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# Geographical Indications: The Nexus between the Commodification and the Preservation of Food Commons

S. Steinegger, J.-D. Gerber, C. Oberlack<sup>1</sup>

**Abstract** – Geographical Indications bear great potential to protect collective intellectual property rights to the reputation, know-how, and biocultural heritage associated with place-based food, from market appropriation. Nevertheless, the increasing market demand for enhanced food safety, traceability, and authenticity suggests that Geographical Indications are the object of conflicting priorities between the commodification and the protection of food commons. We suggest that conceptualizing Geographical Indications as an instrument that can either turn food into commodities, or protect food commons, is useful to assess (a) whether they are able to preserve the value-based, non-monetary dimensions of food that are specific to the socio-ecological context, and communities' self-organized institutions and collective action in which it is embedded, or (b) whether they reduce food to their tradeable dimension and monetary worth. To this aim, we present a conceptualization of food commons, which in a next step will be empirically applied.

**Keywords** – collective action, biocultural heritage, food value chains.

## INTRODUCTION

According to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), Geographical Indications (GIs) attribute a certain quality, reputation, or other characteristics of food to its geographical origin. Although the institutionalization of GIs varies internationally, two predominant systems can be distinguished: the integration of GI regulation in trademark law led by the United States, and the *sui generis* system developed by the European Union (Barham & Sylvander, 2011). Whereas trademark law constitutes a self-regulated system of private law, the *sui generis* system involves stronger state intervention in verifying the link between products' quality and their geographical origin (Marie-Vivien & Biénabe, 2017).

In particular, the *sui generis* system establishes a close connection between food and its socio-ecological context by requiring value chain actors to collectively organize and define their own codes of practices (Barham & Sylvander, 2011; Marie-Vivien & Biénabe, 2017). Studies have concurrently emphasized the importance of trust-building, collective action, and the consolidation of shared values among value chain actors for the successful implementation of GIs (Barham & Sylvander, 2011; Vandecastelaere et al., 2021). GIs thus bear great potential to protect collective intellectual property rights associated with reputation, know-how, and

biocultural heritage from market appropriation (Barham & Sylvander, 2011; Conneely & Mahon, 2015; Maye et al., 2016).

We claim that conceptualizing food as commons is essential to evaluate whether GIs can hold their promise of protecting value-based dimensions of food, and of empowering food value chain actors. This approach allows to analyze to what extent GI registration leads to a renegotiation of the use of, benefit from, decision-making about, and property rights to food commons, and to what extent GIs eventually protect food commons from commodification (i.e. market-based exchange and valuation; see Gerber & Gerber, 2016). We will first introduce the conceptualization of food commons, after which we will discuss its application to GIs and give an outlook on its empirical application.

## FOOD COMMONS

The Ostrom school has shaped the research agenda on the commons in the last decades. Ostrom (1990) defines common-pool resource institutions as self-organized regulation of resource use situations in which users are difficult to exclude, and in which resource use is rival. While Ostrom's "design principles" are useful to study the self-organized allocation of use rights in homogenous resource use situations, it does not consider the collective action through which communities co-produce resources in heterogenous resource use situations (De Angelis & Harvie, 2014).

We claim that particularly in the context of food, the latter needs to be understood more broadly. According to Vivero-Pol et al. (2019), conceptualizing food as commons allows to re-consider the multiple values of food for society, rather than reducing food to its tradeable dimension and monetary worth at the source of its commodification. Furthermore, it takes into account how the value-based, non-monetary dimensions of food, such as constituting a cultural determinant, emerge through and are maintained by communities' self-organized institutions and collective action.

Therefore, we build on the post-capitalist approach to commons (Bollier, 2021; Gibson-Graham et al., 2016; Sato & Soto Alarcón, 2019; Vivero-Pol et al., 2019), and define food commons as involving (a) a combination of material and non-material resources (e.g. seeds, land, know-how, cultural meanings and practices around food); (b) a community that co-produces and collectively uses

resources; (c) collective institutional arrangements and practices of shared ownership, shared decision-making and shared responsibilities that re-value the non-tradeable dimensions of food accounting for its embeddedness in socio-ecological systems.

#### **GEOGRAPHICAL INDICATIONS AT THE NEXUS BETWEEN THE COMMODIFICATION AND PROTECTION OF FOOD COMMONS**

GI registration potentially protects food production systems and their associated reputation from market appropriation; nevertheless, in establishing unique selling propositions of origin-based food, GIs respond to the international market that increasingly demands a quality segmentation for enhanced food safety, traceability, and authenticity (Barham & Sylvander, 2011; Maye et al., 2016; Conneely & Mahon, 2015). Therefore, GIs are the object of conflicting priorities between the protection of food commons and their dissolution into commodities.

For instance, exogenous actors with more powerful positions might appropriate the subjective values associated with place-based differentiated food, leading to their disintegration and the eventual degradation of material resources (Conneely & Mahon, 2015; Vázquez Macías & González, 2015). Furthermore, the definition of the codes of practice according to market demand and commercial standards bears the risk of dis-embedding food and food production systems from their context, and of transforming them into commodities (Galtier et al., 2008).

With our preliminary conceptualization efforts of food commons, we aim to contribute to the debate on GIs' effect on the protection or commodification of food commons (e.g. Galtier et al., 2008; Quiñones-Ruiz et al., 2015). Given that GI regulation is adopted by an increasing number of countries worldwide and that GI-related policy objectives increasingly include goals of regional development as well as the conservation of biodiversity and traditional knowledge (Marie-Vivien & Biénabe, 2017), exploring this nexus is essential. This is why in a next step, we will apply this conceptualization to a comparative case study of GIs in Switzerland and in Peru.

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