

GI is a public property owned by the state to give benefits to the producers or collective organization of producers of the concerned goods. Bangladesh may confront daunting hurdles in equitable benefit distribution among many stakeholders. Since an individual producer cannot apply for registration in his or her name it remains ambiguous whether a real producer, extractor or manufacturer of GI goods is divested from being a beneficiary. In the prevailing socio-economic reality of Bangladesh, genuine producers of GI items have not always been able to bargain and make use of the benefits provided to them by society. Influential traders and local vested interest groups may seek to deprive them of the GI Act's benefits. This approach may make the GI Act ineffective, as the genuine minds and entrepreneurs behind a GI are left out of the benefits. Permission given to bodies other than the producer to register GI and therefore become registered proprietors allows for the possibility of abuse. Because the culture of law enforcement in Bangladesh is fragile, the true producer may be marginalised by the proprietors, who may be unaware of the mistreatment. This is why a post-registration or post-GI method should be established to check whether the GI regime benefits genuine enterprises or true manufacturers of GI items, who are the historical reservoirs of GIs.

4.14 Weak implementing body (DPDT)

According to the Act, a Geographical Indication Unit under the DPDT is opened, with the chief of the unit being the Registrar. This is the GI registration and superintendent authority in Bangladesh and executes all activities regarding GI matters. According to this implementing body of the GI Act 2013, the DPDT office runs with insufficient manpower. Moreover, there is a lack of selection of appropriate representatives in the GI Unit, who should have the adequate legal knowledge, significant experience in dealing with GI and legislative academic background for dealing with the proper implementation of the Act. To have a functional GI regime, management must train a pool of officials and provide them with hands-on experience in GI registration, examination of GI applications (including how to verify product descriptions and specifications), preparation of GI Journals, and detailed knowledge on how to determine/guide benefit sharing, and maintenance of the GI register. Moreover, the DPDT should be given more power to strengthen the enforcement mechanism and quality assurance. At present, DPDT has limited jurisdiction when the quality of GI goods is not maintained, that matter is dealt with by the law enforcement agencies who may not have adequate knowledge of the GIs.

4.15 Need for strong associations

The registered proprietor of a GI in Bangladesh has to be an “association of persons or producers”. Such a requirement often necessitates the formation of a new organisation, sparking the collective action dilemma right away. As a result, the registration of a GI is likely to need some reorganisation of the product's current supply chain, resulting in changes to well-established commercial relationships and distribution channels. This frequently leads to new economic opportunities for some new participants at the expense of certain current ones, resulting in conflict. Producer associations or structured associations must be reinforced. Capacity building is required for these entities so that they can design product standards, apply for registration, and monitor via inspection. Making small or disorganized producers of GI goods organized enough to comprehend the relevance of GI and apply for GI is a difficulty. Moreover, most GI stakeholders are unaware of the legislative laws and processes for obtaining GI registration. As a result, convincing potential GI product producers of the economic and commercial benefits of GI would be a difficult task for the regulatory body.

4.16 About authorized users, registered proprietors and producers

The Act has made provisions for two types of registration namely registration for GI and registration as an authorized user. Those claiming to produce, extract, or process relevant GI foods can apply to be registered as authorised users of such commodities. Both of these types of registration must be completed using separate applications. However, neither the Act nor the Rules fully explain provisions for registering as an authorized user. Further unexplained issues include the relationship between the GI's registered proprietor and authorized user-when a registered proprietor can appoint an authorized user, whether an authorized user must have a letter of consent from the authorized user, and whether the concept of the authorized user is limited to foreign GIs. It's also unclear when an authorized user qualifies as "a GI producer, extractor, processor, or manufacturer". Under section 9 of the Act, a producer can get a GI registered and become a proprietor of the GI. The definition of “producer” includes a person who deals in such production, exploitation, making or manufacturing of GI goods. This definition is quite broad which may also include the intermediaries and eventually exclude the real and bona fide producers of GI.

4.17 Limited scope of the GI Act

The scope of the GI Act is very limited to include all the aspects of GI products such as branding, awareness, quality control and benefit distribution. The scope of the GI Act revolves only within the registration and protection of goods that are applied for registration as GI. But only the registration will fail to extract benefits if the registration is not supported with proper marketing strategy, quality control mechanism and equitable benefit distribution. A GI policy or a comprehensive IPR policy with special emphasis on GI products can fill this gap to reap the full benefit of the GI tag. The current IP Policy of Bangladesh lacks proper emphasis on GI. As GI is a special kind of IP, proper mention of GI in the IP Policy is demanded.

4.18 Making jute a GI-registered product

Bengal has been famous for its “Golden Fibre” from ancient times. Ain-i-Akbari, the famous book from the 16th century (1590) mentions different kinds of jute products that originated from Bengal. According to Bangladesh Jute Mills Corporation (BJMC), Bangladesh produced around 80% of the entire world's production of jute from 1940 to 1950. Thus, both raw jute and jute-made products can be treated as GI products.

According to the BJMC, jute-related activities in agriculture, domestic marketing, manufacturing, and commerce support the livelihoods of over 25 million people. Jute and jute-made products with a GI designation will undoubtedly raise product prices, and if profits are equitably shared, the quality of life of jute farmers and their communities will improve as well. Furthermore, GI-protected jute products may allow for expanded commercial applications.

Marketing relies heavily on brand recognition. On the global market, there are numerous jute producers. The international reputation of Bengal jute and jute-based products is unprotected. Global competitors are stealing many of these products with their reputation from Bangladesh. According to a report two Institutions namely Nisha Craft Samiti, Ghazipur and Human Welfare Association, Varanasi on 25th September of 2016 applied for GI registration of 'Ghazipur Jute Wall-hanging Craft' in India. When comparing Bangladeshi jute to jute from other countries, consumers from all over the world may make mistakes. Bangladesh will lose not just money but also its prestige in these situations. To prevent this kind of free-riding, we need to protect jute and jute-made products with the help of the GI mechanism provided by the Geographical Indication of Goods (Registration and Protection) Act 2013. However, nobody has applied for jute till now. An individual person cannot apply for the registration of GI. A group of proprietors or association bodies can apply for the jute to be tagged as a GI product and only then DPDT will be able to register the jute as a GI product. Therefore, jute associations should be fostered and the jute sector should be prioritized with proper incentives.

5. Recommendations and Way forward

Based on the findings from desk research of relevant literature and qualitative data collected through KIIs and FGDs, this paper identified the loopholes of the GI Act 2013 and the necessities of further alteration, extension, inclusion and exclusion of the current Act. Table 6 tabulates the key recommendations for the future GI Act in a matrix format compiling all the findings. The recommendations found from desk research were revisited and validated through qualitative interviews and opinion from legal expert.

Table 6: Recommendations for future Geographical Indication Act

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
I Preliminary	2 (3) “producer” means any person who, for sale or other commercial purposes, (a) produces an agricultural product; (b) exploits natural products; (c) manufactures products of handicraft or industry; and (d) trades or deals in producing, exploiting, making or manufacturing the aforesaid goods.	NA	NA	NA	<ul style="list-style-type: none"> The definition of “producer” is quite broad which may also include the intermediaries and eventually exclude the real and bona fide producers of GI (Islam & Habib, 2013).
	2 (9) “geographical indication of goods” means a geographical indication of agricultural or natural or manufactured goods which identifies its originating country or territory, or a region or locality of that country or territory, where any specific quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods, one of the activities of either production	NA	<ul style="list-style-type: none"> Extending the definition of GIs to include the quality, characteristics, or reputation of the products in the alternate as the distinct qualifier for GI protection, particularly the 	<ul style="list-style-type: none"> 'Appellation of Origin' in the GI Act 2013 could have further benefitted Bangladeshi GI products or goods (Hyder & Nayem, 2015)²⁸. 	NA

²⁸ Appellation of origin was mentioned in the draft Act but failed to make its way to the enacted legislation finally (Hyder & Nayem, 2015).

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	or processing or preparation of the goods concerned conceivably takes place in such territory, region or locality as the case may be.		mention of “traditional knowledge” (Zahur, 2017)		
II Geographical Indication Unit	<p>4. Geographical Indication Unit.</p> <p>(1) For the purposes of this Act, there shall be a Geographical Indication Unit within the Department of Patent, Design and Trademarks, which shall carry out all functions relating to geographical indication of goods under this Act.</p> <p>(2) There shall be an official seal of the Geographical Indication Unit having inscribed in the margin the words “Geographical Indication of Goods” and the impression of such seal shall be judicially noticed and admitted in evidence.</p>	NA	<ul style="list-style-type: none"> To make sure quality is always maintained, the unit can be extended under DPDT with a specific focus on quality-control experts Define the modality of how the quality-inspection body (as required by GI Rules 2015) may function (Zahur, 2019) 	<ul style="list-style-type: none"> A separate organization at every division (later District level) level to manage the GI system can be created to ensure the quality of GI products (Matin, 2018). Introducing an SME desk (through a new clause on SME) at the DPDT office may address the economically significant role of SMEs in the production of GI goods and as the authorised users of GI tags, according to SME Foundation. Establish a national authority to provide legal and technical assistance to local GI owners seeking to register their GIs in foreign countries 	NA

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
				(Islam & Habib, 2013).	
	<p>5. Manpower of Geographical Indication Unit.</p> <p>(1) The Registrar appointed in the Department of Patents, Designs and Trademarks shall, ex officio, discharge the functions of the Registrar of Geographical Indication, and supervise and control all activities of the Geographical Indication Unit.</p> <p>(2) The Government may appoint such number of employees for the Geographical Indication Unit from the Department of Patents, Designs and Trademarks as may be required for carrying out the purposes of this Act, and the terms and conditions of their services shall be prescribed by rules.</p>	NA	<ul style="list-style-type: none"> To assign a significant proportion of manpower who have a legal background and/or subject-specific knowledge/training on GI A sufficient amount of manpower should be assessed and reported by DPDT. 	NA	NA
III Protection of Geographical Indication of Goods	<p>6. Protection of Geographical Indication of Goods.</p> <p>(1) A geographical indication of goods and its definite territory, region or locality, as the case may be, irrespective of whether or not registered under this Act, shall be protected against another geographical indication which, although literally true as to the country, territory, region or locality in which the goods originate, falsely represents to the public that the goods originate in another country, territory, region or locality.</p> <p>(2) The Registrar shall, for the purposes of registration of geographical indication of</p>	NA	<ul style="list-style-type: none"> "Additional protection" scheme should be introduced to the Act to provide extra protection to certain GIs in items other than wines and spirits²⁹. 	<ul style="list-style-type: none"> Under the GI regime, traditional knowledge and related goods, such as medicinal plant types and traditional medical techniques, might be protected.³⁰ The Act could make some GI-HOTSPOTS i.e. by way of giving special protection to GI emanating from 	NA

²⁹ The government should publish a list of globally recognized GI commodities, such as "Jamdani," "Naksikantha," "Hilsa," "Mangoes from Rajshahi," and specific "aromatic rice varieties." Bangladesh should take advantage of the Doha Round negotiations by providing special protection to these GIs (Islam & Habib, 2013).

³⁰ Traditional knowledge, traditional practices, and traditional items have received no direct mention under Bangladesh's GI regime. As a result, the question of whether Traditional Knowledge and related items might be protected under our GI regime remains unanswered (Islam & Habib, 2013).

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	goods, classify the goods in accordance with the international classification of goods. (3) Any question as to the class of goods or the country, territory, region, area or locality, in which the goods originate, shall be determined by the Registrar whose decision in the matter shall be final. (4) For the purposes of this Act, the Geographical Indication Unit shall keep and maintain a list of geographical indication of goods.			certain regions ³¹ . Specific provisions for indigenous communities are needed so that their TK and TCE can be protected, according to key informants.	
	7. Registration and protection of homonymous geographical indication of goods. (1) A homonymous geographical indication of goods may be registered under this Act. (2) In case of registration of homonymous geographical indication for the same class of goods, an equitable treatment and protection to every producer of such goods shall be accorded for each indication.	NA	<ul style="list-style-type: none"> Selecting a specific name for GI that omits all the possible confusions and ambiguity about the protection and is sufficient to explain the extent of protection, or instead add a special note for that in GI Journal³². (Zahur, 2019) 	<ul style="list-style-type: none"> Providing a detailed procedure for drafting bilateral agreements for obtaining registration of shared cross-border GIs (Islam & Ansari, 2017) 	<ul style="list-style-type: none"> The registration process should be made visible, efficient, and quick, with superfluous procedures eliminated.
	8. Prohibition of registration for certain geographical indication of goods. Notwithstanding anything contained in any other law for the time being in force, a geographical indication shall not be registered, if	NA	<ul style="list-style-type: none"> Prevention of the use of the term 'Jamdane' from being generic by preventing the use of any other qualifying 	<ul style="list-style-type: none"> Expansion of registration of the existing GI products to include the processed products that are 	NA

³¹ The GI laws of the EU have made special protection mechanisms for GIs found in Mountains and Islands. Bangladesh can also make special mechanisms for GIs emanating from Hilly areas and Coastal areas or GIs belonging to indigenous people (Islam & Habib, 2013).

³² Because of the name "Jamdane", it is unclear if the protection applies to any item made with Jamdane fabric or if a registered GI can only be used for sarees and other garments. Infringement may arise as Jamdane is now being used to make home-décor items too, which are not even garments.

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	(a) it does not conform to the definition given in this Act; or (b) it is apprehended that its use may deceive or cause confusion; or (f) it is, or may otherwise be, disentitled to protection in a court; or (g) it is determined to be a generic name or indication, or is not or has ceased to be protected in its country of origin, or has fallen into disuse in that country; or (h) it is literally true as to the territory, region or locality in which the goods originate, but falsely represents that the goods originate in another territory, region or locality. (c) its use is contrary to any law in force in Bangladesh; or (d) it is contrary to public order or morality; or (e) it comprises or contains any matter likely to hurt the religious susceptibilities of any citizen of Bangladesh; or		word like “Dhakai” or “Tangail” or anything else ³³ . • Defining the geographical area limit to determine “genericide” ³⁴	manufactured from the former product, based on reputation, as well as natural circumstances as a result of human interference ³⁵ .	
IV Registration of Geographical Indication of Goods	9. Application for the Registration of the Geographical Indication of Goods. Any association, institution, government body or authority, which is established or registered under existing laws and representing the interest of persons producing geographical	NA	NA	• Provision can be added allowing an individual person to apply for the protection of GI having certain	NA

³³ if Jamdane is designated as “Dhakai” then the term “Jamdane” will become 'generic' and will be devoid of any distinctiveness as GI. The Act prohibits the registration of 'generic' GIs too (<https://www.thedailystar.net/news/gis-protection-where-do-we-stand-legally>)

³⁴ India could not have claimed "Uppada Jamdani" as their GI if we had a law stating that Bangladeshi GIs would be regarded generic if they became generic within Bangladeshi territory (Islam & Habib, 2013).

³⁵ Processed and manufactured foods make up the majority of GI-protected foods. However, as the GI journal suggests, only fish varieties found in natural environments are covered by the GI. Nature alone is responsible for the uniqueness of this fish type. Human intervention, specifically fishermen, is the intermediary to customers and does not directly contribute to reputation. If the Hilsa sector expands to make processed food from Hilsa employing traditional culinary methods and art, the registration could be extended to processed items in the future, resulting in a higher price in foreign markets.

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	indication of goods, may apply in writing to the Registrar in the prescribed form and manner along with the payment of prescribed fees for registration of geographical indication of goods.			proofs (like EU or Thailand) ³⁶	
	10. Registration as Authorized User. Subject to the provisions of section 9, any person or a group of persons claiming to be the producer, exploiter, manufacturer or processor of the geographical indication of goods registered under this Act may, in the prescribed manner, apply for registering him or them as authorized user of such geographical indication of goods.	NA	NA	<ul style="list-style-type: none"> Defining the relationship between the registered proprietor and the authorized user of the GI (when can a registered proprietor appoint an authorized user, whether an authorized user needs a letter of consent from the authorized user, whether the concept of the authorized user is limited to foreign GIs, and whether an authorized user is considered "a producer, extractor, processor, or manufacturer of a 	NA

³⁶ Under European GI regime an individual and natural person could register GIs on the proof of two things. These are:

- that the person concerned is the only producer in the defined geographical area willing to submit the application and
- that the defined geographical area possesses characteristics which differ considerably from those of neighbouring areas or the characteristics of the product differ from those produced in the neighbouring areas.

In Thailand, an individual person, natural or legal, can apply for the protection of geographical indications. (Islam & Habib, 2013)

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
				GI"). (Islam & Habib, 2013)	
	<p>14. Counter-statement and reply by the applicant.</p> <p>(1) The Registrar shall serve a copy of the notice of objection upon the applicant.</p> <p>(2) Upon receipt of notice under sub-section (1), the applicant may, within 2 (two) months from the receipt of such notice, send to the Registrar a reply or counter-statement in the prescribed manner mentioning the grounds on which he relies upon his application.</p> <p>(3) If the applicant sends such counter-statement, the Registrar shall serve a copy thereof upon the person giving notice of such objection.</p> <p>(4) The evidence upon which the opponent or the applicant relies, shall be submitted in such manner and within such time as may be determined by the Registrar, and the Registrar shall give the parties an opportunity of being heard, if they so desire.</p> <p>(5) The Registrar shall, after hearing the parties and considering the evidence and merits of the case, approve or reject the application for registration.</p> <p>(6) If the applicant fails to reply to the objection within the period specified in sub-section (2) or within the additional period extended by the Registrar, which may not exceed one month, the applicant shall be deemed to have abandoned his application for registration.</p>	NA	NA	<ul style="list-style-type: none"> The decision of the registrar (about approving or rejecting the application of registration) can be challenged by filing an appeal to the government under section 27. However, the concerning point here is that both the registrar and the appellate authority (the government) are from the executive branch of the state. So while making the decision of the executive final, the law curtails the scope of judicial scrutiny. 	NA
	18. Rights conferred by registration.	NA	<ul style="list-style-type: none"> A placement of Logo/Tag to be used 	<ul style="list-style-type: none"> A post-registration / post-GI method 	NA

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	<p>(1) If any, geographical indication of goods are registered, the authorized user of such goods shall, subject to other provisions of this Act, have the following rights, namely:</p> <p>(a) the right to obtain relief in respect of infringement of the geographical indication in the manner provided by this Act; and</p> <p>(b) the right to use the geographical indication of goods in respect of which the geographical indication is registered.</p> <p>(2) The right to use the geographical indication of goods conferred under clause (b) of subsection (1) shall be subject to such conditions and limitations as may be prescribed.</p>		<p>in Bangladeshi GI registered products.</p> <ul style="list-style-type: none"> • Use of certification checks and marks by the producers to indicate to the users the authenticity of the product. (Matin, 2018) 	<p>should be established to check whether the GI regime benefits genuine enterprises or true manufacturers of GI items, who are the historical reservoirs of GIs (Islam & Habib, 2013).</p>	
	<p>16. Duration, Renewal, etc. of Registration.</p> <p>(1) The registration of the geographical indication of goods shall remain valid until the registration of geographical indication of goods is cancelled or otherwise invalidated under this Act.</p> <p>(2) The registration of a registered authorized user of the geographical indication of goods shall have effect for 5 (five) years.</p> <p>(3) The Registrar may, on payment of prescribed fees in the prescribed manner by an authorized user within the prescribed time, renew the registration of the authorized user for a period of next 3 (three) years from the date of expiration of the original registration, or of the last renewal of registration.</p> <p>(4) Where any authorized user fails to renew the registration after expiry of the above-mentioned period, it may be renewed on payment of such fine as may be prescribed by rules.</p>	<ul style="list-style-type: none"> • A registered GI is given unlimited years of protection which is commendable. However, the initial period of protection for authorised users appears to be shorter than that of other South Asian countries such as India and Pakistan (Zahur, 2019). This term of the registration needs to increase for the benefit of producers (Hyder & Nayem, 2015). 	NA	NA	NA

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
		According to the key informants, if legislators meant for this clause to ensure consistent quality of a specific product before renewal, it should be applauded. However, the period of protection of registered authorised users to be increased to at least 10 years is suggested ³⁷ .			
	<p>19. Prohibition to assign, transfer, etc.</p> <p>(1) Notwithstanding anything contained in any other law for the time being in force, any right to a registered geographical indication of goods shall not be assigned, transferred, licensed pledged or mortgaged, or no agreement shall be entered into on any such matter.</p> <p>(2) On the death of an authorized user of a registered geographical indication of goods, the right to the registered geographical indication of goods shall devolve upon his legitimate successor.</p> <p>(3) In the case of the liquidation or abolition of the authorized institution, the registration of authorized user shall be terminated automatically</p>	<ul style="list-style-type: none"> • Provision of transfer of GI rights (Hyder & Nayem, 2015) 	NA	NA	NA

³⁷ As per the experience from India's GI law

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
VIII Appeal	<p>27. Appeal.</p> <p>(1) Any person aggrieved by an order or the decision of the Registrar under this Act, may prefer an appeal against such order or decision to the Government within two months from the date on which such order or decision is communicated to him, and in disposal of such appeal, the order or decision which may be passed or given by the Government shall be final.</p> <p>(2) An appeal to the Government shall be made in such form and manner, and on payment of such fees as may be prescribed and be accompanied with a copy of the order or decision appealed against.</p>	NA	<ul style="list-style-type: none"> Both the registrar and the appellate authority (the government) in Bangladesh are from the executive branch of the state. While making the decision of the executive final, the law curtails the scope of judicial scrutiny, according to legal experts. Bangladesh should also design its IP Appellate authority following the Indian model to ensure transparency, expediency and expertise³⁸. 	<ul style="list-style-type: none"> The Appeal Body should include members from legal background along with the administrative members to ensure judicial scrutiny in the appeal process. It is also recommended that the absolute authority of the government in taking final decisions should come under judicial scrutiny. Here, the forum of the aggrieved person to redress his/her grievance before the court is being legally restricted that goes against the constitutional mandate of guaranteeing equal protection of law. 	NA
IX Offence and Trial	<p>28. Infringement of Protected Geographical Indications.</p> <p>29. Falsifying or falsely Applying Geographical Indication and punishment.</p>	<ul style="list-style-type: none"> Punishment provisions are the same for different types of offences under this Act. As 	NA	NA	<ul style="list-style-type: none"> Any person aggrieved or seeking relief from any grievance should

³⁸ The Appellate Board in India headed by a chairman is composed of Benches comprising two members- one technical and one judicial. Bangladesh should follow the Indian model (Islam & Habib, 2013)

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	<p>30. Use of deceptively similar geographical indication and punishment.</p> <p>31. Punishment for the production, transport, storage and sale of false geographical indication goods.</p> <p>32. Punishment for marketing without renewal.</p> <p>33. Punishment for the breach of conditions of registration.</p> <p>34. Punishment for forgery of entries of the register.</p> <p>35. Punishment for the second or subsequent offences.</p> <p>36. Forfeiture of goods.</p> <p>37. Offences committed by a company or an institution.</p> <p>38. Cognizance of offence.</p> <p>39. Punishment for abetment of offence committed outside Bangladesh</p>	<p>well as the length of imprisonment and the amount of the fine is not enough for modern time commercial events (Hyder & Nayem, 2015).</p>			<p>be able to go directly to court without giving a notice of justice to the Registrar or any officer authorised by him. The administrative intervention by the Registrar not only curtails the access to justice of the aggrieved person but also violates the right to fair trial stipulated under the constitution of Bangladesh.</p>
X Miscellaneous	<p>42. To show origin, etc. of the geographical indication of goods.</p> <p>The Government may, by notification in the Official Gazette, require that the goods specified in the notification, if made or produced</p> <p>(a) beyond the territory of Bangladesh and imported into Bangladesh; or</p> <p>(b) within the territory of Bangladesh;</p> <p>shall, from the date appointed by such notification which may not be less than 3 (three) months, be applied to them an indication of the country or place in which they were made or produced, or of the name and address of the manufacturer or the person for whom the goods were manufactured.</p>	NA	NA	<ul style="list-style-type: none"> • Making special mechanisms for GIs emanating from Hilly areas and Coastal areas or GI is belonging to aboriginal people (Islam & Habib, 2013). 	NA

Chapter	Stated provision in the GI Act, 2013	Alteration	Extension	Inclusion	Exclusion
	45. Power to make rules. The Government may, by notification in the Official Gazette, make rules for the purposes of this Act.	NA	<ul style="list-style-type: none"> The Act can mention the important contents to be added to the rules. The process of making any modification of rules should also be mentioned.³⁹ Provision of “Power to make rules” of India’s GI law can be followed. 	<ul style="list-style-type: none"> Providing a strong guideline and policy regarding GI. 	NA

Source: Authors’ compilation from various sources

³⁹ The GI rule 2015 should be re-drafted so that the disciplines of art from which the members will be elected in the “consultative group” (to examine the applications for GI registration) are clearly defined (Islam & Habib, 2013).

6. Conclusion

Despite being a small country, Bangladesh is rich in agriculture and artisanal. Being an agricultural country and having strong traditional knowledge in manufacturing using the country's own resources and manpower makes Bangladesh rich with potential GI goods. GI Act of Bangladesh serving the purpose of registering and protecting these products since 2013. To foster the GI products more efficiently, the Act needs to be reformed to meet the emerging demand of the economy and to face the changing nature of world trade along with other socioeconomic challenges.

Because it addresses concerns of economic competitiveness, stakeholder equality, environmental stewardship, and socio-cultural values, the GI Act 2013 has the potential to provide a holistic framework for rural development. Unless GI items are demonstrated to be economically feasible, Bangladesh will struggle to maintain large administrative and other ancillary expenditures. GIs enable rural producers to find specialized markets. Some GI-denominated items have been demonstrated to command a higher price. As a developing country with a sizable agricultural industry, GI law may be a valuable economic development instrument. By identifying new items with GI tags, the export portfolio might be made more diversified and competitive. For manufacturers that are unable to invest in branding, the GI tag is critical in developing brand equity. GIs aid consumers by assisting them in identifying genuine and counterfeit items. However, customer discontent as a result of information asymmetry may jeopardize the entire goal of the GI Act. The registered GIs' economic potential is based on appropriate post-registration measures such as price control and fair competition. Given the limited economy of scale at present, necessary steps should be taken by the government to make GI products cost-effective.

Lack of willingness to adopt modern technologies, little government investment, high bank interest rates, and political insecurity all obstruct any form of action or development strategy. A stable climate and governance may aid a certain GI's growth. Bangladesh lacks the requisite GI product database and historical documentation. For this reason, listing the GI products in the international WTO register would be difficult given that Bangladesh has a strong competitor like India. DPDT management must train a pool of officials who have hands-on expertise with GI registration and application review. There is a shortage of qualified representatives in the GI Unit, who should have substantial legal knowledge, extensive experience dealing with GI, and legislative academic background to deal with the Act's correct implementation.

The supply chain for all traded items has been affected as a result of COVID-19, and GI products are no exception. The wave of 4IR may penetrate traditional manufacturing processes, posing a threat to artisan GI products. Bangladesh's 8FYP makes no clear reference to an emphasis on GI protection. GIs are tools that LDC producers may employ to unlock the potential of their products and create new channels to trade and more shared prosperity. Because Bangladesh's GI Act is relatively new, it was enacted in 2013 with a focus on TRIPS compliance. However, the government must assure vigorous enforcement and execution of current IP laws, notably the GI Act, for protection.

The new Act must address the issues that remained unclear in the existing legislation. This includes protection of traditional knowledge, provision for the indigenous community, quality control mechanism, cross-border GI protection, drafting bilateral agreements, additional protection scheme, registration of homonymous GI, judicial scrutiny in administrative decisions, narrower definition of generic GI, registration for the appellation of origin, post-registration mechanism, protection of processed products, use of the logo for better marketing, the relationship between registered proprietor and authorized user, and power of DPDT to cease or to take action when quality is compromised. Significant modifications are needed in the sections of Definitions (Section 2, Chapter I); Geographical Indication Unit (Section 4, Chapter II); Manpower of Geographical Indication Unit (Section 5, Chapter II); Protection of Geographical Indication of Goods (Section 6, Chapter III); Registration and protection of homonymous geographical indication of goods (Section 7 Chapter III); Prohibition of registration for certain geographical indication of goods (Section 8, Chapter III); Application for the Registration of the Geographical Indication of Goods (Section 9, Chapter IV); Registration as Authorized User (Section 10, Chapter IV); Counter-statement and reply by the applicant (Section 14, Chapter IV); Duration, Renewal, etc. of Registration (Section 16, Chapter IV); Rights conferred by registration (Section 18, Chapter IV); Prohibition to assign, transfer, etc (Section 19, Chapter IV); Appeal (Section 27, Chapter VIII); Cognizance of offence (Section 38, Chapter IX); To show origin, etc. of the geographical indication of goods (Section 42, Chapter X); and Power to make rules (Section 45, Chapter X).

This study looked for the GI laws of a few comparison nations that have had significant success in recent years. A timely GI Act should be developed to aid the country's economic development. Therefore, a careful evaluation of Malaysian and Indian GI legislation was conducted to learn from them which is a valuable addition to this study.

The GI Act may not be sufficient to conserve Bangladesh's cultural heritage on its own. In any case, the first step in preserving Bangladesh's cultural history is to identify products that can be protected as GIs. These products, as well as the identifiers that identify them, should be registered right away. To put in place an effective framework for GI protection in practice, producers and communities must handle GIs prudently. Emphasis should be given to strengthening the organizations so that they can achieve a cooperative function to handle GI issues. Only in this way will Bangladesh be able to appreciate the benefits of GI protection.

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Annexure

A. List of KIIs

Organization/Association	Key Informant
Ministry of Industry	<ul style="list-style-type: none"> • Sheikh Faezul Amin, Additional Secretary (Policy law, and international Cooperation), Mol • Dr. A. F. M Amir Hussain, Deputy Secretary, Mol • Md. Salim Ullah, Senior Assistant Secretary, Mol
Department of Patents, Designs and Trademarks	<ul style="list-style-type: none"> • Jonendro Nath Sarkar, Registrar, DPDT • Kongkon Chakma, Deputy Registrar (Deputy Secretary), DPDT • Md. Belal Hossen, Examiner (Trademarks), DPDT • Nihar Ranjan Barman, Examiner (Patents), DPDT
Legal Expert and Researcher	<ul style="list-style-type: none"> • Mohammad Ataul Karim, Tutor, Munich Intellectual Property Law Center (MIPIC-Max Plack), Germany • Mahua Zahur, Chief Researcher and Consultant, IP Chronicles
Federation of Bangladesh Chambers of Commerce and Industries	<ul style="list-style-type: none"> • Manzur Ahmed, Adviser, FBCCI
Metropolitan Chamber of Commerce and Industry	<ul style="list-style-type: none"> • Md. Saidul Islam, Additional Secretary-General, MCCI • M. Abdur Rahman, Deputy Chief, MCCI
Women Entrepreneur	<ul style="list-style-type: none"> • Fahima Supria, Owner of Shororitu

B. Team Composition

Name of staff	Area of expertise relevant to the assignment	Designation for this assignment	Assigned tasks or deliverables
Dr. Bazlul Haque Khondker	Economist, Institutional analysis expert, Survey expert, FGD and KII expert	Team Leader	Finalise questionnaire, FGD, and KII checklists, Evaluation, and analysis, Draft synthesizing summary, Draft short summaries Finalizing reports
Dr. Selim Raihan	Economist, Political economy and institutional analysis expert, Survey expert, FGD and KII expert	Co-Team Leader, Trade Expert	Coordinating and monitoring the team, monitoring all the activities performed by the team members, finalizing questionnaire, FGD, and KII checklists, evaluation, and analysis draft synthesizing summary and finalizing reports.
Mahtab Uddin	Policy analysis and evaluation, Survey expert, FGD and KII expert	Policy Analyst	Monitoring all the activities performed by the team members, finalizing questionnaire, FGD and KII checklists, evaluation, and analysis, draft synthesizing summary and finalizing reports.
Mohammad Golam Sarwar	Legislative consultant, development law practitioner	Legal Expert	Analysing the legal terms and provisions of the study, identifying the possible grounds for alterations, extensions, and exclusion of current legal provisions, and providing legal recommendations.
Mir Ashrafun Nahar	Data analyst, Survey Experts	Senior Research Associate	Desk review, analysing secondary data, designing questionnaires for KIIs, supervising and conducting FGDs, analysing primary data, and drafting the reports.
Farhin Islam	Data analyst, Survey Experts	Research Associate	Desk review, analysing secondary data, designing survey questionnaires for KIIs, supervising the survey, conducting FGDs, analysing primary data, and drafting the reports.
Samantha Rahman	Data analyst, Survey Experts	Research Associate	Research and analysis of relevant literature, primary and secondary data, supervising and conducting KIIs and FGDs.
Afia Mubasshira Tiasha	Data collection and Supervision	Research Associate	Desk Review, developing KII questionnaire, assisting in conducting the KIIs, conducting FGDs.
Md. Nadim Uddin	Data collection and Supervision	Research Associate	Desk Review, developing KII questionnaire, assisting in conducting the KIIs, conducting FGDs.



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