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**ESSAY TOPIC: ASSESS THE ROLE OF GEOGRAPHICAL INDICATIONS AS A PATHWAY TO DEVELOPMENT AND SUSTAINABILITY IN THE CARIBBEAN**

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**INTRODUCTION**

The Caribbean region is home to century old rich traditions, diverse cultures and ways of life and treasured traditional knowledge. Such an ideal circumstance places the islands of the region in an excellent position to capitalize and leverage the products of their uniqueness, some of which cannot be experienced or found in the same form anywhere else in the world. One method by which they can do so is through intellectual property protection and in particular, the reliance on laws that protect geographical indications. The preamble to the **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) 1994** emphasizes that “intellectual property rights are private rights.” TRIPS sets forth standards to regulate international intellectual property protection and enforcement, and establishes international minimum standards for “geographical indications. According to **Article 22(1)** of the **TRIPS Agreement) 1994,** g*eographical indications are 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 utilization of geographical indications to protect origin products is a longstanding tool of growing importance throughout the world.[[1]](#footnote-0) According to data received and compiled by the World Intellectual Property Organization **(WIPO)**, there were approximately 65,900 protected GIs in existence in 2018.[[2]](#footnote-1) Importantly, this number does not fully encapsulate the true number of geographical indications due to challenges in obtaining accurate and reliable data from many countries, including islands in the Caribbean. However, it does offer a realistic idea of the global outlook. Of this number, wines and spirits accounted for 51.1% of the 2018 total, followed by agricultural products and foodstuffs (29.9%) while handicrafts accounted for 2.7% of the total.[[3]](#footnote-2)

As it relates to the regional distribution of the statistics mentioned above, Europe had the largest number of GIs in force across all regions, accounting for 57.4%, followed by Asia (28.3%) and Latin America and the Caribbean (8.4%).[[4]](#footnote-3) The Caribbean region is therefore trailing behind in this regard. The research shows Jamaica having (3) registered indications, Trinidad and Tobago (1), Guyana (1) with other countries such as Barbados and St. Vincent having nil (0).[[5]](#footnote-4) These figures are underwhelming when one considers the rich traditional knowledge that the Caribbean has to share and the immense potential that exists in various products to be registered as geographical indications. More importantly, the ability of geographical indications to contribute to the economic, social and environmental development of the Caribbean region is not fully exploited or capitalized upon.

The argument that geographical indications promote economic, social/cultural and environmental development is well supported by existing literature. Kop, Sautier and Gerz asserts that “products of origin are, by definition, sustainable and beneficial to the community”[[6]](#footnote-5) while Bérard and Marchenay posits “beyond the legal protection of the geographical name, which represents their founding principle, they can contribute to maintaining biodiversity in general and genetic resources in particular.”[[7]](#footnote-6) Vandecandelaere et al asserts that the indications“have been accredited to generate a variety of positive economic, social and environmental results, namely: ensuring the quality and identity of products; protecting cultural and culinary heritage associated with certain regions; valuing local knowledge and preserving traditional production systems; promoting access to markets in better conditions; providing proximity between producers and consumers through shorter marketing chains; dynamizing the [territory](https://www.sciencedirect.com/topics/social-sciences/territory) and stimulating tourist activity; favoring the permanence of people in rural areas; reducing rural poverty; preserving landscapes and biodiversity, among others.”[[8]](#footnote-7) Thus, the central point in all of the above-mentioned literature is that there is some benefit to be derived from the promotion of geographical indications.

The prospects of such advantages in a Caribbean context, and in particular, their contribution to the economic, environmental and socio-cultural development of the region will be examined in this paper. This will be organized into (7) sections which are organized as follows:

* Part 1 provides a brief analysis of the legislative framework concerning geographical countries in the Caribbean with a particular emphasis on Trinidad and Tobago and Jamaica.
* Part 2 assesses the prospect of geographical indications contributing to economic development in the Caribbean.
* Part 3 assesses the prospect of geographical indications contributing to environmental sustainability in the Caribbean.
* Part 4 consists of (2) parts. The first part assesses the prospect of geographical indications contributing to socio-cultural development in the Caribbean. There is also a special section that focuses on the traditional handicraft industry in the Caribbean with a particular emphasis on **WOMEN IN IP**, in commemoration of World Intellectual Property Day 2023.
* Part 5 presents (2) short case studies from Trinidad and Tobago and Antigua and Barbuda on products that are not yet protected but which meet the criteria to fall within the geographical indication protection framework.
* Part 6 discusses some of the challenges in using geographical indications as a pathway to development and sustainability. This section also includes recommendations that can be implemented to ensure real and sustained development.
* Part 7 concludes the paper.

**PART 1: LEGISLATIVE FRAMEWORK FOR GEOGRAPHICAL INDICATIONS**

Though the TRIPS agreement serves as the main international treaty regarding the protection of geographical indications, individual countries have endeavored to pass their own laws or implement their own systems/methodology for the protection of geographical indications which is in turn allowed by the very broad and flexible way the provisions in the TRIPS agreement are laid out. Indeed article 22(2) states in very flexible terms “in respect of geographical indications, members shall provide the legal means for interested parties to prevent the use of a GI that: (1) indicates or suggests that a good originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; or (2) constitutes an act of unfair competition.” Individual states are therefore required to choose how best they can achieve this obligation using various available methods of protection.

These flexibile methods of protection include relying on existing rules in relation to trademarks, certification marks, collective marks or enacting sui generis legislation, which is legislation specifically dedicated to the protection of geographical indications. Some countries in the Caribbean such as Trinidad and Tobago, Jamaica, Antigua and Barbuda, Barbados, and St. Lucia have chosen to adopt the approach of enacting **“tailor-made”** legislation for the protection of geographical indications.[[9]](#footnote-8) Trinidad and Tobago was the first country in the region to adopt a sui generis regime for the protection of geographical indications and others have similarly followed. The legislation of both Trinidad and Tobago and Jamaica adopts the definition of geographical indications which is included in the TRIPS agreement essentially thereby utilizing the universal standard.[[10]](#footnote-9)

Notably, in both the Trinbago and Jamaican context, the legislation goes beyond the traditional protection of agricultural products and other typical products such as wines and spirits to also protect “any product of industry or handicraft”. This “expansion” is ideal since the art of handicraft is a skill practiced throughout the Caribbean and often has intertwined into its practice indigenous knowledge. Furthermore, such inclusion is critical especially as it allows marginalized groups, namely women and indigenous persons to participate in the creation of goods that possess valuable intellectual property.

It must be noted that unlike other forms of intellectual property protection such as trademarks which protection is commonly granted to individuals, the protection of geographical indications is usually granted collectively to a group of producers, though there is the provision for individual producers to apply for protection. Moreover, in relation to geographical indications “a competent authority” which can be the relevant state entity responsible for intellectual property such as the Intellectual Property Office in Trinidad and Tobago is also permitted to make an application.

Indeed, the global experience shows that having a strong legal framework is not only important, but necessary in order for producers to reap the full benefits that GI’s present. In this regard, some Caribbean countries as highlighted above have already met this benchmark.

**PART 2: GEOGRAPHICAL INDICATIONS AND ECONOMIC DEVELOPMENT**

The first perceived benefit of geographical indications is its ability to contribute to economic sustainability. Geographical indications, like trademarks and other forms of intellectual property rights, permit producers to charge consumers a “premium” above marginal costs. Let's compare geographical indications to trademarks for a brief moment. When we think of shoes, the **NIKE** brand stands out predominantly against any ‘old regular shoes’, although they are of the same nature. The reason for this is that NIKE has developed a distinguishable and renowned brand that consumers have come to love. The consumers associate the NIKE brand with high quality and are therefore willing to pay a much higher or “premium” price to obtain that shoe, although there are cheaper alternatives. Now let us apply the same reasoning to coffee. There are boundless varieties, blends and flavors of coffee one can find throughout the world. However, amongst all these varieties the Jamaican Blue Mountain Coffee stands out like a true Jamaican. You see, the taste and blend of the Jamaican Blue Mountain Coffee is distinct, and like the NIKE shoes mentioned earlier, consumers associate it as being “premium coffee”. The same can be said for the Trinitario coffee from Trinidad and Tobago which also has its own unique taste and blend and is sought by persons throughout the world. This brand recognition and the feelings that consumers associate with these products allow producers to charge a premium, which inevitably contributes to increased earning potential for these producers, thereby promoting their economic development.

Indeed, how large such a premium could be is dependent on a number of factors, such as market size, degree of competition with substitutes, consumers perceptions about the linkage of an indication with product attributes, and demand elasticity. As is obvious, the small islands of the Caribbeans face stiff competition on the global market, a competition exacerbated in no small way by the effects of globalization. Thus, it is therefore extremely important to not overestimate or exaggerate the potential of geographical indications as some type of “magic bullet". Realistically, in some cases, the economic benefit derived from geographical indication protection may be little or non-existent. Indeed, actual empirical data on the economic impact of geographical indicators is lacking, moreso in the Caribbean where the reliance on such protection is not as widespread as those countries in Europe for example.[[11]](#footnote-10)

Nevertheless, in terms of monetary value, according to a study published by the European Union, goods and services protected by geographical indications laws amounted to a sale value of Euro 74.76 billion[[12]](#footnote-11). Here at home in the Caribbean, research shows that Jamaica earns approximately US 15 million dollars per year from exports of the Jerk Industry.[[13]](#footnote-12) Furthermore in 2022 it was reported that the Caribbean country earned US 17 million through exports of the Blue Mountain Coffee with projected estimated increases in revenue for 2023.[[14]](#footnote-13)

In the context of Trinidad and Tobago, in 2021 cocoa exports totalled approximately 117 million TTD dollars, while for the first quarter of 2022 cocoa exports amounted to 58.5 million.[[15]](#footnote-14) Indeed, while the actual contribution of intellectual property protection via geographical indications to these monetary figures is unknown, it must undoubtedly be considered a relevant and determinative factor.

Indeed, therefore, the experiences of Jamaica and Trinidad and Tobago serve as ideal examples for other countries in the Caribbean to follow. In addition to contributing to the Gross Domestic Product (GDP) of these countries, there are also knock on economic effects such as the earning of much needed foreign exchange and the reduction in balance of payments, issues that are currently at the forefront of small Caribbean economies. Beyond the Caribbean region, small developing countries such as Ghana and the Ivory Coast have experienced and benefited from these economic effects and serve as great learning examples for us here in the region.

Importantly, economic development can also be looked at through the formation of cooperatives, which is discussed in detail in **part 4** of this paper. Suffice to say, these co-operatives facilitate the creation of sustainable job opportunities, especially for those living in rural communities where the products bearing the status of geographical indications are grown. This then has the potential to reduce poverty and joblessness which are (2) critical issues that plague rural communities in Caribbean societies.

**PART 3: GEOGRAPHICAL INDICATIONS AND ENVIRONMENTAL SUSTAINABILITY**

As it relates to environmental sustainability, origin linked products are often linked to traditional production systems and extensive practices with lower environmental impacts compared to modern techniques and inputs. Indeed, this utilization of traditional techniques in the production process is linked to the novelty and uniqueness of the product itself. Though, as Van Der Ploeg argues, the place and capacity to produce novelties may seem to be losing their relevance in an increasingly standardized and globalized world, a market continues to exist for these novelties and Caribbean countries must always stand ready to provide and supply that market.

Moreover, and of critical importance is the preservation of biodiversity. Let’s take the Jamaican Blue Mountain Coffee as our example. The Jamaican Blue Mountains is regarded as one of the most fertile areas in the world for growing and cultivating coffee. Beyond that, the mountains are home to one of the most bio-diverse forested areas in the world, and home to some of the most abundant and diverse bird populations on the planet. Can you imagine the travesty that will occur, if the Jamaican coffee producers decide to abandon the traditional way of growing their coffee in order to fit into the “modern way of doing things” narrative? The damage to the rich biodiversity of the blue mountains certainly trumps that narrative any day. Moreover, if the essential environment that gives the Jamaican Blue Mountain Coffee a distinct persona is destroyed, then what does that leave the Jamaican people with?

Let’s take the Trinitario Cocoa as another example. One of the 3 main known varieties of cocoa beans, the Trinitario Cocoa is a combination of the Criollo and Forastero varieties and it is regarded as “one of the most flavorsome cocoa that you can get in the world”.[[16]](#footnote-15) Indigenous to Trinidad and Tobago, the genetic diversity of the cocoa is heralded as being second to none with over 100 strains of Trinitario available in the small twin island state.[[17]](#footnote-16) Like the Jamaican Blue Mountain Coffee, Trinitario is for the most part grown and cultivated using traditional techniques and production methods.

There is therefore undoubtedly a strong and inalienable connection between the protection and preservation of the natural environment, and the traditional practices associated with growing and producing products that fit the criteria of being a geographical indication, thereby contributing to and promoting economic sustainability.

**PART 4: GEOGRAPHICAL INDICATIONS AND SOCIO-CULTURAL DEVELOPMENT**

It is critical to note that origin-linked products often involve the preservation of natural and cultural heritage, traditions, know-how and lifestyle in marginal areas. It is therefore recognized that the production of origin-linked products increases self-esteem among local actors as their identity and related way of life, including the role of each actor (men and women, young and old people) is recognized and considered valuable.

There is also the opportunity for sustained regional integration.An example of this integration was seen recently with the hosting of the Agri Investment Forum in Port-of-Spain Trinidad in 2022. Some of the stated objectives of the Forum were stated to be:

* to highlight the importance of food security and having a resilient and sustainable agriculture system;
* to create avenues for trade and investment for local or regional producers/entities across the agriculture value chain;
* to enhance Regional Trade Investments; and
* to reduce the dependency on imported food items by promoting local or regional alternatives.

It can be safely said that many if not all of these objectives were met. This forum was an excellent opportunity for producers from the various islands that make up CARICOM to highlight and showcase the goods they had to offer, while at the same time marketing their respective countries. Undoubtedly, opportunities like these create a perfect environment for the full realization of the benefits that geographical indication protection offers . As was mentioned earlier, the Caribbean with its small island populations faces stiff global competition.The best way to overcome this competition is through integration, collaboration and a full recognition of the old saying “Team-work makes the dream work”.

**The formation and creation of cooperatives**.

Co-operation is also displayed in the development of agricultural cooperatives. These cooperatives pool economic, human, and skills resources in order to maximize the chances of their organization’s success. An excellent example of this type of unity, is the Montserrat Cocoa Farmers Co-operative Society Ltd in Trinidad and Tobago. The cooperative which was formed in 2010 is a beacon in the Cocoa industry and is one of Trinidad and Tobago’s leading cocoa bean exporters. According to Anacletus Jude Lee Sam, Co-operative Director “having the best cocoa in the world means that this is not a one man business. Instead a lot of skills would have been needed beyond farming such the business aspects, namely exporting, processing and marketing.Thankfully right within the area most of the members would have had the necessary skills set needed to contribute to the organization. Importantly, even the finances in the early stages of the cooperative were contributed and pooled together by members.[[18]](#footnote-17) The story of the Monstreatt Cocoa Farmers Cooperative highlights the special bond, comradery, and coming together of people in communities as they seek to achieve a common goal.

**Part 4 (2): Going beyond traditional protection: The Handicraft Industry; Women in IP**

While it is common to think of wines and agricultural products when you hear about geographical indications, the law has evolved to protect other types of products. Notably, there has been a push by some countries to utilize the geographical indication protection framework to protect skills such as handicraft making.

Commendably, some Caribbean countries have demonstrated great foresight and progressive forward thinking by including handicrafts in their respective legislative framework. For example, in Trinidad and Tobago, the Geographical Indications Act defines a good as “any product of handicraft or industry”. Jamaica also had a similar definition included in their Act. At The fifth session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, it was pointed out that some traditional cultural expressions (TCEs), such as handicrafts made using natural resources, may qualify as “goods” which could be protected by geographical indications.[[19]](#footnote-18) Trinidad and Tobago and Jamaica have therefore already fully adopted this position, even ahead of some developed countries.

Such protection will bode well for the handicraft industry in the Caribbean, of which women play an important and dominant role. **Ironically, the theme for this year’s celebration of World Intellectual Property Day is “Women and IP: Accelerating Innovation and Creativity.** It is a known fact that the role that women play in intellectual property is not highlighted and given the due recognition it deserves. Thus, the inclusion of creative industries where women are the main players in any protection framework is undoubtedly a positive step in the right direction.

**PART 5: CASE STUDIES IN THE CARIBBEAN: PRODUCTS THAT POSSESS THE POTENTIAL TO BE REGISTERED AS GEOGRAPHICAL INDICATORS**

**The case of Trinidad and Tobago**

The first GI for Trinidad and Tobago was registered in August 2017 for “Trinidad Montserrat Hills Cocoa”. Besides the Montserrat Hill Cocoa, there are other potential products that meet the criteria to be registered as geographical indications. This paper will highlight the Moruga Scorpion Pepper.

**Moruga Scorpion Pepper- POTENTIAL**

The Trinidad Moruga Scorpion Pepper is one of the hottest peppers in the world measuring over 2 million Scoville Heat Units. In 2012, it achieved the historical status of being the world’s hottest chili pepper. The scorpion pepper is indigenous to the rural town of Moruga in Trinidad. Moruga is a small Amerinidan village that comprises a wide diaspora of persons from different ethnic and racial backgrounds with descendants from all groups of the arrival of the first people to Trinidad and Tobago.[[20]](#footnote-19) Interestingly, Moruga also has its own flag, a beacon of pride for Moruga people.[[21]](#footnote-20) Though the Moruga Scorpion Pepper is yet to attain geographical indication status, it undoubtedly meets all the established criteria necessary to achieve such status, and it is therefore only a matter of time before the Moruga pepper joins the Montserrat Cocoa on the World list of Geographical Indicators.

However, Trinidad and Tobago must move quickly or risk the possibility of other persons trying to assert ownership of what is rightly theirs. Indeed, attempts to do so have already been made. In an article published in the UWI TODAY magazine, it was highlighted that though the scorpion pepper is indigenous to Trinidad and Tobago, there are persons who seek to credit its origin to Australia. [[22]](#footnote-21) Such naked attempts threaten Trinidad and Tobago’s cultural heritage and an essential part of sustainable development is ensuring that salient aspects of our heritage in all spheres including agriculture, are preserved and cherished to pass down for future generations. Thus, as Baksh argues in her article “we must act speedily and assertively” to protect what is ours.

**Antigua and Barbuda**

The Caribbean island of Antigua and Barbuda has (2) potential products that can attain geographical indication status. These are the Antigua Black Pineapple and the Barbuda Logwood Honey. A staple in Antigua, the Black Pineapple is known as one of the sweetest and rarest pineapples there is in the world. Farmers in Antigua take advantage of Antigua’s rich soil, perfect climatic conditions, namely moderate rainfall and bountiful sunshine to produce the finest varieties of the pineapples there are.[[23]](#footnote-22) According to a paper published by WIPO[[24]](#footnote-23), the Antiguan Black Pineapple was identified as a crop for the diversification of the agricultural sector in Antigua during the 1980’s. Additionally, the Cades Bay Agricultural Station was created to promote the commercialization of the crop.[[25]](#footnote-24) Ideally, it is not a far-fetched idea to envision a re-awakening of this vision from the 1980’s. The government of Antigua has since then established a robust geographical indications framework with the main objective of providing tangible benefits to local producers and plans to register both the Antiguan Black Pineapple and the Barbuda Logwood Honey in short course. This sort of environment can assist in promoting economic, environmental and even socio-cultural development within Antigua and Barbuda.

**PART 6: CHALLENGES AND RECOMMENDATIONS TO ENSURE EFFECTIVE, REAL AND SUSTAINED DEVELOPMENT**

As mentioned earlier in this paper, the Caribbean region is trailing behind when it comes to the utilization of geographical indications to protect their unique and traditional products accounting for less than 8.4% of the global number of registered geographical indications. There are many possible reasons for this under-utilization or rather underperformance. The process in registering products as geographical indicators is a highly technical one that requires strict conformity with established standards. This conformity cost can be expensive both in respect of time and money and can hinder participation amongst products. According to Niederle and Gelain (2013), exceedingly high restrictions may push small and less effective producers to sell their products in the traditional market rather than dealing with the high production costs associated with GIS[[26]](#footnote-25). Indeed, the high production costs of GI goods is attributable to the necessary lack of reliance on technology and the maintenance of intensive traditional techniques.[[27]](#footnote-26)

Beyond cost, the technical requirements must also be taken into consideration. Indeed, when it comes to geographical indications, producer organizations “are the driving force in defining specifications and putting in place quality control processes.[[28]](#footnote-27) However, in many cases, the lack of a representative organization or the existence of organizational problems hinder the success of GI systems.[[29]](#footnote-28) Furthermore, it can also be argued that many developing countries such as those that make up the Caribbean region do not possess the conformity assessment and enforcement mechanisms for GI protection and monitoring. These are all challenges or “push factors” that hinder the development of an effective and thriving GI framework.

Importantly, even if producers are able to overcome the initial challenges highlighted above, there is the further question of whether a product having GI status really puts it in a position to do well economically. As was highlighted above, the economic potential of GI goods must not be exaggerated. There is need for much further research in the Caribbean on the link between geographical indications and economic development.

Importantly, regardless of the success of the GI registration, producers should and must design commercial strategies to leverage GIs as a business tool. Thus, producers should engage in business-to-business relationships and/or strategic alliances to bring their goods to local, regional or international buyers; otherwise legal protection (GI registration merely on paper) will be insufficient to ensure the long-term success of quality marketing (Bramley and Biénabe, 2013).[[30]](#footnote-29)

As an example, this may include developing relationships between GI industries and the clean technology sector by converting cocoa waste to biofuel for electricity purposes. The used coffee beans of Jamaica, and the used cocoa shells from Trinidad and Tobago can be used in the creation of biofuel, even if it will be on a small scale. Consequently, the GI linkage has the potential of contributing to climate action, increasing diversity in employment opportunities in communities, and fostering economic growth in new sectors in the islands, activities that all contribute to sustainable development.

Additionally, in the case of cocoa, beyond using cocoa to produce staple delicious chocolates, it can be used to produce other by-products such as creams, oils, ect, thereby diversifying the product and increasing the economical potential of the producers. Moreover, such activities can and will involve women thereby giving women yet another opportunity to become involved in the IP process.

**PART 7: CONCLUSION**

Undoubtedly, geographical indications have the potential to contribute to the economic, environmental and socio-cultural development of the Caribbean. While these benefits should not be exaggerated, especially the economic benefits, the experiences of countries such as Jamaica and Trinidad and Tobago show that real opportunities exist for producers to exploit and capitalize on. Realistically, there are some challenges that must be overcome, however with necessary technical assistance and the creation of strong, resilient producer organizations and the necessary institutional support, these barriers can be overcome, taking us on a path to sustainable development.

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