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Geographical Indications, Food, and Culture

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Synonyms

Labels of protected origin and culture

Introduction

Over the past two decades, geographical indications (henceforth GIs) have been at the center of a tensed international debate. Favoring their enforcement, some argue that GIs comprise the best legal tool for defending regional culinary

cultures, including those of emerging countries, whose producers have little means for independently claiming reward for their most original work; thus, as noted in a United Nations Conference on Trade and Development (UNCTAD) study, GIs “reward producers that maintain a traditional high standard of quality, while at the same time allowing flexibility for innovation and improvement in the context of that tradition” (Downes and Laird 1999, p. 6). On the other hand, major international corporations – voicing their position especially within the WTO (Handler 2006) – have stressed that GIs create monopolistic opportunities, obstaculating free trade around the globe. Further criticisms, finally, point out that GIs are inefficacious in rewarding the people from within the know-how originated. After a summary of the historical and legal highlights regarding GIs, the entry addresses the main metaphysical and ethical interrogatives surrounding GIs of agricultural origin, in connection with the identity of the food product and its cultural underpinnings.

Historical and Legal Highlights of GIs

GIs are one of the oldest and most renowned ranks of entities covered by intellectual property right in modern history (see O'Connor 2004). Their role is to protect the essential contribution of a geographical location in the making of a product, provided by special climatic, geological, and biotic conditions and by a *sui generis* know-how. GIs protect goods of all sorts, including jewelry, textiles, and handicrafts. The vast majority of GIs, however, are agricultural products, in particular wines and spirits. Some early and well-known specimens include Chianti Classico wines, whose geographical area of production has been specifically designated since 1716; Tokaj-Hegyalja wines, whose threefold classification was introduced in 1730; Champagne wines, invented at least in 1531, defined in 1662, and then protected from 1891; and Port wines, specially denominated and regulated since 1756.

Four major agreements over the last 130 years have come to define the legal status of GIs: the Paris Convention for the Protection of Industrial Property (1883); the Madrid Agreement (1891); the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958); and the Agreement on Trade-Related Aspects of Intellectual Property Rights (1994), henceforth abbreviated as TRIPs. Articles 22 and 23 of the TRIPs, signed within the WTO by 117 countries, regulate to these days the protection of GIs at the international level. Article 22.1 establishes that

Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

The comma sets GIs as a more restrictive legal category than "indications of sources." An indication of source, indeed, may more modestly flag that a good was once invented, tended, and fabricated in a certain region. This does not imply that the good, whose source is indicated, was produced in the region where it first originated. Indications of source, that is, establish a generic tie between a kind of good and a geographical area. On the contrary, a GI implies a specific tie of the labeled product to a geographical region: for instance, each single bottle of Port wine must come from the Port district in Portugal.

Article 23 of the TRIPs, then, bestows an even higher level of international legal protection to wines and spirits. In fact, the Article requires that each member country "to prevent the use of such GIs irrespective of whether the consumers are misled or whether the use of such indications constitutes an act of unfair competition" (Das 2006, p. 463). Wines and spirits, protected by an "appellation of origin" as specified in Article 23, enjoy labels that have a more restrictive legal status than generic GIs in two respects. First, appellations of origin must indicate a geographical area, whereas some GIs may be attached to a non-geographical descriptor, such as Basmati (which refers to a variety of rice,

rather than to a region of production). Secondly, the more generic reputation of a product is not sufficient to establish an appellation of origin; the essential tie to the geographical area must be proved (cfr. Das 2006, pp. 462–463).

Five aspects of the ways GIs are understood under the TRIPs are particularly relevant from a philosophical perspective:

- (i) GIs are treated as intellectual property rights.
- (ii) GIs are identified through relationships with a spatial region.
- (iii) GIs are identified with respect to no temporal limit.
- (iv) GIs are identified through some *essential* properties of the protected items.
- (v) Recognition and protection of GIs is left to each individual country.

In other words, for any item that is ranked as an instance of a GI, some individual or corporation may claim its exclusive ownership (i). The ownership in question stems from the relationship between the item produced and a certain portion of land (ii), which is not temporally characterized (iii). Not all the items produced on that land, however, qualify to be protected under the GI; a GI is a method of ranking items based on whether they present those traits that essentially define the intellectual novelty to be protected under the agreement (iv).

Chianti Classico is a case in point of GI. A wine can be included under this rank only if the grapes from which it originated were grown in specific portions of nine townships in Central Tuscany, between the provinces of Florence and Siena. The property right over items produced in these territories does not have any temporal limitation; in order to qualify as Chianti Classico, a product must fulfill a relatively long list of requirements, including grape variety, fermentation techniques, organoleptic aspects, and bottling restrictions.

A widespread belief among consumers has it that – as Sophie Reviron et al. recently put it – "GIs are not only a business but part of a regional patrimonial strategy, perceived to be for the benefit of both farmers/processors and consumers" (Reviron et al. 2009, p. 27). Is this really the case?

On which grounds can the introduction of a GI such as Chianti Classico be, metaphysically speaking, accounted for? In other words, which features of the wine can serve to justify a claim of intellectual property right and the introduction of a rank with the five above specified characteristics? Two principal methodologies for answering this question have been advanced, one centered on the concept of *terroir* and the second resting on scientific considerations. Both are liable of important criticisms.

The View from Terroir

The most common argument in defense of GIs is that they stem from and are key to protect specific *terroirs*. "Over recent years, place has come to play a central role in defining the character and quality of agricultural products" (Demossier 2011, p. 685); the trend goes hand in hand with the rising importance of *terroir*, a concept that has no easy metaphysical analogues. A great deal of publications in the social sciences has been devoted in the past dozen years or so to uncover the nuances of such a concept. *Terroir* is supposed to capture some qualitative aspects of an item while being unable to pin them down specifically. Thus, the *terroir* of the wine in a Chianti Classico bottle is a qualitative aspect of the wine itself, derived from the biotic conditions of production (the rocks, soil, air, plants, insects, birds, yeasts) as well as the complex system of practices – often indicated under the expression "know-how" – that yielded it.

Accounts of GIs based on the specificity of *terroir* seem to be disputable for two main reasons. First, because the economic model promoted by GIs seems to defy the condition of localized know-how embedded in the definition of *terroir*. Indeed, once a GI is bestowed upon a certain product, its increased economic attractiveness encourages heterochthone investors and workforce to take part in the production process. Recent trends in wine production, for instance, bear witness to this. Just to stick to the example cited above, a large proportion of Chianti Classico wines are owned by investors that would not

identify themselves as inhabitants of the region; at the same time, a large percentage of the workforce comprises recent migrants from Macedonia, Albania, and countries in Northern Africa (cfr. Cicerchia 2009). While such a trend may increase creativity in wine production, it flies in the face of those arguments relying on the stability of wines' know-how.

Secondly, GIs have no temporal boundaries, yet climatic, geological, and biotic conditions within *terroirs* change, sometimes drastically, over decades and centuries (cfr. Ingold 2000, Chap. 11). For instance, the environmental conditions in the Champagne region have considerably changed over the past five centuries, thus making unclear what are the essential characteristics that the GI over Champagne wines aims at protecting.

The concept of a GI is often equated to the one of *terroir* in the relevant literature; a sample is the following passage by Tim Josling: "The form of intellectual protection known by the term 'geographical indications', or GIs for short, is central to providing the concept of *terroir* legal expression" (2006, p. 338). However, as the remarks above underline, there are some important distinctions between "*terroir*" and "geographical indication." The latter is a legal category defined through an essential tie to a geographical location, with important economic implications, as Addor and Grazioli underline:

In consequence, the improved protection of geographical indications for all products on a level similar to the one granted at present for wines and spirits, would promise trade and investment advantages, in particular for all these developing and developed countries which depend on exports of primary commodities. Extension is thus an economical asset for countries wishing to maximize the benefits from the excellent reputation of many of their products in order to consolidate their markets and avoid illegitimate use by and identification of products manufactured outside their borders. (Addor and Grazioli 2002, p. 896)

The economic advantages offered by GIs, however, have tended with time to alienate local producers from their product and may prevent the due flexibility in order to keep track of changing conditions in the environment of production and

in the relevant know-how. *Terroir*, on the contrary, is a cultural concept, with scarce legal efficacy, enjoying far more flexibility with respect to the changing of specific environmental conditions and of the traditions of human tender.

The View from Science

Another approach to GIs seeks out to uncover their peculiar biochemical characteristics. Modern chemistry successfully identified chemical compounds such as water in terms of necessary and sufficient conditions based on a typical structure; can similar conditions be offered also for cheeses, teas, wines, spirits, and the like? A trend of research moving in this direction gained increasing credibility over the last 15 years (see Baxter et al. 1997, represents a pionieristic study in the field, moving from the analysis of Spanish and English wines). The idea is to pair a specific agricultural product to certain values of (bio) chemical compounds that are specific to that product, under the conviction that such values reflect the specific environmental conditions within which the product originated. For instance, Angus et al. (2006) have shown that wines made from grapes grown in different regions of New Zealand will be distinguishable, with a degree of accuracy of 80 % circa, based on the amounts of nine of chemical elements (Sr, Rb, Ni, Co, Pb, Mn, Cd, Ga, and Cs) that they contain.

Notwithstanding the difficulty of the enterprise, let it be granted that one day appropriate techniques will be in place to fully read the unique chemical structure of each sample of an agricultural product; how could such data be put to use in order to delimit the boundary parameters of a GI is still unclear. The complexity of the issue is not merely practical: the point is conceptual. An agricultural product is not just a chemical formula but an artifact, identified also via nonscientific aspects such as farming methods (e.g., organic) or the tools used to produce and package it. In other words, the identity of a GI, thus far, does not depend solely on its *natural* aspects but also on the *process* through which it is produced. As a forged painting and the original

may not differ at all materially, while still being quite different artworks, so a GI cannot be equated to its material constitution: some aspects of its making are key to its identity. The upshot is that the chemical or biological data, which allegedly help fixing the identity of a GI, need be accompanied by some requirements as to the process of production.

G and I the Protection of Culinary *Millieus*

Despite the difficulties in ascertaining sufficient grounds to comprehend their conditions of identity, GIs arguably constitute an efficacious legal tool to prevent the exploitation of cultural *millieus* both within the country of origin of the product and at the international level. It is for this reason that, in recent years, some authors (on behalf also of GI producers) have argued for a strengthening of the international legal tools available to prevent infringements (cfr. Vittori 2010), such as an extension of the rights granted under Article 23 of the TRIPs – now limited to wines and spirits – to all GIs (cfr. Addor and Grazioli 2002; Das 2006). The rights would allow producers of specialty foods (as well as nonagricultural products) to see recognized the novelty of their produce, without the risk of unfair imitation. No doubt, such a scenario would open up new economic opportunities for many small producers in less affluent countries. In an optic of preservation and valorization of local traditions as well as promotion of small economic entrepreneurs, this seems a legal scenario with beneficial implications also from an ethical perspective.

On the other hand, according to some, GIs are trade-distorting legal tools; in the words of Josling,

To some countries, GIs are an unnecessary and undesirable form of protection for producers in a particular region against competition from new entrants. If a type of product traditionally associated with a geographical region can be successfully produced in regions other than that which gave it its name, then any restriction on the competitive new product is likely to be resisted. If the new producer is located overseas then the restriction is presumably trade-distorting. (2006, p. 340)

There is indeed the possibility that some producers, working in a geographical area outside the one essentially associated with a GI, place on the market items comparable in terms of characteristics and quality to those items that are bestowed the GI label. When this is the case, the legal restriction imposed by the GI appears to be a simple branding measure, an obstacle to free trade. At the same time, it must be recognized that, in several occasions, new entrants operate in bad faith: they exploit the reputation on the market of a certain product by creating an imitation of lower quality.

GIs seem, then, the best measure so far devised to cope with those operating in bad faith. The question is whether they are an effective tool. Besides the practical difficulties of legally enforcing the rights associated with a GI at the national and international level, two additional drawbacks of GIs may be pointed out, one concerning the “boomerang effect” of GIs and the other regarding GIs and food authenticity. To begin with the former, in an initial moment, GIs empower producers of a local specialty with an exclusive right to a certain etiquette. As described above, however, in a successive phase, the attractive opportunity of a market exclusive product recalls also the attention of heterochthone investors and work labor, which may end up alienating the very initial producers from the good they initially wished to see protected. Thus, while Chianti Classico producers and workforce may have been initially locally sourced, the situation is now reversed, so much so that the original population involved in the production of this GI is now largely alienated both as a producer and as a consumer. This may be described as a “boomerang effect”: a GI creates a brand representing a specific relationship between a people and a land, through which conquering new markets; renewed attention on the GI recalls heterochthone investors and workers, which end up transforming the production process in order to suit the new markets.

Secondly, GIs do not necessarily align with basic claims of product authenticity (see ► Authenticity in Food). For instance, while the environmental conditions and the practices of human tender of wineries in the Port region may drastically change to the point of suggesting to

autochtones that the authenticity of the product was compromised, the GI would continue to support labeling the wines produced as authentic Port wines. Arguably, analogous circumstances have obtained with respect to a number of GIs, thus revealing the shortcomings of GIs as a legal measure protecting local food cultures. If, on the other hand, claims to a GI are justified in terms of the unique chemical composition of the produce, the authenticity of the process of production is left out of the identity of the product, thus removing from the picture the significance of human tender.

Summary

Geographical indications are among the earliest sorts of entities covered by intellectual property right in modern history, having been in usage since 1700s. Their legal enforcement today is regulated under Articles 22 and 23 of the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement). From a metaphysical point of view, the identity of GIs may be accounted for under two alternative perspectives, one resting on the concept of *terroir* and the other based instead on distinctive biochemical characteristics of a product. Both accounts result problematic. Finally, the entry assesses the efficacy of GIs in protecting food *milieus*: while GIs are the best available legal tool to protect food *milieus*, they come short in preventing the alienation of local producers from their products as well as in ensuring the authenticity of a product.

Cross-References

- Authenticity in Food
- Food and Place
- Recipes

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Gluttony

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Synonyms

Drunkenness; Edacity; Gormandizing; Intemperance; Overeating; Overindulgence

Introduction

Gluttony describes either (a) the action of overindulging in food or drink or (b) a state of character in which one regularly overindulges in food and/or drink. Gluttony is recognized by most moral and ethical codes, except for the most ardently hedonistic, as a moral failing. While the term "gluttony" has etymological roots in Latin and Old French, the moral assessment of gluttony, in the Western world, goes as far back as the Ancient Greeks. Presented here is a brief historical sketch of the concept of gluttony as understood in the Western world. Changing conceptions of gluttony will be traced from Ancient Greek philosophers through the Judeo-Christian understanding of gluttony as a sin and to the way that gluttony has become intimately connected to moral judgments of fatness.

Ancient Greek Views on Gluttony

Plato (427–347 BCE) and Aristotle (384–322 BCE) are undeniably the most important and influential moral thinkers of the Ancient Western world. Both, as virtue ethicists, present normative theories of ethics in which gluttony, as overindulgence in food and drink, plays a unique role. The philosophical views of Plato and Aristotle are intimately tied, as Plato was Aristotle's teacher, yet their views on ethics (and therein their views of gluttony) are quite different. The relationship between Plato and Aristotle is possibly best captured by Raphael in his fresco "The School of Athens" ("Scuola di Atene") which was painted in the Apostolic Palace of the Vatican in the early sixteenth century. Here, surrounded by philosophers, mathematicians, and thinkers of the Ancient world, Plato and Aristotle stand side-by-side, at center stage, under a vaulted arch. Plato, holding a copy of the *Timaeus*, is pointing towards the heavens and the abstract world of the nonmaterial. Aristotle, holding a copy of the *Nicomachean Ethics*, is gesturing downwards, towards the material and scientifically understood world. While both Plato and Aristotle hold similar philosophical