

REGULATION OF GEOGRAPHICAL INDICATIONS AND APPELLATIONS OF ORIGIN IN NIGERIA

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Abstract

Nigeria is rich in various indigenous products with potential for geographical indications (GI) designation. However, the country lacks specific legislation focused on GI. Without clear identification of their Nigerian origin, many products consumed internationally deprive the nation of the economic benefits that GI can offer. Currently, GI can be protected in Nigeria as certification marks under the Trademarks Act. Nevertheless, this provision does not adequately protect GIs in Nigeria, and they remain unenforceable abroad. This paper underscores the need for Nigeria to enact specific legislation for GI. This will be achieved using a doctrinal research design, adopting a qualitative research approach. A systematic analysis technique will be employed to examine both primary and secondary sources. Primary sources include the Trademarks Act, the Paris Convention for the Protection of Industrial Property, the Lisbon Agreement for the Protection of Appellations of Origin among others. Secondary sources

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include journal articles, research papers and online materials. It is the finding of this research that there is a dearth of law for the protection of GI in Nigeria and it is recommended that a sui generis law which will specifically address the protection and registration of GIs in Nigeria be enacted.

Keywords: Geographical Indications (GI), Appellation of Origin, Intellectual Property, *Sui Generis* Law

1.0 Introduction

Nigeria boasts a vast array of products with potential for Geographical Indication (GI) designation. With over 250 distinct indigenous cultures – each with centuries-old traditions – the local people of Nigeria have long evolved unique agricultural and manufacturing processes to create goods and craft that are unique to them and their local communities. Examples of such products include: Ose Nsukka (Nsukka yellow pepper), Kilishi, Ijebu Garri, Aso Oke, Adire, Yaji, Fura, Kunun Gyada, Ofada Rice etc.¹

The need for Nigeria to diversify its economy from an oil dependent economy to one that leverages agriculture, natural products, foods, and handicrafts is crucial, considering its rich human, natural, agricultural, and intellectual resources. The role of GI in protecting these products against counterfeiting and free-riding is significant especially as geographical indications can help Nigeria carve out a niche in the international market, generate revenue for rural areas, and create jobs, primarily for rural communities.²

¹ EK Oke, 'Rethinking Nigerian geographical indications law' 2022 25(3) *The Journal of World Intellectual Property* 746-752.

² Unini Chioma, 'Evaluating Current Legal Protection For Geographical Indications In Nigeria, From A Global Perspective; The Need For A Comprehensive And More Efficient Legislative And Institutional Framework' 2020 <<https://thenigerialawyer.com/evaluating-current-legal-protection-for-geographicalindications-in-nigeria-from-a-global-perspective-the-need-for-a-comprehensive-and-moreefficient-legislative-and-institutional-framework/>> accessed 26 February, 2024.

A Geographical Indication is a mark which identifies a product as originating from a specific geographical region, where a given quality, reputation, feature or attribute of such product is due to its origin from the specific region. However, Nigeria currently lacks legislation to protect GIs.³

This article therefore, examines the concept of ‘Geographical Indication’ as an intellectual property right, international laws regulating GI, the importance of GI to Nigeria, the differences between trademarks and GI, and the need for a more efficient legal regime, followed by recommendations and conclusions.

2.0 Examination of Geographical Indication and Appellation of Origin

A Geographical Indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation due to that origin.⁴ A GI indicates an undisputable connection between a product and its geographical region, based on characteristics, quality, reputation, production expertise, and consumption experiences. This connection can be direct (e.g., the name of a region like Paris) or indirect (e.g the Eiffel Tower symbol which is a well-known landmark in Paris, France and as such to many, symbolizes Paris and France).⁵

GIs may be found in virtually every industry like the agricultural, textile, food and fashion industries. Examples of internationally recognized GIs include: “Champagne” from France, “Scotch Whisky” from Scotland, “Roquefort Cheese” from France “Havana” from Cuba, “Tequila” from

³ Agreement on Trade-Related Aspect of Intellectual Property Rights Marrakesh Agreement Establishing the World Trade Organization [TRIPS Agreement] (April 15, 1994).

⁴ World Intellectual Property Organization (WIPO), What is Intellectual Property? 2020 WIPO Publications No 450E/20

⁵ Chinasa Uwanna, ‘Geographical Indications in Nigeria: Realities and Recommendations, Commercial Law Research Network Nigeria’ 2021.

Mexico, “Darjeeling” from India, “Parmesan Cheese” from Italy, “Café de Colombia” from Colombia”, and “Swiss Watch from Switzerland.”⁶

Appellations of Origin (AO) is a special type of GI. While the terms GI and ‘Appellation of Origin’ may be used interchangeably, an Appellation of Origin is generally a more stringent form of GI. It applies to products with qualities that are exclusively or essentially due to their geographical environment, including natural and human factors. For example, ‘Roquefort’ and ‘Gorgonzola’ are appellations of origin.⁷

A definition of Appellation of Origin is contained in the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, adopted in 1958 under the auspices of the World Intellectual Property Organisation (WIPO). According to Article 2 of the Agreement, an AO is ‘...the geographical name of a country, region, or locality, which serves to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors’⁸. Article 2.2 defines the “country of origin” as “the country whose name, or the country in which is situated the region or locality whose name, constitutes the appellation of origin that has given the product its reputation”.

The entire essence of Geographical Indications (GIs) is to enable those who have the right to use them prevent their use by any third party whose products do not conform to the applicable standards, or whose product originates from outside the geographical area delimited as the source origin

⁶ Ibid.

⁷ World Intellectual Property Organization (WIPO), ‘What is Intellectual Property?’ 2020 WIPO Publications No 450E/20.

⁸ The full text of the Lisbon Agreement is available at <http://www.wipo.int/treaties/en/registration/lisbon/>. The English text says “quality and characteristics” but there was a mistake in the translation from the French text of the Agreement, which is the authentic one. The French text says “qualité ou les caractères”. The mistake in the translation has been confirmed by the WIPO Secretariat.

of the product.⁹ However, a GI right does not enable the holder to prevent a third party from manufacturing the same product using the same techniques, and probably even the same raw materials as those set out in the standards for that GI. For instance, anyone can export the materials used in producing Champagne from France to Nigeria and, using the exact techniques used by the original producers of Champagne, create a product that is an exact replica of Champagne in every material feature including taste, appearance, and colour. However, such a person cannot call his product “Champagne,” neither can he call it “Champagne-like” on its label. He must not appropriate the name “Champagne” in any way but must find an alternative title for his product. This is because the “Champagne” label can only be used on a wine product if the grapes and wines are produced under strict regulations in the French region of Champagne, 90 miles northeast of Paris, France. GIs do not create an IP right in the process of production of designated products.

In other words, GIs do not necessarily protect the process of production *stricto sensu*, but the specific geographical location of production. The process of production is protected, or more accurately, guaranteed as a means of ensuring the quality and standard of designated products. GIs are protected and enforced globally through a sometimes-confusing array of laws, rules and practices adopted by different countries and regional systems, based on individually different legal traditions, historical and economic experiences. These can however be classified into 4 broad categories:

- a. Sui Generis systems;
- b. Collective or Certification marks;
- c. Methods focusing on business practices, including administrative product approval schemes;
- d. Unfair Competition laws

⁹ World Intellectual Property Organisation, ‘Geographical Indications: An Introduction, <https://www.wipo.int/edocs/pubdocs/en/geographical/952/wipo_pub_952.pdf> accessed 22 February 2024.

3.0 International Protection for Geographical Indication

There are four main treaties that govern the protection of geographical indications at the international level, namely:

- i. the Paris Convention for the Protection of Industrial Property of 1883 (as amended);
- ii. the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of 1891;
- iii. The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 1958 which was updated via the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications of 2015; and
- iv. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994.¹⁰

The first three treaties are administered by the World Intellectual Property Organisation (WIPO) while the fourth treaty is administered by the World Trade Organisation (WTO). International recognition of appellations of origin and indications of source dates back to the Paris Convention of 1883, which was the first international treaty to recognize indications of geographical origin in article 1(2), and defines “Indications of source” and “Appellations of Origin” indirectly as “an indication referring to a country, or to a place stated therein as being the country or place of origin of a product”. Indications of source merely provides information about the origin of a product, and do not necessarily provide information about its qualities or attributes. It can also contain iconic emblems and symbols which points to the geographical origin of the product, such as the inscriptions “made in Hangzhou China”, “a product of Paris”, etc.

The Paris Agreement also empowers member countries to seize upon entry into its territory, any imported product which bear deceptive or misleading

¹⁰ Muriel Lightbourne, ‘What’s in a Name? The Journey of Geographical Indications from Paris 1883 to Geneva 2015’ (2021) 70(10) GRURI 932.

information as to its place of origin, and enforce available remedies against its purveyors, and also mandates member countries to put in place adequate mechanisms against unfair competitions, currently, there are 176 member States registered under the Paris Agreement.¹¹

The Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (Madrid Agreement) mandates the seizure of goods bearing false or deceptive indications of source upon importation. Crucially, Article 1(1) of the Madrid Agreement provides that:

‘All goods bearing a false or deceptive indication by which one of the countries to which this Agreement applies, or a place situated therein, is directly or indirectly indicated as being the country or place of origin shall be seized on importation into any of the said countries.’

The Madrid Agreement, like the Paris Convention, contains no mechanism for the international registration of geographical indications.¹² The Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement (1994), which is applicable in all member States of the WTO, also protects GIs. The Agreement defines GI and mandates members to ensure a holistic protection for GIs and prevent deceptive and misleading use of GI, and by extension, prevent unfair competitions. It also gives members the responsibility of rejecting or invalidating trademarks which contains a semblance of GIs used for goods not originating from the territory

¹¹ EK Oke, ‘Rethinking Nigerian geographical indications law’ 2022 25(3) The Journal of World Intellectual Property 746-752.

¹² Unini Chioma, ‘Evaluating Current Legal Protection For Geographical Indications In Nigeria, From A Global Perspective; The Need For A Comprehensive And More Efficient Legislative And Institutional Framework’ 2020 <<https://thenigerialawyer.com/evaluating-current-legal-protection-for-geographicalindications-in-nigeria-from-a-global-perspective-the-need-for-a-comprehensive-and-moreefficient-legislative-and-institutional-framework/>> accessed 26 February, 2024.

indicated, if such trademark has the tendency to mislead the public as to its geographical area of origin.

Additionally, WIPO administers the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration 1958 (Lisbon Agreement) which became effective from 1966 and revised in 1967 (Stockholm), but last amended in 2002 applies only to appellations of origin. The aim of this multilateral treaty was to engender Protection of Appellations of Origin under International law through a single procedure for registration with the WIPO International Bureau. Such Appellations of Origin upon registration, would not require a renewal, for as long it still enjoyed protection in the place of Origin which must also be a contracting party. Each contracting party reserves the sole prerogative to decide either to accord or refuse its protection to the appellation of origin in its jurisdiction, such assent or refusal must however, be communicated within 1 year of being notified.

Furthermore, the Geneva Act of the Lisbon Agreement on Appellations of Origin and GI adopted in 2015, (which came into effect early 2020), provides that member States who joined the Lisbon Agreement can obtain protection for their Appellations of Origins and Geographical Indications in other member States through a single application. More than 30 countries are currently parties to the Lisbon Agreement and Geneva Act, with over 9,000 geographical indications already registered in its member states.

4.0 Importance of Geographical Indication

Geographical Indications are vital for commercial promotion, enhancing economic value, protecting against counterfeiting, supporting economic growth, increasing exports, and promoting cultural heritage.¹³ They contribute to the economic and social development of rural communities by

¹³Blessing Ajunwo-Choko and others, 'The Benefits of Legislation on Geographical Indication In Nigeria' 2023 Mondaq publications.

creating jobs and raising income levels.¹⁴ On 1st October 2023, 3,552 GIs were registered in the EU member states, with an estimated sales value of EUR 74.8 billion in 2017.¹⁵ As at 2020, Agricultural food and drinks that have GI protection under the European Union represented a sales value of €74.76 billion.¹⁶

A GI guarantees to consumer who buy goods with GI in mind that a product was produced in a certain place and has certain characteristics that are due to that place of production. It may be used by all producers in the relevant place who make products that share certain qualities relating to that place. However, where producers located outside of a particular geographical area use the GI for goods which are not compliant with the standards set by the GI, the reputation of the GI is adversely affected, resulting in a loss of demand for the products from that region. Failure to recognise a GI leaves room for another country or region to do so, and in extreme cases, a GI may suffer from ‘genericide’ – where it is easily produced outside of the geographical region, and it is difficult to establish differences or superiority in the originating region. These emphasize the necessity for regulatory measures on the use of GI to protect the reputation of the origin of a product.¹⁷

4.1 Geographical Indications in Nigeria

¹⁴ Chinsasa Uwanna, ‘Geographical Indications in Nigeria: Realities and Recommendations’ Commercial Law Research Network Nigeria, 2021.

¹⁵ European Commission, ‘EU Geographical indications review’ <https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5242> accessed 20 March 2024.

¹⁶ European Commission, ‘Geographical Indications – A European Treasure worth €75 billion’ <https://ec.europa.eu/commission/presscorner/detail/en/IP_20_683> accessed 20 March 2024.

¹⁷ World Intellectual Property Organization (WIPO), Understanding Industrial Property? 2016 WIPO Publications No 895E.

Nigeria is rich with various indigenous products with potentials for GI designation. Without any indication of their Nigerian origin, the majority of our products are consumed outside of Nigeria depriving the nation of the enormous economic advantages that Geographical Indications may provide. Some of these products include: Benue Yam from Benue, Ofada Rice from Ofada, Abakaliki Rice from Abakaliki, Palm Oil from South-Eastern Nigeria, Aso-Oke from South-Western Nigeria, Adire textile made in South-Western Nigeria, Ijebu Garri from Ijebu, Nsukka yellow pepper from Enugu, Benin Bronze Art from Benin and Kilishi from the northern part of Nigeria.

Nigeria is a party to both the Paris Convention and the TRIPS Agreement. However, both of these treaties do not provide a means for the international registration of geographical indications. Nigeria is not a party to the Madrid Agreement, the Lisbon Agreement, or the Geneva Act but the Lisbon Agreement and the Geneva Act constitute the Lisbon system which provides a means for the international registration and protection of geographical indications via WIPO. Thus, Nigeria is currently not a party to any multilateral agreement that can be used to protect Nigerian geographical indications outside Nigeria.¹⁸

Nigeria has no specific legislation or sui generis law centred on geographical indications. Nevertheless, geographical indications can be protected within Nigeria as certification marks under Section 43 of the current Nigerian Trademarks Act.¹⁹ Section 43(1) of the Trademarks Act provides that:

A mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, method of manufacture, quality, accuracy

¹⁸ EK Oke, 'Rethinking Nigerian geographical indications law' 2022 25(3) *The Journal of World Intellectual Property* 746-752.

¹⁹ Blessing Ajunwo-Choko, 'The Benefits of Legislation on Geographical Indication In Nigeria' 2023 Mondaq publications.

or other characteristic, from goods not so certified shall be registrable as a certification trade mark in Part A or the register in respect of those goods in the name, as proprietor thereof, of that person: Provided that a mark shall not be so registrable in the name of a person who carries on a trade in goods of the kind certified.

However, these provisions do not sufficiently cater for the protection of GIs in Nigeria, and are unenforceable abroad.²⁰ The Trademarks Act allows a person to oppose the registration of an advertised trademark within two (2) months of the date of its advertisement by filing a Notice of Opposition to its registration and adducing evidence to show why the trademark ought not to be registered as a trademark in the first place. Therefore, any interested party can object to the registration of a trademark which infringes on an existing GI. This process has proved effective in the past as all the opponent has to show is proof that the proposed trademark infringes on a GI. Moreover, under Nigerian laws, a name which in its ordinary signification is a geographical name is not distinctive enough for registration as a trademark (see Section 9 (1) (d) of the Trade Marks Act). This may also be a ground for filing as opposition.

It is important to state at this point that GIs as a legal concept or instrument are practically non-existent in Nigeria. There is no mention of GI in any local law or statute. There is no local agency or organization of the State that caters to GIs. Of over 1000 GI protected products in Africa, not a single one is from Nigeria.²¹ In 2016, concerted effort was made in the form of the Industrial Property Commission Bill (IPCOM) which was presented to the

²⁰ Chinasa Uwanna, 'Geographical Indications in Nigeria: Realities and Recommendations' Commercial Law Research Network Nigeria 2021.

²¹ Tolu Olaloye, 'Economic Benefits of Establishing Law for the Protection of Geographical Indications (Gis) in Nigeria' <file:///C:/Users/newadmin/Downloads/ECONOMIC-BENEFITS-OF-ESTABLISHING-LAW-FOR-THE-PROTECTION-OF-GEOGRAPHICAL-INDICATIONS-GIS-IN-NIGERIA.-1.pdf> accessed 24 February 2024.

National Assembly to be passed into Law. Though it is yet to be passed, the aim of the bill is to harmonize all existing Intellectual Property laws and governing bodies by providing for the establishment of the industrial property Commission of Nigeria, repealing of the Trade Marks Act,²² the Patents and designs Act,²³ and to make an all-inclusive provision for the regulation of trademarks, patents and designs, plant varieties, animal breeders and Farmers rights and for other related matters.²⁴

Nevertheless, it is worthy of note that the Industrial Property Commission (IPCOM) Bill barely mentions GI, making it inadequate to cater for GI in Nigeria. The lack of laws on geographical indication in Nigeria has hindered the nation from benefiting from Geographical Indication globally as there are no structures that the international bodies can rely on to help protect Nigerian goods across the globe. Some of these laws include: The Paris Convention, Madrid Agreement and the Geneva Act of Lisbon Agreement on Appellations of Origin and Geographical Indications 2015.

According to the Registrar, Trademark Registry of Nigeria, Dr. Yauri, Nigeria has about 10,000 geographical indications products.²⁵ Among them are Benue yam (which is misappropriated and rebranded as Ghana yams in overseas markets), cotton from Taraba, Potatoes from Plateau region, Sokoto goats' skin (misappropriated as Morocco leather), the Kebbi rice (Lake Rice), Abakaliki rice, Ofada rice, Ijebu garri and Gongola highland tea. Yauri said:

²² Cap. T13, LFN 2004.

²³ Cap 344, LFN 2004.

²⁴ SPA Ajibade & Co., 'The Industrial Property Commission Bill (IPCOM) And The New Trade Marks Bill: Highlights, Issues And Recommendations' 2018 <<https://www.mondaq.com/nigeria/trademark/764946/the-industrial-property-commission-bill-ipcom-and-the-new-trade-marks-bill-highlights-issues-and-recommendations>> accessed 20 April 2024.

²⁵ The researcher cannot verify the exact number of GIs in Nigeria but can attest from various researches that Nigeria has numerous products with a potential for GI.

Unfortunately, lack of specific GIs protection legislation in the country has made some of these products to exist in the international market as some other countries, as in the example of Sokoto goats' skin which is commonly presented as Moroccan Leather (or the popular Benue peps yams) He inferred that Trademarks alone are not enough to protect these products and thus the need for GIs specific framework, alongside the trademarks act, is vital.²⁶

5.0 Differences between Trademarks and Geographical Indications

Geographical indication is different from Trademark for the following reasons. Firstly, a trademark refers to a distinctive mark, sign, logo, name, sound, word, shape, colour, acronym, or certificate that distinguishes the goods and products of a firm from similar goods and products of a competing firm for the sake of quality and reputation.

Geographical indications on the other hand, refer to those distinctive signs that distinguishes goods and products in relation to the qualities, characteristics, and reputation peculiar only to its territory of origin, so as to guarantee quality and, promote the local traditional know-how, and in return, secure wealth to the local people of that territory involved in the production, processing or manufacturing.²⁷

²⁶ WIPO, 'The Importance Of Geographical Indications to The Sustainable Development of Nigeria' 2020 <https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_webinar_wno_2020_4/wipo_webinar_wno_2020_4_gi.pdf> Accessed 28 February 2024.

²⁷ Unini Chioma, 'Evaluating Current Legal Protection For Geographical Indications In Nigeria, From A Global Perspective; The Need For A Comprehensive And More Efficient Legislative And Institutional Framework' 2020 <<https://thenigerialawyer.com/evaluating-current-legal-protection-for-geographical-indications-in-nigeria-from-a-global-perspective-the-need-for-a-comprehensive-and-more-efficient-legislative-and-institutional-framework/>> accessed 26 February, 2024.

Secondly, under Trademark, there is usually no definite or specified quality a product must conform to. Conversely, for a product to qualify for protection under the geographical indication, it must meet the criteria laid down in a document known as “the code of practice” or “standards specification”. This is done by stating in the document the characteristics, criteria, quality and procedures such product must conform to be eligible to be certified, and certain systems and control measures are usually put in place to carry out regular verification, thereby ensuring that users from time to time comply with the proposed standards of production.

Thirdly, Trademark can be transferred to anyone, and anywhere, either unconditionally, or under certain terms and conditions. On the contrary, Geographical Indications, which are intrinsically linked to the origin of a good or product, cannot be transferred or de-localized. They represent a community right, exclusive to goods and products originating from a specific locality and conforming to the unique quality, characteristics, and reputation of that territory.

Fourthly, the responsibility for protecting and enforcing trademark rights lies with the trademark owner, as it is a private right. In contrast, geographical indications are considered a public right, with the government responsible for identifying, enforcing, and protecting against infringements in the public interest. Nonetheless, private individuals may also report infringements of geographical indications.

Furthermore, under Trademarks, eligibility to register using origin name is based on a first in time-first in rights, whereas in the case of Geographical Indications, there is no such thing as first in time – first in rights, geographical indications distinguish bona fide rights to origin, and once registered, it secures and confers rights on all bonafide producers and manufacturers whose products and goods draw it origin, qualities and reputation from the geographical area.

Lastly, under Trademarks, name, symbol, logo, word, shape, sound, and any other sign intended to be used may be re-created. In other words, it may be fabricated using non-existent graphics, hence it may or may not have any specific origin. However, any name which is intended to be registered as geographical indication must have a territorial link and such territory must be in existence at the time of application, hence fictitious names of some non-existent territorial names are not eligible for registration as geographical indications.

6.0 Recommendations on Developing a Legal Framework for GIs in Nigeria.

The benefits Nigeria could reap from an effective GI system are substantial. Such a system could support the government's agenda to diversify from an oil-dependent economy to one focused on agriculture, food, and handicrafts. It could lift over half of Nigeria's poor population out of poverty by creating wealth for rural farmers and producers of GI products. Furthermore, it would address gender-based income and employment disparities, as many GI producers are women. Therefore, the following recommendations are proposed:

- i. **Local Recognition and Protection:** GIs must be recognized and protected locally to gain international recognition. Increased awareness of the meaning and importance of GIs in Nigeria is essential. Advocacy should focus on education, institutional reforms, and raising awareness about the benefits and processes of protecting national GIs. This should involve government agencies, such as the Trademarks, Patents and Designs Registry, and private sector actors to push for legal reforms and the enactment of specific laws dedicated to GIs in Nigeria.
- ii. **Sui Generis System:** The Trademarks Act alone is insufficient to protect GIs in Nigeria, and the Industrial Property Commission (IPCOM) Bill, which barely mentions GIs, is inadequate. Therefore, a sui generis system must be established to work alongside the Trademarks Act. Adequate legislative and institutional reforms

should be implemented to support the proposed GI system with clear terms and conditions

- iii. Domestication of Treaties: Alongside enacting sui generis legislation for GIs, Nigeria should domesticate treaties it has already signed, ensuring the protection of Nigerian GIs in countries that are parties to these treaties.
- iv. GI institution: A GI institution framework or system that can stand on its own without much monetary intervention from the government should be set up to avoid delay or laxity in carrying out its functions. This system which will cater for not just the protection but the registration of GIs including consultation offers to communities on GI will enable it generate revenue and attract investments to the system.
- v. GI template: A Nigeria GI template with clear and specific terms and definition must be outlined to effectively capture what products qualify as GIs and what does not. Most importantly it must be a flexible tool that considers the multidimensional layer of identifying potential GI product.
- vi. GI Catalogue: A comprehensive mapping of potential GIs products must be carried out and catalogued in a database.
- vii. Retrieval of Stolen or Mis-represented GIs: There should be an attempt by the Nigerian Government to retrieve Nigerian products with GI potential that have been mis-appropriated to other countries. Example is the Benue yam which is misappropriated and rebranded as Ghana yams in foreign markets.
- viii. Collaboration of Stakeholders: The Federal Ministry of Investment and Trade, in collaboration with other key ministries such as the Ministry of Agriculture and Ministry of Information and Culture, should drive the creation of an intercontinental and continental strategy for the protection of Nigerian GIs.
- ix. Regional Cooperation: Nigeria should extend its GI protection through membership in sub-regional intellectual property organizations. For example, under the *Organisation Africaine de la*

Propriété Intellectuelle (OAPI), member states have national committees responsible for GI validation and protection across the organization's member states, which include seventeen mainly Francophone African countries.

7.0 Conclusion

Nigeria must reconsider its approach to protecting geographical indications. There are various communities in different parts of Nigeria where certain unique agricultural and non-agricultural products are produced.²⁸ These communities can potentially benefit from the proper protection of these locally made products via a new geographical indications law.²⁹ While enacting a statutory framework for GI protection may not solve all the challenges faced by these communities, a robust legal framework could significantly advance their socioeconomic development.³⁰

GIs cannot be recognised internationally until we protect them under Nigerian law, so all our efforts must begin at home. Nigeria can follow the examples of some other Common Law countries that have equally enacted a sui generis law for the protection of their geographical indications such as India³¹ and Ghana.³² Indeed, Ghana's recent accession to the Geneva Act in 2021 allows it to register and protect its GIs internationally through WIPO.

²⁸ Ayoyemi Lawal-Arowolo, 'Geographical Indications and Cultural Artworks in Nigeria: A Cue from other Jurisdictions' (2019) 22 JWIP 364

²⁹ Adebambo Adewopo, Helen Chuma-Okoro, and Adejoke Oyewunmi, 'A Consideration of Communal Trademarks for Nigerian Leather and Textile Products' in Jeremy de Beer, Chris Armstrong, Chidi Oguamanam, and Tobias Schonwetter (eds.), *Innovation and Intellectual Property: Collaborative Dynamics in Africa* (UCT Press 2014) 123

³⁰ *Ibid.*

³¹ Geographical Indications of Goods (Registration and Protection) Act No. 48 of 1999 of India

³² Geographical Indications Act, 2003 (Act 659) of Ghana.

Nigeria stands to benefit a lot from GI protection because of its potential to improve the many of its citizens including farmers and local manufacturers. However, much will depend on the government to act genuinely in the interest of national and economic development.