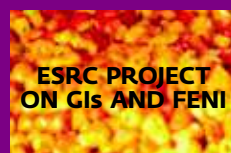




Geographical Indications and Localisation: A Case Study of Feni

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Research Funding

The research project is funded by the *Economic and Social Research Council* (in the UK) through a competitively secured grant under the First Grants Scheme (RES-061-23-0119). An independent organisation, the ESRC is a non-departmental public body principally funded through the Science Budget of the UK Government. All ESRC research awards are made in open competition, subject to transparent peer assessment at the outset and evaluation upon completion. More information at <http://www.esrc.ac.uk/>



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Executive Summary

Geographical Indications (GIs) find favour amongst multilateral bodies, scholars and policy groups concerned with rural development and the protection of the rights of communities and indigenous peoples. Unlike other marks indicating conditions of origin like organic and fair trade, GIs emerge from the locally stabilised cultural practices of producer groups. Held by collective associations representing the community of producers, GIs have features consistent with customary practices of communities and can (potentially) be held in perpetuity. For producer groups seeking to enter the market, GIs present an opportunity to use the specifications to localise control in two ways:

- » Culturally to ensure the integrity of products throughout the supply chain
- » Economically to accumulate the economic returns within the region of production

The study uses Feni, which was registered as a GI in February 2009, as a case study to explore localisation through GIs. The GI was registered in the names of the Goa Government's *Department for Science and Technology* and the *Goa Cashew Feni Distillers and Bottlers Association*. The latter were registered as a society in July 2006 (Box 4, Chapter 1).

The application assembled historical information about Feni in Goa, details of the materials and techniques of Feni distilling and chemical analysis of the liquor. In analysing these specifications, the research adopts a particular approach, namely:

- » The idea of 'clubs' which draws attention to the difficulties in achieving a consensus on GI-specifications and is a reminder of how individuals and firms who are otherwise competitors must necessarily cooperate.
- » The idea that at the heart of a GI is a cultural product with its history and tradition which draws attention to diversity in practice and change in habits.

Chapter 2 explains these two ideas. Like a club, GIs can only be used by those who adhere to the specifications which are like club rules. A number of examples are presented to demonstrate how those who fail to abide by the specifications are excluded from the club; thus, not allowed to use the GI. The case of Parma Ham (Box 8, Chapter 2) and Grana Padano cheese (Box 9, Chapter 2) also demonstrate how specifications that are detailed and strongly tied to a region can localise control in the region of production. Among the hurdles to a GI, the study highlights the difficulties to cooperate whilst also competing (Box 11, Chapter 2). In addition to market competition, individuals and firms also compete in terms of their cultural values associated with the product. This highlights historical and cultural dimensions of a GI and using the example of Scotch whisky, the study draws attention to how norms evolve and new materials and techniques are assimilated (Box 12, Chapter 2). In Feni itself, there have been changes in the pot-still and many distillers have moved from a triple distilled to a double distilled Feni and this appears to be culturally acceptable.

In securing the GI, the study emphasises the useful roles of the Goa Government's *Department of Science and Technology* and the *GI Registry* in Chennai. The Department was central to assembling the information for the application and sustaining the effort. Consultation with the Registry proved useful in organising the application. The study notes that there is a thin line between providing the space for consensus-making and coalescing an agreement. Concerns are expressed about the Department's (future) neutrality: How will it adjudicate differences within the sector whilst also being a co-applicant? The enabling role of the Registry, while useful, raises questions about the quality of assessment. The assessment of the application concerned itself overwhelming with issues of hygiene and chemical composition; thus, missing out the historical and cultural dimensions.

These two concerns are supported through an examination of the GI-specifications in Chapter 3. The GI defines Feni as a double-distilled liquor made from fermented juice of cashew apples (Box 16, Chapter 3). Distilled in a pot-still with a copper *Bhann* (large globular pot) and an earthen *Lavni* (pot for collecting the condensation) the second distillation has a mix of 130 litres of *Todap* and 110 litres of fermented cashew juice to produce Feni with a *grau* (alcohol density measure) of between 19 and 20. These specifications are analysed in terms of the study's observation of historical and changing cultural norms of Feni-distilling, where the following are notable:

- » Sourcing cashew apples: Most distillers tend to harvest locally (Photograph 5, Chapter 3); though, a number also get cashew apples transported from beyond Goa's borders (Photograph 6, Chapter 3). Nothing in the GI-specifications either limits the source of cashew apples to Goa or prohibits the transportation from beyond Goa's border.
- » Pre-distilling practices: Foot crushing of cashew apples and the practice of extracting *Niro* (cashew apple juice) from the *Chumal* (cashew apple pulp) using the dead-weight of a large stone (Photograph 7, Chapter 3) tends to be replaced by stone-mortar crushers and mechanical crushers with the *Niro* being extracted by a *Pinjre* – a cage-like structure with a track-jack to provide dead-weight (Photograph 8, Chapter 3). The absence of any specifications on this stage means that all these new interventions are included in Feni's GI-club.
- » Distilling materials and techniques: The study identifies three broad types that include the 'traditional pot-still' with its earthen *Lavni* (and some innovations therein, Photograph 9, Chapter 3), the widely adopted 'extralocal/modern' with a copper *Bhann* and a coil submerged in a cement water tank (Photograph 10, Chapter 3), and industrial single-batch distilling. With the GI clearly specifying the traditional pot-still, all other pot-stills are legally excluded from the GI-club.
- » Ingredients and *grau*: A broad range exists for the mix of ingredients in the second distillation and the *grau* reported in the Baseline Survey ranges from 18 to 25 with 21 being the most popular (Figure 1, Chapter 3). With the GI having a fixed ratio for the ingredients and a narrow range for the *grau*, those distillers falling outside these specifications will be excluded from using the GI.

The study considers these and makes a number of recommendations that might enable localisation in terms of the cultural integrity of Feni and enhance the local accumulation of economic returns to Feni. First, the transportation of cashew apples raises quality concerns; thus, it would be useful to consider introducing a geographical limit to the area from where cashew apples can be transported to Goa. Relatedly, while cashew cultivation in Goa has expanded (Table 2, Chapter 4) it does not automatically follow that the area for distilling should expand likewise. Thus, the study suggests considering a localisation of distilling to what is considered the cultural geography of Feni, North Goa, and also explore taluka-level identification (Table 4, Chapter 4).

Second, the presence of multiple distilling techniques raises questions of who is included and who are excluded from the GI-club. With over 75% of respondents to the Baseline Survey using the 'extralocal/modern', there is a strong case for including this within the GI-specifications. Relatedly, there are variations in the ratio of ingredients in the second distillation and in the *grau*. With this in mind, the study recommends a more flexible definition of the specifications in terms of ingredients (cashew apples), process (double distilled) and a minimum *grau* or at least a broader range. Being less prescriptive it has the benefit of being inclusive of the diversity of practice, flexible to some interventions whilst also excluding some (e.g. the single-batch industrial method).

In Chapter 4, attention is devoted to the supply routes of Feni with the idea to investigate the possible implications of a GI. Feni is largely consumed 'loose': 75% of distillers supplied directly to retail outlets and 80% of retailers said they sold it at their own restaurants. This leads the study to identify two broad supply routes

- » A short and direct: Revolving around a master distiller and a community of patrons, such as direct sourcing of the Feni or consuming Feni at a distiller-owned retail outlet (Figure 3, Chapter 4).
- » A long and bottled: Here brands of Feni are present and it is procured through shops and consumed in bars largely in the form of cocktails (Figure 4, Chapter 4).

In both supply routes a diversity of Feni in terms of price and quality exist. The tourist segment relates to the long and bottled supply route. The study suggests that the unfortunate image of Feni among tourists (Box 19, Chapter 4) and the preference for cocktails (Box 20, Chapter 4) makes the tourist an unreliable ambassador for the global launch of Feni. Exports for the present, the study indicates, are largely dependent on a Goan diaspora.

The proximate connections between distiller and patron in the short and direct supply route would suggest little use for a third-party mark of authenticity and quality; thus, little use for a GI. However, those distillers integrating into retailing and bottling might find the GI as a useful opportunity to widen their circle of patronage. The GI will find popular adoption in the long and bottled supply route; however, this is contingent on the Feni Association undertaking an awareness campaign within the sector and an educational campaign amongst consumers (particularly tourists) to promote Feni and popularise the GI.

The study raised concerns about post-distilling processes

which are presently absent from the GI-specifications. Specifications on post-distilling influence the integrity and quality of liquor through the supply chain and have implications for further local economic linkages (e.g. packaging and bottling) as narrated in the example of Tequila (Box 21, Chapter 4). Introducing some minimum specifications on aging and requirements for bottling in Goa can help reinvigorate past practices and introduce new local economic benefits.

A final consideration for the Feni GI is the exclusion of coconut Feni which has clear antecedents to distilling in Goa (Box 17, Chapter 3). Legally speaking, prior users and honest and concurrent users have a good defence to allow their continued use of the term; thus, 'Feni' may not remain exclusive to either, or to the Feni Association. Remedying this exclusion is recommended by incorporating coconut into the GI-specifications with labelling as the means to differentiate the two Feni. With these recommendations, the study ends by speculating on Feni's GI labels of the future by drawing out analogies with Scotch and Mezcal (Box 23, Chapter 4). A shared feature of distillates is how they have proliferated different types under a broad GI-umbrella. Much of these different types already exist in the rich diversity of Feni. The future labels of Feni will identify these differences in terms of primary ingredient (*caju* or coconut), distilling method (*Lavni* or extralocal/modern), single malt (e.g. from a single distiller) or blend (e.g. bottled from many distillers), and of course, strength (e.g. the range of *grau*).

To summarise the main recommendations:

Feni Association: Consider an engagement with the community of distillers and patrons to review existing GI-specifications and evaluate possible revisions to build a robust consensus around the diversity of Feni. Undertake an educational campaign to promote Feni and popularise the GI.

Goa Government: Should continue to support and encourage producer groups to consider GIs and provide the space and forum, if necessary, for consensus-making. In terms of neutrality, the government and its agencies are better placed at ensuring wide participation and equity rather than entering the process as co-applicant.

GI Registry: Should continue its policy of encouragement and information-sharing while considering a review of its protocols of assessing GI applications and include local experts and patrons in the consultative group. GI applications should be simultaneously published in local media outlets and in local languages.

Government of India: Should consider undertaking an audit of the experience with GIs to evaluate how GI-specifications relate to cultural norms and the desires for localising cultural and economic control. The audit should also inform the need for revising GI Rules in terms of the composition of consultative groups and advertising GI applications.

Project Publications

Publications arising from this project include some that focus on the case study of Feni and some that concern GIs in general.

Publications about Feni

Pranab Mukhopadhyay, S. Maurya & S. Mourya (2008), 'Baseline Survey of the Feni Industry'. Prepared by SHODH, Nagpur for the ESRC Project on GIs & Feni.

Dwijen Rangnekar (2008), 'How to make Feni uniquely Goan', *Herald* (Goa), 25 May.

Pranab Mukhopadhyay & Dwijen Rangnekar (draft), 'Social and economic gains from Feni'

Dwijen Rangnekar (draft), 'Making place: Narratives on locating GIs'

Dwijen Rangnekar (draft), 'The exclusion of clubs: GIs and the social construction of consensus'

Publications about GIs

Dwijen Rangnekar (forthcoming, 2009), *Guest Editor*, Special Issue on Geographical Indications, *Journal of World Intellectual Property*.

Dwijen Rangnekar (forthcoming, 2009), 'Introduction', *Journal of World Intellectual Property* (special issue on 'Geographical Indications', guest editor, Dwijen Rangnekar)

Dwijen Rangnekar & Sanjay Kumar (forthcoming, 2009), 'Another look at Basmati: Genericity and the problems of a transborder geographical indication', *Journal of World Intellectual Property* (special issue on 'Geographical Indications', guest editor, Dwijen Rangnekar)

Dwijen Rangnekar (forthcoming, 2009), 'The intellectual properties of geography', *European Intellectual Property Review*.

Dwijen Rangnekar (forthcoming, 2009), 'No 'Lemons' No More: A Sketch on the 'Economics' of Geographical Indications', in Carlos M. Correa, ed., *Research Handbook on Intellectual Property Law and the World Trade Organisation*. Edward Elgar.

Dwijen Rangnekar (2009), 'A laddu for penance ... or God's own GI', *Economic Times*, 23 April.

All these publications and further publications from the research project are available on the project website at:

www.warwick.ac.uk/go/feni

Acknowledgements

Many people and institutions have made this research possible. First and foremost are the individuals and institutions in Goa who gave generously of their time and knowledge to help with this research. This includes the distillers, bottlers and retailers who participated in the project through the *Baseline Survey*, the focus group meetings, the stakeholder meeting and the interviews. They shared many stories about Feni – and of course, the spirit as well – which helped tremendously in shaping the research and my curiosity about the social conditions to distilling and consuming Feni. A number of Goa Government officials indulged my enquiry about the regulation of Feni and on the GI-application. Their knowledge and experience proved to be highly instructive. Officials in the Government of India and at the GI Registry were also very approachable and made my research possible. A list of individuals is available in Appendix 5.

The research benefited from a team that included an advisory group, a collaborating institution in Nagpur, a research team in Goa and a mentor and research assistant at Warwick. I owe all of them a debt for their time, attention and knowledge. The research has been inspired by their participation and the report is a direct testimony to their guidance.

Fieldwork for this project involved a great and exciting challenge. And, it would not have been possible without the patient support of Shodh. Here, particular thanks are due to Pranab Mukhopadhyay and the two unrelenting research assistants, S. Maurya and S. Mourya. It was their guidance that saw me through the series of meetings and interviews. Much of culture travels with its own language – and thus, I benefited from Ashwin Tombat's most skilful translations during the meetings and fieldwork interviews.

Bringing the project together and seeing it through to completion is a difficult task. Here, I am grateful for a range of colleagues at Warwick from those who handle the grant to those who administer the daily dimensions of research work. Tina Davies has been a wonderful support throughout the lifetime of this project. Vidya worked most diligently on various assignments.

Numerous friends and scholars have been a wealth of knowledge and fount of ideas. It's not possible to document all the engaging conversations that this research has benefited from; but, mention must be made of the following: Pratiksha Baxi, Brenna Bhandar, Jason Fernandes, Naresh Fernandes, Peggy Froerer, Aisha Gill, Rahul Goswami, Lawrence Liang, Latha Nair, Jayan Nayar, Heta Pandit, Rochelle Pinto, Alito Sequeria and Ashwin Tombat. Sharif, my brother, has been a tolerant and energetic resource for many of the events that this research demanded – and these would have remained unfulfilled without his help.

Naturally, these debts only accumulated because of the ESRC grant – and I acknowledge the grant and ESRC's accommodation in allowing me to work around disruptions that occurred. The idea for this project was plotted with Pranab – and he has remained an intellectual sounding board throughout this period. Finally, the distilled form of the research in your hands, the Report, has benefitted from Liz Obee's editing, Paul Dibben's designing and Alpha Creative's Marathi translation and designing.

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ISBN Number: 978-0-902683-93-8

Printed on paper derived from sustainably managed forests.

Design by Mustard: www.mustardhot.com

Photographs: Dwijen Rangnekar, except page 5.

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