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Geographical indications as the engine of traditional communities' rights

Astrid Wiedersich Avena¹

Abstract – Geographical indications (GIs) have often been pointed out as the legal instrument which more than others could be able to protect traditional knowledge and contribute to the growth of local communities. Besides leading to economic advantages, GI schemes are also capable of protecting cultural heritage, as well as contributing to hamper over-industrialization and impoverishment of rural areas. This paper focusses on the sustainability effects arising from GIs policies such as, in particular, the promotion of environmental sustainability. The analysis of literature and empirical case-studies in developing countries will explore how *sui generis* GIs protection systems may involve local actors to develop and implement quality assurance schemes to preserve biodiversity and more sustainable production systems. The results show that in developing countries GI schemes may have a positive impact if accompanied with adequate public policies aimed at empowering local traditional communities involved in the GI production chain. Furthermore, it is of pivotal importance that product specifications include certain ecosystem conditions as essential for the GI production.

Keywords – geographical indications; traditional knowledge; sustainability; environmental impact.

INTRODUCTION

Geographical indications (GIs) are a legal instrument protecting the outcome of physical and human interactions in a certain territory, where such interaction is able to characterize the production of certain goods.

As such, GIs have been pointed out as a valuable tool to protect local resources and traditional knowledge. Indeed, GIs are capable of stimulating the increase of sustainability and the labor market, as well as contributing to hamper depopulation and impoverishment of rural areas. Economic advantages are also achieved by raising consumers' attitude towards traditional crafts and tourism in local areas.

While socio-economic advantages of GIs have been widely explored by IP literature, less attention has been given to environmental sustainability effects arising from GIs policies. The hypothesis that GIs are a tool for enhancing environmental-friendly production rules, taking into account local specificities, is mainly based on theoretical assumptions, grounded on the concepts of *terroir* and agricultural multifunctionality (Zattoni and Cazella, 2021), but not always supported by empirical evidence.

A study conducted on the Japanese case of "Mishima Bareisho Potato" GI has evidenced, on the basis of interviews and participatory observation of local producers, that such GI can contribute to at least nine Sustainable Development Goals (SDGs), among

which "affordable and clean energy", "biodiversity" and "responsible consumption and production" at all the production stages. Small environmental load in traditional production processes and the motivation of farmers to preserve local specialties are crucial in reaching these goals. But are these assumptions also true for GIs of developing countries?

This contribution will explore how *sui generis* GIs protection systems may support the preservation of natural resources and certain environmental conditions which have been essential in the development of traditional products in the global south.

The US constitution defines copyright as "the engine of freedom of expression". Could GIs represent the engine of traditional communities' rights? This question is answered by identifying concepts, trends, and empirical examples pertaining to the impact of GIs on the protection of environmental sustainability, understood as preservation of natural resources and local traditions.

METHODS USED

A systematic review of the literature, studies, and legislative texts on quality schemes in general, and applied to GIs' effects with respect to environmental sustainability, has been carried out. This paper is based on qualitative and comparative analysis of information extracted from these data.

Since the majority of scientific studies have as object European GIs, the preliminary outcomes of the desk research were completed with the analysis of the practical cases of the GIs "Madd de Casamance" (Senegal), "Tequila" (Mexico) and "Cao Phong Orange"(Vietnam).

RESULTS

It is widely accepted in literature that GIs have a positive influence on environmental sustainability. In particular, the main identified positive effects are: the conservation and valuing of natural landscapes, the maintenance of the biodiversity associated with these landscapes (Zattoni and Cazella, 2021, Tashiro et al., 2019; Bowen, 2010); the hindering of productive intensification and maintenance of traditional productive techniques, (Belletti et al., 2015; Bowen, 2010a); the decreased use of pesticides and chemical fertilizers (Belletti et al., 2015; Tashiro et al., 2019).

Larson (2007) analyzed the environmental performance of GIs and studied 11 cases in "developed countries" and 13 cases in "developing and transforming countries". The author observed

that negative or contradictory environmental effects were more observed in developing countries because of the lack of adequate institutional policies.

In such respect, the “Tequila” case provides for a useful lesson on how GI protection may not lead to positive environmental effects if i) the product specification does not contain a clear reference to environmental standards or sustainable cultivation techniques, and ii) there are no adequate policies to ensure participation of local producers in the elaboration of production standards and in the management of the GI. Since Tequila is the oldest non-European GI, the importance of such elements was underestimated and led to productive intensification to the advantage of traders rather than to local producers.

The empirical case of the “Madd de Casamance” GI in Senegal is, on the other hand, an interesting example of how GIs can positively impact on environmental sustainability. In order to register the GI, local producers established a formal association to develop and implement a quality assurance scheme, to ensure that the fruits are harvested under specific conditions and meet certain required standards. In this case, local producers acknowledged the importance of preserving the environment in which the fruits grow and have agreed on clear methods of land exploitation to maintain the integrity of the original forest ecosystem.

The analysis of qualitative data on the “Cao Phong Orange” GI, carried out by Hoang et al. (2020), revealed that the natural environmental condition of the production area improved since the GI registration. The lobbying activities of the local authorities in the Hoah Binh province succeeded in raising the awareness among orange growers that the quality of the products is intertwined with the conservation of natural resources – thus stimulating conservation of landscape properties.

CONCLUSIONS

In the light of the results emerged from the present analysis the following conclusions can be drawn.

First, GIs are a valuable tool to sustain efforts to increase environmentally sustainable practices, which might normally be difficult to achieve in developing countries. Second, the empirical analysis shows that if product specifications do not provide for explicit *terroir* preservation and cultivation requirements, GI protection may have not only a limited impact on environmental sustainability, but could also harm traditional communities’ interests.

Third, producers of GIs in developing countries face different constraints than actors of European GIs production chains, due to fragile institutional settings. If implemented through appropriate public policies that ensure the primary role of local communities in the elaboration of sustainability standards, GIs could play a pivotal role in traditional communities’ rights. Even if GIs are not an environmental tool *per se*, they can play an important role in preserving natural resources were traditional communities have developed their knowledge. Such preservation goes hand in hand with GI policies that promote awareness and participation of local farmers.

Therefore, local legislators should take these elements into consideration in order to develop a sustainability strategy able to render GIs a valuable engine for traditional communities’ rights and the preservation of their ecosystems.

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