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# The limits of inclusion in Geographical Indications: Should we exclude any exclusion?

Casabianca François, Marie-Vivien Delphine<sup>1</sup>

**Abstract** – While inclusiveness becomes a priority in every public policy, exclusion is clearly present in GI systems through various kinds. Is removing all these exclusions making sense, in the name of seeking fully inclusive GI system? Some exclusions appear necessary for the functioning of any place-based sign, as delimitation process and choice of rules of production, providing the basis for product uniqueness. However, unnecessary exclusion reduces the representativeness of producers, unbalancing the value sharing along the chain, or depriving the local consumers of the typical product. Such exclusion jeopardizes the GI system by reducing the internal cohesion of stakeholders and the local anchorage. Our exploration shows that GI governance must be exclusive for a strong recognition and inclusive in order to ensure internal democracy and strong link to the local society. Therefore, it has no sense to seek an ideal GI fully inclusive.

**Keywords** – Inclusiveness, differentiation, governance.

## INTRODUCTION: RATIONALE

Inclusion is a great worth of our time, addressing inequalities within our societies. It legitimately becomes a permanent injunction for public policies: make efforts to be more inclusive.

However, we observe that, beyond the exclusive use of the protected name, exclusion plays a core role in designing and implementing geographical indications (GI). Methods of production, delimitation are elements that obviously tend to reduce the inclusiveness of the GI selecting producers, places, products to be recognized while others remain outside (Treager et al, 2007). Even GI sustainability seems out of reach if we consider the level of inclusiveness required in the design of GI worldwide.

Our communication aims at explore what role does exclusion play in the conception and the functioning of GI. *Should we track down any form of exclusion and seek to eliminate it in order to move towards an "ideal" GI, ie fully inclusive?*

We provide some answers to this question by mobilizing our large experiences on GIs in various regions (mainly Europe and Asia), in the legal framework and the GI specification contents as well.

## MAIN FINDINGS

Analyzing GIs, we observe a series of exclusions that seem very frequent, some of them being mandatory.

*In the productive sphere*, the specifications frame the various conditions producers must respect, in terms of location of the production unit as well as the elaboration techniques. At first, the area delimitation introduces a new boundary among neighbouring producers that frequently were using quite the same production frame (and the same name). Often, a famous product is extending from a core area (the cradle of the local product) to the surroundings, and the legitimacy to use the associated name is decreasing when moving away from the core. Second, the specification content leads choosing rules for product elaboration in line with its specificity with some remarkable local practices and usually local resources. However, the actual access of the resources may be unequal and the practices chosen among those present locally may have an unbalanced distribution over the area. Thus, each rule is including but also excluding producers according to these choices.

*In the consumption sphere*, a GI product is supposed to be accessible for everybody. In reality, we can observe two main kinds of exclusion. First, the price level of GI product is generally higher than the similar products. This effect of GI recognition is expected as it remunerates the efforts of the producers and generates value to be shared within the chain. However, it is selecting the buyers by reducing the affordability on the market. Second, the targeted markets of GI product are generally outside the production area in order to meet customers willing to pay more. This way of marketing GI product aims at adding value, but at the same time, may reduce the accessibility for the usual local users of these products and affect their cultural affiliation.

*In GI governance*, modalities can constitute internal barriers reducing the room for some types of producers or leading to unbalanced distribution of the value along the chain. In particular, upstream producers, small producers or poorly organized or dispersed in remote parts of the area may have less capacity to participate to the collective management of the GI, including controls and certification procedures. At the contrary, downstream producers more powerful, with higher social capital, or higher market power, may concentrate the capacity to make strategic choices, gain volumes, get access to distant markets.

## DISCUSSION

We can see that exclusion is present in GI systems through various kinds. Is removing all these exclusions making sense, in the name of seeking inclusive

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GI system? It seems crucial to distinguish necessary and unnecessary exclusions to analyze the situations.

#### *Necessary exclusions*

Some exclusions appear necessary for the functioning of any place-based sign.

Delimiting an area is a necessity and including the neighbors without limits would ultimately lead to making the name generic. GI systems need a transparent procedure of delimitation for putting boundaries at the right place, gathering external expert knowledge and providing a sufficient opposition period. Similarly, setting production rules helps to give GI product its unique characteristics. If the rules were too weak in order to be more inclusive, they could no longer provide the guarantees essential to the product recognition (Allaire et al., 2011). The more the specification may include, the less the recognition is efficient on the market. The specification building requires a clear and transparent process for choosing the relevant rules and making sure that the exclusion of some producers not complying some of these rules is fully legitimate. In addition, in order to ensure purchase by as many people as possible, one can seek to maintain low prices and high affordability. This implies reducing requirements for reducing costs or making economies of scale by concentrating production in very large units. GIs doing so adopt the least demanding rules and their justification is the weakest. Thus, to a certain extent, useful exclusion takes part of the GI system (Link et al, 2006). *Therefore, try to eliminate it should lead to unsustainable GIs.*

#### *Unnecessary exclusions*

At the opposite, harmful exclusions reduce cohesion and solidarity of local actors. For example, even if delimitation is a necessary exclusion, delimiting a too small area may endanger the GI system as a small club without a solid basis. By building the specification, choosing scarce resources and very demanding practices in non-mechanizable work may affect the viability of present production units and the generation renewing. Exporting quite all GI product outside the area for having high prices may deprive a large proportion of local connoisseurs and induce a fragility in the anchorage of the product. Thus, pushing the necessary exclusions to excessive levels jeopardizes the GI system in the long term.

Concerning the GI governance, every kind of exclusion seems to be removed as it may affect the internal democracy and the system functioning. Inclusiveness here is the most important factor as depending on who from the value chain is represented in the governance (Marie-Vivien et al, 2019), the content of the specification and therefore the technical exclusion in the “productive sphere” will be directly impacted. *Inclusiveness seems an important criterion for a GI system on long run, giving guarantees to all the producers of the area to be involved in the decision-making and, through social and spatial justice, to ensure good level of internal democracy.*

#### *Increase the level of inclusiveness?*

Therefore, the ambition linked to GIs should lead to adequate measures for ensuring good internal inclusion in the area, as well as good level of product recognition (Quiñones-Ruiz et al. 2016). Decision-making on potential revision of the specification should involve all the producers concerned, and not only those already in the GI system and anticipate the effects of modifications. For example, GI governance may support producers ready to implement gradually stronger rules for increasing the GI sustainability, in order to balance the efforts and prevent any defection. Value sharing along the chain is another critical point for increasing justice among the local actors. GI collective organization should define minimum price for raw material producers to be paid by processors in case of a processed product. Similarly, GI governance can also target local consumers, children in canteens, fairs and markets for enhancing product specificity and generations transmission within the area.

### CONCLUSIONS

Despite a bad image and a negative a priori, exclusion in GIs appears as a dialogic object. On one hand, useful exclusion is an absolute necessity: it is ontologically linked to any origin sign. Therefore, try to eliminate it would be a way to put new obstacles for GI sustainability. Therefore, an ideal GI must imply some exclusions. On the other hand, harmful exclusion should be approached as an adverse regulatory requirement potentially responsible of GI unsustainability. Any exclusion in the GI governance or reduction of the link to the local society must be tracked out and eliminated. Our exploration shows that, at the same time, exclusion takes part to the GI conception, and inclusiveness is at the heart of governance ethical issues.

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