



Geographical Indications and Localisation: A Case Study of Feni

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Chapter 1

Registration of a geographical indication for Feni

On 27th February 2009 Feni was successfully registered as a Geographical Indication (GI) in India having been first submitted in December 2007.¹ The success of taking the application through the GI-registration process was greatly heralded, with local newspapers reporting with pride that this was Goa's first GI. It also happened to be the first alcohol to be registered as a GI in India – and from India.



The GI, though in the name of 'Feni', deals with *caju* Feni (cashew Feni) which is an alcohol distilled from the fermented juice of the 'apple' of the *caju* tree and is made with a particular pot-still through a series of distillations.

Box 1: Feni, Fennim and Fenny: What am I really drinking?

Feni is written variously as 'Feni', 'Fenny', 'Fennim' and 'Fenni'. And these different spellings are widely noted and tend to be culturally acceptable. 'Fennim' is reflective of its linguistic origins in Konkani and many of those interviewed during this research narrated its links with 'Fennõ', meaning froth – some suggesting that a good Feni generates froth when poured, while others point to the froth that forms when the juice of cashew apples ferments.

The term 'Feni' is used for two different liquors: one that is distilled from coconut toddy and the other from the fermented juice of cashew apples. Often a drinker will ask for a *caju* at a tavern without necessarily adding 'Feni' to clarify the order. Bars and tavernas also list the two as Feni, distinguishing them by adding *caju* or coconut in front. In Konkani, coconut Feni is also called *Mãd*. The two drinks are distinctly different. Patronage and preferences differ; it would be foolhardy to take sides in the debate between the virtues of the two drinks or the choice of spelling.

Caju Feni is distilled from the fermented juice of cashew apples. The first distillation produces a liquor that is called *Urrack* which is also consumed as a mild alcoholic beverage. *Urrack* mixed with the fermented juice is then distilled for a second time to produce a stronger liquor called *Cazulo*. The third distillation uses a mix of the *Cazulo* and fermented juice to produce Feni. There are cultural norms about the proportions to be mixed at each stage, norms concerning the distilling apparatus, the harvesting of the cashew apples, and about the utensils used for collecting, storing and transporting Feni. These are discussed in detail in Chapter 3 with reference to the GI-application.

The GI-application draws attention to two spellings, 'Feni' and 'Fenny', and proceeds to adopt 'Feni' as its preferred spelling. Also, it only considers *caju*, remaining acutely silent on coconut Feni, which is addressed in Chapter 3. Throughout the report 'Feni' is used to refer to *caju* Feni.

Cashew was introduced to the Malabar Coast by the Portuguese from Brazil in the 16th century and subsequently got introduced into Goa – then a colony of the Portuguese (Box 2: Goa). The cashew tree's fruit is the kidney-shaped cashew nut, and what is called the cashew apple is a false fruit, botanically a (swollen) pedicel (Photograph 1: Cashew Apple). With high levels of sugar (6.7-10.5%) and its characteristic rapid fermentation it makes a good distilling agent. However, distilling of the cashew apple into Feni appears to be the exclusive cultural repertoire of Goa and – some aficionado drinkers would argue – more specifically North Goa.



Photo 1: the cashew apple with its kidney-shaped nut dangling below



Map of Goa

Box 2: Goa

Comprising 3702 square kilometres along the western coast of India and south of Mumbai, Goa has three distinct geographies: a coastal area towards the west, the mountains of the Western Ghats (locally called the Sahyadri Range) along its eastern perimeter and undulating hills and plateaus in its middle. After 451 years of Portuguese colonial rule, Goa was liberated in 1961 and joined the Indian Union. It was granted statehood in 1987 and its native language, Konkani, was also recognised as its official language.

The State is divided into two administrative zones of North Goa and South Goa. These are further divided into eleven talukas, sub-district administrative zones: in North Goa they are Bardez, Bicholim, Pernem, Ponda, Sattari and Tiswadi, and in South Goa they are Canacona, Mormugao, Quepem, Salcette and Sanguem.

The cashew apple is used to produce undistilled wine, vinegar, jam, fresh juice and other products in Goa and elsewhere. The fresh juice of cashew apples, called *Nirq* in Goa, is highly refreshing and energising. In parts of West Africa and Brazil, the fresh juice is fermented into cashew wine. In some parts of South America, local inhabitants regard the apple, rather than the nut kernel, as a delicacy. In Mozambique, once the largest producer of cashew nuts, there is a mixed history of cashew apple wine and a distilled liquor. But, distilling the cashew apple into a liquor called Feni is clearly a Goan contribution to the wealth of liquors. This is all the more remarkable when placed in terms of the global cultivation of cashew: Goa accounts for only 1.4% of the global cashew cultivation area – a share that has fallen from over 2% in the 1990s.

With Feni receiving its GI-registration, will we see a series of indigenous liquors following suit? There is a robust tradition of alcohol-distilling in India using various fruits, flowers

(e.g. *Mahua*), and grains (e.g. *Raksi* from either millet or rice) among other ingredients as distilling agents. While alcohol is a common cultural artefact across societies and time with a variety of deep ritualistic meanings, the origins of distilling alcohol tend to remain mysterious. Distilling is a few, but important, steps beyond a mere knowledge of fermentation, requiring an understanding of the process of collecting and condensing the vapours and that the concentration of alcohol increases with each distillation. It is generally believed that the Greeks of Alexandria knew of distilling, and the Arabs used distilling to obtain essential oils. This history proceeds to suggest that distillation of alcohol developed in Western Europe in the 12th century. However, based on archaeological evidence from present-day North-West Frontier Province, it has been suggested that the art of distilling alcohol might have originated there and is 'India's gift to the world'. So, Feni might itself herald a wider move of recognition of this heritage and tradition. For that matter, with Feni as Goa's first GI, it might also generate wider interest amongst other Goan producers to seek GIs for their products. Examples that are being discussed include the *Mankurad* mango, the *Taleigao* brinjal and the jackfruit papad from Canacona, and the *Rasbali* banana. Lessons from the experience of Feni would be useful for distillers of other indigenous liquors and for producers of these potential GI-products.

1:1 Success and Accomplishment of the Feni Geographical Indication

The success of seeing the GI-application through the registration process is itself worthy of attention. It demonstrated a substantial effort in assembling the information for a GI-application, coordinating the various interests and groups concerned with Feni and then responding to the examination process of the GI Registry (Box 3: A Primer on GIs). Soon after the enactment of the GI Act in India in 1999, there were calls in Goa for Feni to be registered as a GI. A number of concerns of the Feni sector were noted, including its excise status of 'country liquor' that prohibited the transportation and sale of Feni across Goa's borders. Mention was also made of the threat of *caju*-distilling in neighbouring states along the border of Goa. Threats of misappropriation of 'Feni' were a theme that recurred throughout the period of research. The GI, it was hoped, would ensure that 'Feni' remained rightfully and exclusively Goan – a hope often expressed, along with an expectation of a 'future of plenty' where Feni would replicate the 'global success' of Tequila from Mexico. Such a hope was reflected in a story in one of India's leading English-language dailies, the *Hindustan Times*, under the title, 'Will Feni be the new Tequila?'

Box 3: A Primer on Geographical Indications

India passed the *Geographical Indications of Goods (Registration and Protection) Act* in 1999 as part of its obligations to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The definition for a GI in the Act is: an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods

concerned takes place in such territory, region or locality, as the case may be.

There are three key elements in the definition:

- » An indication must be able to mark out the particular goods. This could be a symbol (e.g. the Taj Mahal) or a word (e.g. Darjeeling for tea), there being no requirement for the 'indication' to be a direct geographical name of a place (e.g. consider Basmati).
- » The goods must possess some distinctive quality or characteristic or reputation.
- » These particular qualities are linked to the geographical region, reflecting a mix of environmental factors, human practice and cultural norms.

The application requires documentation to help establish the distinctive qualities of the product in question and its link to the demarcated geographical region. These are assessed by the GI Registry in Chennai. Establishing the following are key to the application process:

- » What is the indication to be protected and is there any symbol to be used on the protected products? Thus, there should be a clear expression of the 'indication' and any logo or mark that might be associated with the indication.
- » What are the distinctive features of the product? Clearly establishing this helps later in distinguishing between the genuine and the imitations.
- » What is the link between product and place? This is usually assessed through historical evidence which details the long-established cultural repertoire surrounding that product in the identified place; thus, a mix of environmental factors and human practice. A map demarcating the designated area is also used.
- » Who is the applicant? Here the assessment is whether the applicant represents the interests of producers associated with the product and in the designated region.
- » Finally, there is a need for an inspection structure to ensure that the products which will carry the protected indication do consistently meet the standards of the specification.

Further information: GI Registry <http://ipindia.nic.in/girindia/>; see also Appendix 1 and 2.

Demonstrating its keen interest in GIs, the Government of India ran a series of meetings across the country to promote and popularise the idea of GIs, with the hope that producer groups and associations would start looking at GIs as a means of protecting their traditional and cultural products. In January 2002, one of these meetings took place in Goa. Co-organised by the Goa Chamber of Commerce and Industry and with various Goa Government officials, the meeting discussed the potential use of GIs in Goa and identified a range of possible products. Feni was nominated as the first candidate product – and this also led to *caju* being the adopted choice.

Over the next few years, the Government of Goa, especially

through the Development Commissioner JK Dadu and later under the stewardship of the Department of Science and Technology, pursued a GI-application for Feni. An informal committee involving journalists and archivists, agronomists and scientists, and bottlers and distillers, was assembled. Details of the distilling process were scripted, its history was researched and collected, and chemical analysis was conducted and documented. In July 2006, the Goa Cashew Feni Distillers and Bottlers Association was registered and they became co-applicants of the GI-application with the Department of Science and Technology (BOX 4: The Feni Association). By March 2007 a draft of the application was ready. Officials from the GI Registry were informally consulted and meetings in Goa continued to deliberate on the application. Eventually, in December 2007 the application was submitted to the GI Registry in Chennai. Finally, in February 2009 it was registered – marking a successful end to this process.

Box 4: The Goa Cashew Feni Distillers and Bottlers Association

A collective body to represent the interests of the sector and be an applicant was required by India's GI law. This led to the Development Commissioner, JK Dadu, promoting the idea of an association involving some of those participating in the initial meetings. The Goa Cashew Feni Distillers and Bottlers Association (hereinafter, the Feni Association) was registered as a society in Goa on 21st July 2006, with the following office-bearers:

- » **President: Mr Mac Vaz**
- » **Secretary: Mr Gurudatta D. Bhakta**
- » **Vice President: Mr Tukuram Haldankar**
- » **Treasurer: Mr Regan Henriques**

One of the office-bearers narrated how discussions leading up to the formation of the Feni Association consistently reflected the need for collective action to protect Feni while overcoming the hurdle of being competitors in trade or 'comrades in competition'. The Feni Association has a broad range of objectives, including the protection and promotion of the traditional skills of distilling, whilst also seeking to standardise the process. It seeks to generate awareness within the sector of the need for hygiene and cleanliness. It aims to collect and disseminate information about the sector, lobby the Government on behalf of the sector and popularise Feni in Goa and elsewhere.

At the time of registration of the GI, the Feni Association has a slim register of members that includes those who are exclusively bottlers, distillers who have integrated into bottling, and large distillers. A broader and representative constituency is a recognised challenge for the Feni Association. As one of the office-bearers explained, the fragmentation of the sector is a hurdle. While bottlers tend to be active all year round, distillers are seasonally active and move into other occupations during the off-season, making them difficult to mobilise.

Accompanying the celebration of this accomplishment was a hint of caution, as expressed by the Vice President of the Feni Association, Tukuram Haldankar, in the *Navhind Times*: 'This is a very happy moment ... [though] there is a lot to be done. We have to get together with the government departments and discuss what measures have to be taken to standardise the product'.

This statement is evidence of the issues around the granting of a GI, which can open up an array of activities to be undertaken. While it might not necessarily require ‘standardisation’, it would require steps to develop governance systems, certification and monitoring. All those who use the GI, that is, distillers, bottlers and retailers, need to agree to some minimum standards related to Feni while not excluding or marginalising the rich diversity and tradition of Feni-distilling.

The question is whether this balance has been achieved in the GI. Not surprisingly, questions have been raised on the necessity of adding yet another layer of regulation and rules on Feni. At an early stage of this GI-registration effort, Vincent Vaz, the proprietor of Madame Rosa Distillery, noted in the *Financial Express* (21st September 2001) the paradox of seeking a GI when a key problem for the liquor was its excise classification that prohibited its sale elsewhere in India: ‘We are fighting an absurd and sad situation wherein Feni is exported and sold all around the globe, but most of the states within India do not allow it to be retailed’. Other concerns noted by distillers during the fieldwork included the annual bidding for licences and how this is fragmented, with separate licences for extracting the cashew juice, distilling the liquor and retailing it. This fragmentation of the process and the seasonality of distilling were problems regularly mentioned. Bottlers, on the other hand, have some regularity in their activity, which places them in a different position with respect to the sector.

It was therefore no surprise that questions and hesitation dogged the local debate on a GI, necessitating the Government of Goa to take an active role in mobilising the effort. This necessity was not merely a matter of timing relating to the Feni Association being formally established in July 2006. There were wider issues behind this effort to secure a GI.

1:2 India's Interest in Geographical Indications

The interest in GIs in Goa is related to the national agenda on GIs – and further, the position held by India on GIs at the World Trade Organisation (WTO), which can be traced back to India’s position on intellectual property rights (IPRs) in the 1990s. Along with a number of other Member countries from the Global South and Eastern Europe, India had been canvassing for stronger protection for GIs in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The European Community was another interested party for stronger GI protection.

The experience with products like Basmati rice and Darjeeling tea has made the Government and others active in the domestic and international arena. In the case of Basmati, a US company, RiceTec Inc., patented a rice variety in the US and claimed that it had ‘Basmati-like’ properties. In addition, it also registered trademarks, Kasmati™ and Texmati™, that many argued would confuse consumers about its rice. Furthermore, the packaging of Kasmati™ referred to ‘Indian Style Basmati’ and carried a caricature image of the Taj Mahal (Box 5: Kasmati). There was little doubting the attempt to present the American rice as Basmati from India. While the Government of India successfully challenged the patent in the US and the trademarks in the UK its attempts to do so were hampered by a lack of domestic protection for Basmati.

Box 5: Kasmati: Free-riding on Basmati

RiceTec Inc. is an American company that was granted a patent for a rice variety with claims for Basmati-like properties in 1997. The Government of India successfully challenged the patent in US courts. The company also registered trademarks, Kasmati and Texmati, in a number of countries. Both trademarks seek to allude to Basmati.

The Kasmati trademark is more telling as the packaging of the rice includes a caricature of the Taj Mahal and uses the phrase ‘Indian-Style Basmati’. The Government of India challenged these in the UK, arguing that they were seeking to build an allusion between the product and South Asia to deliberately capitalise on the reputation of Basmati. In both instances RiceTec Inc. did not contest and surrendered their trademarks.

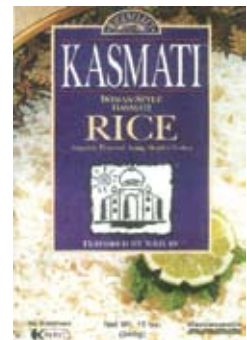


Photo 2: Kasmati rice

The story around Darjeeling is equally worrying. Issues concerning the GI were part of a wider set of problems that included the situation of labour in a plantation economy, the sluggish investments by estate owners, the consolidation of economic power at the auction, blending and retailing end of the supply chain and the entry of imitation teas as Darjeeling. With between 70% and 80% of production being exported – Darjeeling tea grosses annual exports of about US\$30 million – the implications for the GI are serious. Trade journals and popular media note that almost 80% of the global trade in Darjeeling tea is counterfeit – an estimate that the Tea Board of India disputes.

The Tea Board of India took a number of steps that included acquiring a GI, setting up a compulsory certification scheme, and enforcing its rights through domestic and overseas courts. Well before the GI-frenzy, it designed a logo for Darjeeling. The GI, the first to be granted in India, provides a detailed set of specifications. For instance, the demarcated territory of the GI is not the whole of Darjeeling, but particular areas, which indicates a greater importance of geography and cultural practice. Further, it is also a requirement that the tea originates in a certified tea garden and is processed within the designated region. The compulsory certification process has helped in monitoring the supply chain within India. For the overseas market, it has undertaken consultations



Photo 3: Darjeeling tea

with buyers and blending companies and also sought to use the courts where necessary. Promising examples of the use of the Darjeeling logo along with organic and fair trade certification marks exist.

Beyond these examples of export-oriented products, a range of concerns exist with respect to a variety of products that are consumed either locally or nationally. These products might be handicrafts (e.g. *Kondapalli bommalu*, wooden toys from Andhra Pradesh),

garments and textiles (e.g. the Kullu Shawl from Himachal Pradesh or Kutch embroidery from Gujarat), fruits (e.g. the Coorg orange from Karnataka, *Malda Lakshmanbhog* Mango from West Bengal) or vegetables (e.g. Naga Mirch from Nagaland), cereals (e.g. *Pokkali* rice from Kerala), spices (e.g. *Malabar* pepper from Kerala), or even a laddu (e.g. *Tirupathi* laddu from Karnataka)². As supply chains become more extended and the consumers more distant (either culturally or geographically), the ability to discern and identify the genuine from the counterfeit gets more difficult. In many cases, this is also because the qualities and attributes of a product are not directly observable. In the case of some products, the raw materials may be substituted by inferior or fake ones. Or, not all the production rules may be properly observed. For example, in the case of Banarsi sarees, there have been stories of the use of imported Chinese silk which, according to some reports, contributes to over 50% of the silk. Weavers are also troubled by the continuing introduction of power looms which produce cheap imitations, thus further depressing the retail price of sarees and the piece-price for sarees they receive.

While GIs cannot address all the ills of such practices they can be part of a larger policy initiative. In promoting the idea of GIs, the Government considers that the deep cultural heritage and biodiversity of the country could generate a large portfolio of GI-products. The hope is that protecting this cultural heritage and biodiversity through GIs would translate into improved livelihood. Domestic protection through GIs, the Government feels, would make it easier to fight cases like that of Basmati in the future. The Government has therefore taken to popularising the idea of GIs by hosting workshops and meetings with producer groups across the country.

1:3 The Protection through a Geographical Indication

So how does all this translate into the daily lives of producers? Are the years of effort, political mobilisation and social commitment for a Feni-GI worth it? How will this affect and improve the conditions of distillers and bottlers, or, for that matter, consumers? These were some of the queries that constantly arose during the fieldwork. While the report deals with some of these in more detail in Chapters 3 and 4, a few words of clarification at this stage are warranted. Two key issues are addressed here: misconceptions concerning GIs and clarification of the protection offered through GIs.

A primary misconception is that GIs are patents, and some news reports do suggest that Feni has been patented. (Box 6: Geographical Indications: Patents No More). This is totally wrong. There are many differences between GIs and patents, two of which are:

- » A GI is a type of intellectual property right that tends to be held by collective bodies representing groups of producers, such as the Feni Association, whereas patents are private rights that are held by individuals, companies and corporations.
- » The knowledge associated with a GI remains available for anyone to use whereas the knowledge associated with a patent is the property of the patent-holder. Permission from the owner has to be taken before using patented knowledge.

Box 6: Geographical Indications: Patents No More

The misconception that GIs are patents or that there is no significant difference between the two is often conveyed by newspapers, as evidenced by the following examples:

'Goa's Feni producers want to patent brew', Raju Nayak, *Indian Express*, 30th August 2007: '... the popular brew is under threat and it can be patented by someone abroad if the Indian government does not move fast enough. [...] industry sources said Feni distillation would receive a boost if it received a patent'.

'Goa's Feni to get a patent', PTI, *Tribune*, 5th January 2008: 'Last week, a team from the Geographical Indication Registry (GIR) visited Goa at the invitation of the All Goa Feni Bottlers and Distillers Association (AGFBDA) and the state government to ascertain their claims for a patent.'

'Feni gets GI status', Christina Viegas, *Navhind Times*, 24th March 2009: 'The procuring of the GI certificate for the Goan spirit would perhaps take care of a lot of loose talk by ignorant people who constantly preferred to remain spoilsports and lamented that the GI status for "Feni" was stuck in the rut, while the locals can revel with news of the patenting of their spirit as this unique potent spirit will now stand out in terms of greater positioning, not just in the country, but all over the globe.'

A second misconception is that the grant of a GI has international and global coverage. This is untrue. The GI for Feni is only valid in India. This is common for most IPRs; the rights are valid in the countries where they have been granted. Moreover, there is no automatic protection in other countries. For the present at least, the multilateral register of GIs that exists at the WTO has not been introduced. On the other hand, automatic protection might occur through bilateral treaties that India has with other countries – if provisions for GIs exist. So, the Feni Association will need to develop a strategy of applying for GIs in other countries. Naturally, this would make sense only in those countries where a potential market exists or where a potential competitor liquor exists. With GI-protection at home, the Feni Association is at least in a stronger position to seek protection in other countries. For instance, if the Basmati-like situation discussed above were to arise, then the Feni Association would be in a strong position to make a case for unfair competition.

Closely following these two misconceptions, it is important to understand that the protection of a GI is largely directed at the 'indication' (Feni in this case) and to the specifications submitted by the Feni Association (discussed in Chapter 3). As the particular knowledge documented in the application is not protected, anybody else could attempt to replicate the distilling process. Thus, a company located elsewhere might decide to copy this distilling process and make liquor from the fermented juice of cashew apples. The Feni Association would have no legal recourse to stop this, but they could prohibit the use of the indication 'Feni' by the company.

There are numerous examples of imitative liquors emerging from outside the area of a registered GI. The prestige and popularity of a GI is itself an invitation to competitors to enter the market with as close a substitute to the GI-product. Champagne's prestige and popularity has seen the entry of Cava, a Spanish sparkling white wine, which copies the Champagne method, however, they have to name their product differently. Tequila which is made from the Blue Agave in Mexico has seen the entry of a South African competitor that

is made from the Blue Agave itself – and called Agava. There have been news reports, including one in the *Herald* in June 2009, of plans to allow and license the distilling of liquor from cashew apples in Maharashtra (particularly in the districts of Sindhudurg and Ratnagiri). As explained above, the practice cannot be stopped by the Feni Association, however, distillers in Maharashtra would not be able to call it ‘Feni’.

Broadly speaking, Indian law offers the following protection (see Appendix 2):

- » Firstly, the owners of a GI (such as the Feni Association and the Department of Science and Technology) and authorised users (those licensed by the Feni Association), can seek remedy from the courts if the GI is infringed by others. The authorised users also have the exclusive right to use the GI in relation to the goods that have been identified subject to the specifications submitted.
- » The GI is infringed when it is used by a non-authorised user to either indicate or suggest that the goods originate in that geographical area in a manner that misleads consumers.
- » Similarly, the GI is infringed when it is used in a manner that is considered unfair competition or ‘passing off’.
- » Finally, there are provisions for ‘additional protection’; a mysterious category that has not been clearly defined in the legislation.

The crux of the protection offered by GIs hinges on the ‘indication’ and the specifications submitted. Also, the protection is directed to the GI-owner and to authorised users. This raises concerns amongst a broad spectrum of interested parties. For instance, do distillers, bottlers and retailers now have to get authorised by the Feni Association to continue doing their activities? Also, would those who distil the liquor in ways that differ from the specifications submitted by the Feni Association be excluded from using the indication? Worryingly, the legal answer to the question is ‘yes’, though there are countervailing provisions. Similarly, what happens to the distillers of coconut Feni? Will they have to stop calling their liquor ‘Feni’ now that the name has been appropriated by the *caju* group? Or, can they use ‘Feni’ with ‘coconut’ added to distinguish it from *caju*? If so, would this diminish the future prosperity hoped for by the Feni Association?

Consumers are also concerned with this development. For some, such as the aficionado, they have their assured and highly-treasured distiller from whom they directly organise their stock and it matters little if some association somewhere has decided to authorise the liquor as authentic Feni. They know their liquor. However, the intervention of this new arbiter of authenticity (and quality) may disturb some long-established social relations around drinking. The report concerns itself with some of these questions.

1:4 Overview

The report proceeds with Chapter 2 providing a general theoretical background to the study and drawing out a way to study GIs. This starts with the growing interest in promoting GIs as a development policy and the suggestion that a lot of hope and expectation has been generated. Two key ideas are used in studying the case of Feni. The first interest is in the process through which a consensus has been reached in terms of the specifications that were submitted with the GI-application. Recalling the phrase of one of the Feni Association’s office-bearers, ‘comrades in competition’, the aim is to consider how competitors remain comrades. The second idea relates to the specifications themselves. Recognising the history behind a GI, the specifications are effectively the legal translation of a long-established cultural repertoire associated with Feni.

Chapter 3 focuses on the process of preparing, submitting and successfully registering the GI. Having interviewed a number of individuals involved in the process, this history is brought together to demonstrate this successful accomplishment. The chapter also reviews the specifications that have been submitted, discussing these in terms of various cultural practices associated with Feni-distilling. This will help to identify possible amendments to the GI for Feni.

Chapter 4 focuses on some of the expectations and hopes associated with GIs. Based on fieldwork material, a number of supply routes of Feni are identified. There are short and direct supply routes where the consumer and distiller are very proximate and personal. On the other hand, there are other supply routes that are longer and more distant, in which the consumer is hardly connected with the distiller. Here, bottled brands prevail. The possible implications of the GI in each of these supply routes are discussed, thus suggesting how the GI may localise control.

Finally, Chapter 5 concludes by highlighting some of the key research findings and restating the recommendations.

Footnotes

1. *The Report* is written with very few references; those, interested in additional information and further theoretical details are directed to Appendix 3.
2. All of these have either already been registered as GIs in India or are under review at the GI Registry.

Chapter 2

Theoretical background for the study of geographical indications

This chapter presents a number of approaches to the study of GIs which raise particular questions about them and help identify problems and solutions.³ The protection of a cultural object that has a long history of practice and consumption raises questions such as whether the cultural practice is homogenous – do all distillers adopt similar materials, technologies and practices?



If there are differences, how should the legal definition of the GI handle this difference? Similarly, if there have been changes in the practice of Feni-distilling, is it necessarily required that a particular tradition of distilling is only noted in the GI-registration?

However, the growing interest and popularity of GIs will first be considered, focusing on their wide popularity in a number of multilateral forums. This will help identify some features that resonate with the protection of traditional knowledge and cultural expressions but will also be a reminder that there is much hope and expectation invested in introducing GIs.

Two key approaches to the study of GIs are emphasised in the chapter. Firstly, the idea of 'clubs'; collective bodies which pose problems for GIs, particularly in terms of rule-making and the politics of maintaining a club. Secondly, the idea relating to the cultural repertoire that lies at the heart of the GI. This localised specialisation reflects a history and tradition, thus focuses on a broader spectrum of values than merely the market.

2:1 Approaching a Study of Geographical Indications

The Growing Popularity of Geographical Indications

GIs bring together an entirely different set of interests compared with other IPRs. At the WTO, rather than witnessing the usual North-South divide as is the case with patents, GIs find many Southern Members (including India) demanding stronger protection. It is equally surprising that countries from the North do not agree with each other on GIs, which is most unlike their consensus on patents and copyright. Thus, the European Community is keen on stronger protection and a multilateral GI-register while countries like Australia, Canada and the US are opposed to it. At the heart of these differences are the potential implications of GIs for the domestic economy and

global trade, and the cultural values associated with GIs.

Some of these potential influences of GIs have translated into a growing appreciation for them in a number of multilateral forums. For example, at the World Intellectual Property Organisation (WIPO) in discussions concerning traditional knowledge and folklore there have been favourable views on the positive protection offered by GIs compared with any other IPRs. Consider the following quote from Anil Gupta's report:

Traditional Knowledge, as well as biological and genetic resources produced and processed in a characteristic manner typical of a given region, and embodied in local life styles and linked with culture, could be protected through a distinctive sign, such as a geographical indication.

These discussions at the WIPO also highlight the possibility of GIs dovetailing with other policies and IPRs to protect traditional knowledge and cultural expressions. For example, a handicraft could have its technical content protected as a 'technical idea', the cultural value of the item protected as a form of folklore and cultural expression, and finally the item itself protected with its distinctive features as a GI.

At the Food and Agriculture Organisation, GIs have found favour in discussions about genetic resources that have been neglected by mainstream funding bodies. Thus, in a study by Jorge Larson we can read the following:

GIs can be useful in developing and consolidating a differentiated geographical identity and a reputation, building quality systems and providing governance to value chains based on local biological resources and traditional and innovative knowledge and practices.

However, Larson also cautions that much of the 'success' of GIs is dependent on an institutional mechanism and governance

systems that enable the participation of all groups and individuals. The United Nations Development Programme expresses some of these wider concerns for human capabilities, participation and equity. Swarnim Wagle draws attention to two of the notable human development dimensions of GIs:

- » **Empowerment:** As the rules of a GI are scripted by the community, it empowers them and enhances their human development.
- » **Productivity and Premium:** Successful branding and pricing could offer the GI-product a price premium in the market; thus, a sense of commercial equity.

'Marks' and the Protection of Traditional Knowledge

The general agreement on GIs is testimony to certain features, as outlined by David Downes and Sarah Laird:

... geographical indications and trademarks have the potential to respond to some of these concerns more effectively than do other intellectual property rights. Rights to control trademarks and geographical indications can be maintained in perpetuity. They do not confer a monopoly right over the use of certain information, but simply limit the class of people who can use a certain symbol.

To understand this view, the following features of GIs are important:

- » **The Nature of Protection is Consistent with Cultural and Customary Practices:** In most countries, GIs are held by collective bodies that represent individual producers who are located across the entire supply chain of the product. A GI cannot be licensed out to producers based outside the identified region. In essence, the GI seeks to stipulate the rules of production and the location of production, which tend to sit quite comfortably with the cultural and customary uses of products and indications.
- » **Knowledge Remains in the Public Domain:** The protection under a GI does not put a monopoly on the knowledge related to the product. So producers in the region who do not observe the rules, or producers located elsewhere can continue using the knowledge; however, they are prohibited from directly or indirectly using the protected indication.
- » **Rights can (potentially) be held in Perpetuity:** As long as the essential basis of protection, the tripartite relationship between product-quality-indication, is maintained, the law would continue to protect the indication. Usefully, most GI laws allow for revisions to the specifications, thus permitting the evolution and adaptation of cultural practices. Naturally, any such revisions must not diminish the distinctiveness of the GI and its relationship to the region.

While all this sounds interesting, the question remains as to how this 'policy-speak' translates into reality at the ground level. There are a number of examples of the use of GIs, certification marks and trademarks that have been developed to protect holders of traditional knowledge and cultural expressions. A notable case is the Maori Mark in New Zealand (Box 7: Maori Mark). It is here that the United Nations

Conference on Trade and Development (UNCTAD) has made a significant contribution as well. For example, in India UNCTAD has been working with the Government on GIs through a number of channels, which include regional workshops, support of artisan groups and a large-scale study of the potential of GIs, in a six-year project which facilitated the registration process of 21 GIs.

Box 7: Maori Mark and the Protection of Traditional Knowledge and Cultural Expressions

The Maori Mark is a useful example of using trademarks to creatively protect a broad range of interests concerning the Maori peoples. This was an initiative of Maori artists with the national arts body of New Zealand which developed through a series of meetings across the country with Maori artists, performers, and peoples. One of the objectives of using a trademark was to retain control over their cultural heritage, their knowledge, imagery and designs, and maintain its integrity through an increasingly commercialised world.



The mark is itself reflective of this participative and consultative process. Designed by a team of senior Maori artists led by master carver Dr Pakaariki Harrison, the mark represents the genealogy lines of past, present and future generations. Launched in February 2008, the mark is registered to Creative New Zealand. However, the 'guardian' of the mark is Te Waka Toi, the Maori arts board of Creative New Zealand, which retains control in administering the mark.

Among the different elements of the rules, two are notable:

- » The mark is for the use of individuals and groups of artists who are of Maori descent. However, there are other marks which are for groups of artists that are 'mainly Maori' and another, the 'Maori co-production' mark, used for collaborative ventures between Maori and non-Maori peoples.
- » The qualifying works must be 'distinguishable as a work of Maori art or craft being a work which comprises an implicit or explicit reference to something Maori'. The Te Waka Toi as 'guardian' decides on approved categories of art form.

These rules are also complemented with a labelling system that must be displayed with each certified work under the Maori Mark. The label carries a number that corresponds to the artist who made the product.

Further information: <http://www.toiio.com/>

Social Movements of Consumption and 'Marks Indicating Conditions of Origin'

It will be useful here to reflect on how development theory and social movements provide links through GIs with communities and consumers. A starting point is to recognise that GIs have a very long and deep history.

Even while GIs have only recently been defined and introduced in TRIPS, antecedents are found in the long history of trade and marketing practices. A variety of indicators have been used to mark products as a way of identifying their geographical origin and suggesting a certain quality and reputation. Examples include the use of seals and marks in the 12th century by Egyptians to indicate the vintage and

provenance of wine. Later practices in Europe show evidence of guilds and their seals of quality to mark products. Many of our everyday products have names that suggest historical provenance, such as china for porcelain, and 'coffee' is indicative of its geographical origins in the Kaffa region of Ethiopia. However, the use of geographical terms with some products, such as kiwi-fruit and Bermuda shorts, are suggestive of a geography of production and trade routes rather than a geography of origin.

The specific TRIPS definition of GIs as discussed earlier requires a tripartite relationship between product, distinctive qualities and the place of origin (see Box 3: Primer on Geographical Indications, Chapter 1). To recall, a GI is much more than the designation of origin of a product such as 'Made in India'. In essence, it relates to the practice where iconic images, such as the Taj Mahal from India or the Pyramids from Egypt, or other markers are used to signify the origin of a product with a particular distinctive quality. However, sometimes use of geographical designations are not true. The law considers these practices as unfair competition as they mislead the consumers and free-ride on the reputation of marks. In a recent decision at the *European Court of Justice* restoring Feta as a GI, the courts agreed with the European Commission's argument that 'adding text or drawings with a marked Greek connotation' means it is 'deliberately suggested and sought as part of a sales strategy that capitalises on the reputation of the original product ... [which] creates a real risk of consumer confusion'.

One of the changes in the dynamics of consumption that is being increasingly noted is an interest in the conditions of origin of products. In some instances, it might be environmental concerns, while in other cases it might be labour conditions, or a question of social justice, ethics or animal welfare. These various concerns have led to a range of socially-generated labels – mapping out a range of 'marks indicating conditions of origin'. The range includes Fair Trade and the various standards of organic certification, but also includes 'Rugmark' for carpets made without child labour and 'Kimberley Process' for 'conflict-free' diamonds. With different emphases and values, the growth of these marks reflects concerns over justice. The 'no sweatshop' movement, for example, calls for unionised labour and fair working conditions. The movement against child labour and poor working conditions has repeatedly dogged Nike, including the case of footballs from Cambodia and Pakistan.

GIs find themselves related to these socially-generated marks indicating conditions of origin but there are significant differences. Unlike most of the other marks, GIs are scripted by the community of producers. It is they who are the authors of the rules and thus have greater influence in shaping the mark. This feature of GIs empowers communities to define their products and resonates with those consumers seeking products with a particular and distinct place of origin. In this way, GI-products also relate to ethics concerning recognition and redistribution. In such networks of consumption, the product is no longer just any bulk commodity (tea), nor is it generally a brand of a multinational (e.g. Tata Tea); rather, it is a distinct place-based tea (e.g. Darjeeling).

An additional feature of GIs is how they stand in contrast to the growing global consolidation in the agrofood sector. A dominant motif of this sector is its incessant drive for a flexible and mobile production base, thus constantly sourcing items

from new sites with lower costs of production. In this manner, products are delocalised and made placeless. In the literature this is often presented as the 'McDonaldisation' of food – where food is entirely robbed of any distinct characteristics of its place of origin. GIs however are distinct in terms of place and a GI cannot be licensed outside its place of origin which necessarily means that they stand in contrast to the dominant logic of global agrofood. Both for manufacturing firms and retailers, trading in a GI-product requires it to be sourced from the (certified) producers: if Tata Tea desires to sell tea labelled as 'Darjeeling' it must necessarily get it from tea gardens in Darjeeling that are certified by the Tea Board of India (the owners of the Darjeeling GI).

This tension can be seen in several examples where attempts have been made to capitalise on the reputation of a GI, as in the example of Basmati rice noted in Chapter 1. There is also the example of Parma Ham from Italy which is organised under the *Consorzio del Prosciutti di Parma* – a consortium of producers that was established in 1963 (Box 8: Parma Ham). In 1997 it began proceedings against Asda, a UK retailer that is owned by Wal-Mart, the world's largest retailer. Asda was selling ham marketed as 'Genuine Italian Parma Ham' and noted on its packaging that 'All authentic Asda continental meats are made by traditional methods to guarantee their authentic flavour and quality' and 'Produced in Italy, packed in the UK for Asda Stores Limited'.

BOX 8: Parma Ham – Maintaining the Protected Status

The origins of dry-curing ham in the Parma region have been traced through a number of historical sources including Cato the "Censor", in 100 BC. Archaeological evidence, such as that of salted pig leg-bones, has also been used to establish the historical and geographical link.

In 1963, the Consortium of Parma Ham was established by 23 producers and has since expanded to include over 170 ham producers and many more through the supply chain. In 1970, the Italian government introduced domestic regulation to protect Parma Ham as a designation of origin and gave the Consortium the power to supervise production and marketing. The Consortium's 'ducal crown' is applied by Consortium-approved personnel and affixed at the end of the curing period on hams that successfully pass the series of inspection procedures. Following the harmonisation of designation of origin laws in Europe, Parma Ham was also protected as a 'Protected Designation of Origin' in 1996.



Parma Ham is made only from the rear haunches of the pig, and only four ingredients are used: Italian pigs, salt, air and time. The complete specifications include details about the pig breeds, their area of rearing, their feed and details on slaughtering and processing. Some of these are:

- » Pigs of designated breeds and feed according to the specifications can be reared in certain geographical areas and districts in Italy.
- » The attributes of fresh legs used in the production of Parma Ham are defined in terms of fat consistency, fat layer and other components.

- » All processing plants and slicing and packaging plants must be located within the territory of Parma and all raw material processing phases must take place within this territory.

By definition then, Parma Ham can only be sold in sliced and packaged form if these processes take place in the designated regions of Parma.

Further details: <http://www.prosciuttodiparma.com>

The ham that Asda had used was sourced via an intermediary, Hygrade Foods Ltd., from a certified member of the Consortium. Hygrade then industrially sliced and packed the ham in the UK for Asda. One of the rules of production for Parma Ham is that it must be sliced and packaged in front of the consumer for ham that is marketed in slices. As the ham Asda was selling did not adhere to this rule, the judges had to decide whether it should be prohibited from using the GI. The Consortium's argument was that slicing and packaging are important steps of the production process that also permits the producer to 'control one of the ways in which the product appears on the market ... [so as to] safeguard the quality and authenticity of the product, and consequently the reputation'. The case, pitting a Consortium of ham producers against the world's largest retailer, began at local courts in the UK and went all the way up to the European Court of Justice. Eventually in 2003 the European Court of Justice agreed in favour of the Consortium, emphasising that 'the applicable rules protect those entitled to use them against improper use of those designations by third parties seeking to profit from the reputation which they have acquired. They are intended to guarantee that the product bearing them comes from a specified geographical area and displays certain particular characteristics'.

GIs and Changes in Development Theory

These examples demonstrate the wider context expressing a variety of moral concerns, and ethics of recognition and redistribution. A number of scholars have spoken of 'endogenous development', a 'grassroots-based' practice using local resources and capabilities as the primary element of development. These writings recognise social movements of indigenous peoples to reverse long histories of dispossession and marginalisation, with other elements seeking to use local resources and cultural products as the core motive forces for development. These movements also seek to 'retrieve history' and restore a sense of prestige in locality. Even though this might sound like standing in opposition to contemporary globalisation, many scholars note how there is a use of global institutions and external materials and technologies in achieving these local aspirations. Characteristically termed 'glocal', these are seen as ways of using external and global elements to defend and preserve local ways of living.

In many ways, GIs can relate to these theories and practices of development. Firstly, the products in question are very much elements of the local way of living – and this is detailed later in this chapter. The documentation of the specifications of a GI-product can also be seen as an experience of retrieving history and restoring prestige in locality. The examples of GI case law noted earlier are testimony to how this documentation can be used in struggles of recognition. Lastly, the contemporary appreciation of GIs in various multilateral forums is itself evidence of the glocal properties of the GI movement.

Finally, on the appreciation of GIs in a wider context, it

is useful to note some words of caution. The first relates to the process of 'rule-making'. A GI requires documentation of the production rules, thus the need for the relevant group of producers in the region and across the supply chain to arrive at some consensus. All this raises questions of participation, debate, disagreement, cooperation and all the messiness of politics and economics of who is involved, who is excluded, and who is leading the process of rule-making. This is very pertinent for GI-products because they already have a long history and cultural practice to their production, and the opportunity of a GI opens up many possibilities.

The second concern follows from the issue of rule-making and relates to the rules themselves. Is there an instrumental logic that these new rules will impose on GIs, thus, losing the richness of the cultural diversity? How will the rich and diverse cultural practices associated with GIs be translated into the GI-rules? Questions like these are central to the rule-making requirement of GIs. The new rules for the GI-product will be a compromise between the different interests of the producers and societies involved in and excluded from the process.

2:2 Geographical Indications seen as Clubs

The Intuitive Appeal of Clubs

There is an intuitive appeal to the idea of 'clubs' in discussing GIs, which comes from the manner in which GIs are treated by law where a 'club-like' situation is created. The 'club' idea emerges through the rules of production that are submitted as part of the registration procedures. A landmark judgement in the European Court of Justice in 2001 concerned whether the rules of production for Grana Padano cheese provided the GI-holders with an exclusive right to the GI (Box 9: Club of Grana Padano). That is, could other producers use the GI without observing all the rules of production? More remarkable in this case was the fact that the rule in dispute was the grating and packaging of the cheese in the demarcated region. The court concluded that the rules of production submitted in the registration process

[determine] both the extent of the obligations to be complied with for the purposes of using the PDO [Protected Designation of Origin] and, as a corollary, the extent of the right protected against third parties by the effect of registration of the PDO, which lays down at Community level the rules set out or referred to in the specification.

In other words, the court's ruling generates the basis for the 'GI-club'. On the one hand, it obliges the producers to behave like members of a club by observing the rules that they have submitted as part of the registration procedures. On the other hand, those who fail to adhere to any of these rules are excluded from the club and disallowed from using the name of the GI-club.

Box 9: The Club of Grana Padano

The *Consorzio per la Tutela del Formaggio Grana Padano* (the Consortium of Grana Padano Producers) was founded in 1954 and presently has over 200 firms across producers, maturers and retailers. Initially regulated under Italian decree in October 1955, Grana Padano was made a Protected Designation of Origin when European laws were harmonised in 1996.

Grana Padano is a semi-fat hard cheese which is cooked and ripened slowly. It is produced by curdling cows' milk, and the

cattle are reared on a feed of green and dried forages. There are various specifications on the milking of the cows, the cheese production process, and how the cheese is matured. The specifications were amended in 1991 to include the grated form of the cheese. The new regulation required that cheese be grated in the area of production and that the packaging is done immediately with no processing and with no addition of substances to alter the conservation and the original organoleptic characteristics.

The issue for the courts was whether a cheese which didn't adhere to these new specifications could continue to be sold using the Grana Padano name and logo. In essence, do all the specifications have to be adhered to in order to be in the GI-club?

Further information: <http://www.granapadano.com/ing/index.htm>



Another way in which the club-like status of GIs is established occurs from treatment of the protected indications and marks by courts and trademark offices. For example, when courts refuse to register geographically-descriptive marks because they infringe a protected GI, the courts are actually protecting the 'borders' of a GI-club. Consider the dispute around the 'Highland Chief' trademark in India that was filed by Dyer Meakin Breweries for a 'malted whisky' and contained the visual imagery of a (Scottish) man dressed in tartan. The Scotch Whisky Association opposed the trademark registration, arguing that the term 'Highland Chief' used for a whisky generates the impression that it originates in Scotland – an impression that is further enforced by the visual imagery. The Delhi High Court agreed with this argument and ruled that the 'Highland Chief' mark was a 'false trade description', and cancelled the trademark. By refusing to register certain trademarks or cancelling their registration, the courts protect the rights of the GI-holders on the grounds that such marks are confusing and misleading to consumers and free-ride on the reputation of the GI. A similar argument was used by the Government of India when it successfully challenged the RiceTec trademarks in the UK where the term Basmati was used, as discussed in Chapter 1.

While the Grana Padano case focuses on whether rules of production are adhered to or not; the Highland Chief case suggests that the 'borders' of a GI-club can extend to include closely associated terms and pictorial representation. The following section provides a discussion of the idea of 'clubs' and explains important features of this idea for a study of GIs which will be relevant to the 'making of the Feni-club' addressed in Chapter 3.

Examples and Features of Clubs

Clubs are distinguished by two main features. First, all members of the club can enjoy it without depriving each other. Second, the club is restricted to members only. Scholars, Todd Sandler and John Tschihart, define a club as a 'voluntary group of individuals who derive mutual benefit from sharing one or more of the following: production costs, the members' characteristics or a good characterised by excludable benefits'.

There are numerous examples of 'clubs' which include not only recreation facilities but also collective organisations like the *Indian Performing Rights Society*, the *World Trade Organisation*

and standard-setting and certifying organisations such as the *Fairtrade Labelling Organisation International* (Box 10: Fairtrade).

Box 10: Fairtrade: Setting Standards and Monitoring Compliance

'Fairtrade' is one among many socially-generated appellations that seek to promote particular principles of fair price, greater equity in global trade channels, and sustainable and environmentally-sound development. There have been a number of different definitions of 'fairtrade' and various networks and groups have proposed their own 'marks indicating conditions of origin'. Among these, the Fairtrade Labelling Organisation International (FLO), established in 1997, has developed a set of fairtrade standards and owns the widely recognised Fairtrade mark.

FLO consists of 24 national fairtrade labelling initiatives (mainly in the North) and three producer networks (mainly in the South). The standards for the Fairtrade certification mark are set by FLO in consultation with its members and stakeholders and others that include development policy workers and academics. This is a certification for a product – and not an organisation. The standards are a mix of generic fairtrade principles and product-specific requirements. They include a 'fair price' that at least covers the cost of sustainable production and also includes a 'fair trade' premium that is investable in local projects.

FLO, recognising the need for independent and transparent certification, in 2004 separated itself into two organisations: FLO and FLO-CERT. While the standards are set by FLO which also owns the certification mark, the standards are inspected, certified and monitored by FLO-CERT which is an independent ISO-65 accredited agency that offers Fairtrade certifying services in over 70 countries.

This separation of standard-setting from monitoring compliance has proved useful in promoting consumer trust and faith in the products. The estimated retail value of Fairtrade products in 2008 was nearly €2.9 billion, an increase of 22% on the previous year.

Further information: FLO <http://www.fairtrade.net> and FLO-Cert: <http://www.flo-cert.net/>



There are particular properties and characteristics that are common to most clubs, such as *voluntary membership*, policies for sharing club resources, and monitoring mechanisms for exclusion. Private clubs are said to be characterised by voluntary membership in that individuals choose to belong because they anticipate some benefits. However this should not be confused with those individuals who get excluded from the club – a point that will feature later on in this report. The next feature of clubs to consider is that of *sharing*. There is a need for some institutional mechanisms to share the club between members so as to efficiently manage the shared resource and eliminate problems of congestion. For example, a recreational club might have a rule on how many visits each member is allowed on a weekly or monthly basis.

A final feature of clubs that brings together these two features of voluntary membership and sharing is its feature of *exclusion*. For that matter, clubs exist through this ability

to exclude non-members from their benefits. Exclusion is a difficult matter and requires the club to come up with an exclusion policy that needs three core elements:

- » Membership rules: Some minimum codes that qualify the individual's membership to the club
- » Monitoring membership: Systems to verify and check adherence to the membership rules
- » Policing membership: Closely related to monitoring, this requires systems for ensuring that non-members are excluded from the club

Some of these features of a club can be seen in the functioning of a GI-club like that of Champagne which is administered by the *Comité Interprofessionnel du Vin de Champagne* (CIVC). Established in 1964, the CIVC evaluates and recommends the classification of the various communes included within the Champagne-club, it negotiates the price of grapes at each harvest, it monitors the detailed rules of production for Champagne, and polices the use of the Champagne term, which even involves fighting legal cases elsewhere. To recall the two cases noted at the start of this section; the *Grana Padano* case concerned the rules of production and the *Highland Chief* case concerned the use of the term of the GI-club. Both are demonstrations of the monitoring and policing of the GI-club.

The detailed rules of Champagne production include identified grape varieties, specifications on the growing and harvesting of the grapes, and details on the initial fermentation and blending processes and storage – termed *méthode champenoise*. However, getting to establish these intricate rules of production and delimitation of the territories of production that make the Champagne-club has not been easy, as reflected in the struggles in the 20th century and those in recent years, which will be discussed in Chapter 3.

Studies of 'GI-clubs' and also of collective organisations like the FLO identify a number of important lessons. First, the making of a club and maintaining its membership are difficult processes. This reflects the difficulties in agreeing on club rules and the efforts needed to monitor membership. Second, studies demonstrate that some clubs get characterised as having 'clubs within clubs'. This occurs when a set of members becomes increasingly able to influence the rules of membership and the distribution of benefits/sanctions. A final lesson is that to generate trust of consumers, clubs that certify standards should have third-party monitoring and auditing of the standards (Box 10: Fairtrade).

The Collective Dimensions of GIs as Clubs

Another dimension of clubs is the collective dimension, which will be discussed later in this section. It should be noted that the rules of production of a GI are the *localised specialisation* (see next section) of a certain territory. Appreciating this social and cultural history reminds us that the product and its cultural rules pre-exist the legal form of the GI. This raises questions as to the relationship between this social and cultural history and its subsequent legal form and if there is any difference between the cultural institutions of governance and the legal rules and monitoring system.

Elinor Ostrom has done extensive work on the evolution of institutions of collective action in governing locally-shared environmental resources. The social processes of generating the rules for these allows individuals to cooperate in designing local rules. While giving individuals ownership of the rules, it is also the case that individuals tend to build a shared sense of commitment to the norms and conventions. According to Ostrom, much of the motivation to cooperate emerges from a sense of interdependence. This interdependence may be because the local environmental resource contributes to income, or it may be the significance of the resource in a social and cultural sense. Either way, this generates a *lattice of interdependence*, which, as we will see, is relevant to the study of GIs.

However, this interdependence and collectivity and its promise to act as a social glue should not mask the hurdles in acting collectively giving GIs a peculiar characteristic of cooperative competition (Box 11: GI Supply Chains). Social, economic and political inequality in society will lead to different levels of participation in making the legal rules. Also, there is no reason to assume that everybody will share a similar appreciation of the historical legacy of a GI-product or have identical hopes for the future of the GI. These differences will influence the rule-making process. Studying the translation of cultural norms and conventions into legal rules will give an insight into 'whose rules have come to matter' in the case of Feni.

Box 11: GI Supply Chains and the Case of Cooperative Competition

GI-products from different producers are necessarily similar, as each producer follows broadly identical production rules. In fact, it is this similarity, the localised specialisation, that gives the product its collective reputation – a reputation that is shared by all members of the GI-club.

Individual producers generate a reputation for a certain quality amongst a group of faithful clientele. This reputation is linked to the localised specialisation – and is limited by the shared and similar production rules. However, efforts to generate separate reputations points to the complicated nature of competition in GI-products.

Individuals and firms in the supply chain are also economic competitors which occurs at two levels:

- » Horizontally at each production stage there is competition for a larger share of the proceeds of the final retail sale. For example, this occurs between distillers and bottlers on the price of Feni at the distilling stage, and similar issues arise at each production stage.
- » Vertically at each production stage there is competition for a share of the market at that production stage. Thus, retailers compete with each other for a larger share of the retail market of Feni. Similarly, distillers also compete with each other for a larger share of the market at that production stage.

Competition between producers in a GI-club must be restrained by the overarching need to maintain the collective reputation of the GI because any deviation from the production rules may benefit the individual firm but impact on the collective reputation of the GI. This requirement for cooperation whilst maintaining some competition is a particular feature of GI-products.

2:3 The 'Localised Specialisation' of Geographical Indications

This section discusses the second organising idea of this study: the localised specialisation that lies at the heart of a GI. 'Localised specialisation' is a reflection of the locality and cultural history of the GI. Recognising these aspects of GIs is important in two respects. First, it shows how GIs might be a useful way of achieving equity and recognition in trade. Second, it is also a reminder of the difficulties in achieving consensus on the practices of the past, especially when confronted with the tempting prospect of a lucrative future.

Agriculture and Localised Specialisations

Closely linked to the idea of clubs is the way in which anthropologists have come to study the inherent diversity in agriculture and handicrafts. The diversity is not only a matter of the different technologies used, the diversity of plant species and varieties, or the variation in soil composition and cultural practices of farming. It is also reflected in the way that farming contributes to a way of life and how local resources of labour, materials and technology provide a distinct pattern of farming. Interestingly, while this historical exchange of plants, farming practices and technology does generate homogeneity it also reinvigorates diversity and localised specialisation.

This localised specialisation can be seen in many different ways. For instance, the cashew tree originates in Brazil and was transported by the Portuguese to its various colonies, arriving in Goa in the 16th century. However, while the apple of the cashew tree is used to produce various fresh and fermented drinks in these locations, it is only in Goa that liquor called Feni is distilled. This is all the more remarkable when placed in the context of the global cultivation of cashew, where Goa accounts for under 1% of the global area. In the case of barley this localised specialisation is equally remarkable. Here, while the distilling of whisky from barley is not unique to Scotland, the use of local resources (e.g. peat, spring water) and imported materials (e.g. oak casks), and the responses to new technologies and policies has given it a distinctness and diversity (Box 12: Scotch Whisky).

Box 12: Scotch Whisky: Continuous Reinvention or Loss of Tradition?

The long history and continuing evolution of Scotch Whisky is a good example of the different pressures that a culturally-distinct product faces. It is also a useful reminder of the various interests and opportunities that arise with new materials and technologies and with markets and commercialisation. For some, Scotch has lost the battle and is no longer the spirit they knew; for others, it is an indication of a robust reinvention.

As with other liquors, Scotch stories are infused with the struggle against the State and its attempts to tax and regulate distilling and drinking. Similarly, there are classic stories of temperance and poetic expressions of its virtues. The early 19th century, which has been termed the 'heroic age of whisky', was full of this cat-and-mouse game between those keeping the secret of whisky-distilling alive and those seeking to license each and every pot-still. It was with the small operators, risking lives, where the art of distilling continued to flourish. The 1823 legislation which introduced legal distilling with a moderate licence fee is said to have enabled the practice to be industrialised. For some, it also killed home-distilling by moving the practice into the factory.

In terms of materials and technologies, the main transformation occurred in the early part of the 19th century. In 1828, Robert Stein invented a new form of continuous distilling. This invention allowed the distilling of whisky in a single batch without the need for the double-distillation characteristic of the pot-still. Aeneas Coffey – an ex-Inspector General of Excise in Ireland – modified this invention and was granted a patent for his still in 1832. A prototype was installed in the Dock Distillery, Dublin. The continuous and single-batch distilling of Coffey's still made the process much more efficient in terms of volume of spirit and the purity of the liquor. However, as it lacks the higher alcohols and other impurities of the pot-still whisky, it also lacks the flavour and distinct taste of malt whisky. Whether whisky produced in a Coffey still could also be considered 'Scotch' has been a matter of considerable debate.

However, the Coffey still did make its presence in the industry and also invigorated the practice of 'vatting'. 'Vatting' is the mixing of single whiskies of the same distillery but belonging to different time periods of distilling, the purpose being to obtain a whisky of uniform character. From the 1850s onwards, pot-still whisky began being blended with grain-whisky made in the Coffey still. This blending enhanced the practice of 'vatting' and also emphasised the role of the 'master blender'. And, with this came the flourishing development of blends and an increasing differentiation of markets, tastes and geography.

These features of localised specialisation are reflections of cultural practices and are constantly in flux, under the influence of local and external pressures, the introduction and assimilation of materials and technologies, and the changing values of the market either locally or globally.

The example of Scotch demonstrates the continuing tussle between 'localised specialisation' and external pressures which provides opportunities for reinvigorating the specialisation. However, the reinvigoration depends on how external materials and technologies are assimilated and used locally. Recognising this flux and change, many GI laws allow for revisions to the product's rules of production. For example, in India, there are possibilities to revise and alter a registered GI, which are discussed later (see, Appendix 1).

Conventions of Place vs. the Opportunities of Markets

Another way of seeing this tussle between localised specialisation and external factors is to view the issue from the side of the market and consumers, keeping in mind that consumers have different tastes, and markets have segments. Societies have a tendency to impose a moral hierarchy on things which places restraints on their exchange and sale in markets. For instance, some objects are symbolically deemed to be sacred and are thus excluded from the market. Other restraints on exchanging goods in the market reveal how society gives social and cultural meaning to things. For example, heirlooms and memorabilia of national leaders and important personalities are considered 'sacred' and 'prestigious' thus making their sale in markets morally unsuitable and outrageous. But herein is a paradox. As things become more prestigious and sacred they also become more valuable: a highly sacred collectible that is also worth a lot of money!

This built-in tension between morals and markets can also be seen in the case of GIs. GI-products are distinguished not only by their rules of production but also their location of production.

This mix of rules and location means that GIs are also invested with social and cultural meaning. More importantly, the mix of rules and location, which are the ‘norms of good farming’, establish restraints on production. The norms represent the locally-agreed cultural and production rules which reflect a variety of social, cultural and ecological concerns related to the product. For consumers, these norms give the product a certain meaning and an expectation of a certain quality, and producers and consumers develop relationships around these norms and expectations. The procedures of documentation and testing communicate some of these values between consumers and producers. For example, some producers may seek modifications to the norms to please certain consumers either in a local or distant market. Some consumers in culturally or geographically distant markets might also express a need for relaxing some norms as will be discussed in Chapter 3 with regard to Champagne. This presents opportunities to revisit the norms and explore ways of maintaining the distinctness of a GI-product whilst also widening the cultural repertoire. Once again, the example of Scotch whisky warrants attention as does the case of Mezcal where there has been a proliferation of types of Scotch and Mescal within the umbrella of the GI-club. In essence, GI-products remain in perpetual flux between a number of different values and interests.

To understand and explain this tussle between conventions of place and the opportunities to market, it is useful to begin with the idea that GIs are a ‘cultural repertoire’ that has been locally stabilised. There is a historical dimension to GIs and most national laws request documentation to demonstrate this historical link between the product, its repertoire and the geographical location. But the historical past and heritage is a resource that can be given particular meaning by contemporary interests. Different social and economic interests seek to invest meaning into the past. Sometimes certain ‘traditions’ that appear or claim to be old are of remarkably recent vintage. This has led to talk of ‘invented traditions’ that are actually ‘invented’ and formally instituted to establish continuity with a convenient and suitable historical past. These attempts may be used to promote social cohesion, or to inculcate certain beliefs in groups, or to define and set up groups of privilege and status. However, as with other cultural rules, various ‘invented traditions’ may be possible, but only certain ones are permissible and this is where social and cultural norms play a role. Similarly, the opportunities that external materials and technologies or new markets might offer to a GI need to be culturally evaluated. Tempting as these opportunities are, some may not be culturally permissible.

Footnote

3. *References to the literature discussed here are provided in Appendix 3.*

Chapter 3

Establishing the Feni Club

This chapter uses the interviews and meetings that took place as part of the research to explore the cultural practices associated with Feni which helps to give an idea of the social setting of the 'localised specialisation'. Various cultural norms, expressed by distillers and bottlers and also aficionados, already exist in the oral traditions associated with distilling and drinking Feni. Hence, the task for the Feni Association was to engage with this cultural and oral tradition to develop its rules – rules that would be legally backed and enforced by the GI Act.



The chapter begins with an exploration of the social conditions of Feni-distilling to become familiar with its deep cultural repertoire. This is followed by an expanded discussion of the stages of the distilling process and the materials and techniques used. The efforts to mobilise the Feni sector and organise the Feni GI-application are described, demonstrating the serious and difficult task of getting a GI. The GI-specifications, or the rules of the Feni-club, are noted and examined in the context of the cultural practices associated with Feni. Finally a number of recommendations are suggested in terms of revising the rules of the Feni-club.

3:1 Feni as a Collective Heritage

Like other liquors elsewhere, Feni is part of a wider social fabric involving customs, prohibitions and norms. Drinking is a social activity and rarely, if ever, is alcohol consumed in solitude. More than food, practices of drinking are said to contribute to social formation and cohesion as the amounts taken and the drinking behaviour tend to be socially regulated. In some parts of India, drinking is frowned upon and considered repugnant. In others, it is not. Even ritualistically and religiously there are marked differences. Alcohol is used as libation in some sacred places and in others it would desecrate the space. The *Codes of Manu* also has its set of prescriptions, thus while it is okay for certain castes to drink alcohol, the Brahmin should abstain.

In this way, the drinking of alcohol is a social marker. We group ourselves according to where and with whom we tend to drink. For example, with the drinking of Feni: during the period of Portuguese colonial rule, Feni would be available in the taverna or licensed 'ale shop' – and that was where the public drinking of Feni occurred, which also suggested a certain social class and culture. Otherwise, many would just have Feni at home and at certain social functions. As Percival Noronha described, it was during the war years with the

shrinking availability of foreign liquor that Feni became more publicly pervasive, and has since benefited from a 'wider social projection'.

There are many other ways in which drinking and alcohol establish a cultural and social mark. Many societies tend to approve of drinking at particular times in the day – say, at the end of the workday. Habitual drinking at other times would be greeted with a social frown.⁴ Thus, the practice of employers taking a drink with their workers at the end of a day's work is quite common in many distilling and wine-making areas, and helps to ensure that workers don't feel the need to drink from existing stock during the workday. This is certainly the case with Feni where workers share a drink together with their employer at the end of the working day.

Many other dimensions of Feni-drinking emerged in the research, which are not explored further here, but include a range of medical remedies involving Feni such as rubbing Feni on the stomach to deal with gastric ailments, or the mixing of *sonth* (dried ginger ground into a powder) with Feni to form a poultice and applied to the forehead for headaches and migraines. A number of social functions such as family weddings also revolve around or require copious amounts of Feni. Thus Feni would seem to be socially pervasive. According to Percival Noronha: 'In marriages, in baptism, in holy communion [...] Everywhere; even after death ... After the funeral everybody is given a chalice of Feni'.

The Social Context of Feni Distilling

Little surprise then that Feni has a strong cultural connection generating a broad sense of collective cultural heritage. The social conditions of Feni-distilling enhance this collective heritage – or, to adopt the term of Elinor Ostrom, a 'lattice of interdependence'. A number of distillers talked of how they were inculcated into the art of distilling. With Feni-distilling



Photo 4: early induction into Feni-distilling with separating the nut from the apple (above) and preparing the cashew apple pulp for Niro extraction (below)

taking place in the summer months when school was closed, many children would participate in various errands associated with distilling, such as the collection and crushing of cashew apples, later graduating to other activities, like separating the nut from the cashew apple or extraction of the juice (Box 13: Childhood Aromas).

Box 13: Childhood Aromas: Stepping Stones to Feni-Distilling

A distiller renowned for his traditional pot-still Feni recalls his childhood induction into distilling, suggesting that this was a stepping-stone to his current profession.

'The most joyous part was to jump in the pit where the apples were put because crushing was done in the early days by feet. So it was such fun, I mean, all your energy could be spent there, you could get tired but the flavour of the apples gets into your nostrils, and it was such a wonderful feeling. And unless you experience it you cannot understand it. We used to do that and then we used to do all the errands, whatever was required. What the labourer would do [nowadays], I'd be doing. That's how it got me to get the feel of [Feni-distilling]'.

Other dimensions to this social context can be seen in the enduring nature of transactions across the supply chain. In many cases, the circles of consumption are quite proximate. It might be the local taverna where the distiller supplies his Feni. In addition, there might be quite localised individual sales to drinkers who procure the Feni directly (see Chapter 4). Even at other points in the supply chain, say between distillers and bottlers, there is evidence of long-standing social relations. So, for instance, one of the distillers from Sattari who supplies *Rhea* mentions that their supply relationship goes back to the time of his father: 'We had contacts with his father and even after his demise he kept us as their business partners. From 1975 till now ... he only takes Feni from us. If he needs more, he requests us



to get it from someone else and give it to him.'

A sense of this collective heritage is also reflected in how distillers and bottlers talk of cultural norms concerning the process. For example, only harvesting apples that have fallen, instead of (unripe) plucked apples from a tree: 'Let the natural fermentation take place and ... collect [only] fallen apple(s); don't pluck apples' a distiller commented at the project's stakeholder meeting. Similarly there is a sense of unity which arises from threats shared by all in the Feni sector, such as those from producers of spurious and possibly lethal liquor, frequently brought up in the research. At the stakeholder meeting, one distiller mentioned a bottler's experience of sourcing 'Feni' at a 'cheap rate' which turned blue when soda was added, and how if this had been sold 'blame would have come on Feni and everyone' in the sector. This common concern of members of the Feni Association appeared to be a factor in the desire to 'standardise' distilling practices and distinguish the identity of Feni from such spurious and lethal liquors.

The Lattice of Interdependence: Comrades as Competitors

Recognition of this collective heritage should not mask the diversity and differences within the Feni sector. At one level, there is the commonsense dimension of economic competition that demands what has been earlier called ‘cooperative competition’. Economic competition within the sector occurs at two levels: horizontal and vertical (see Box 11: GI Supply Chains, Chapter 2). In terms of horizontal competition across the supply chain distillers as a group seek to negotiate a better price for the liquor from those further down the supply chain, such as middlemen, wholesalers, bottlers and retailers. For example, one distiller candidly states that ‘selling to a bottler for Rs. 550 a *kolso* is really not remunerative ... believe me [that at this price] you cannot get good stuff’. The distribution of economic returns across the supply chain is a problem and, at times, distillers feel that they are in a vulnerable position as, unlike others in the supply chain, Feni-distillers are only seasonally active during the months of March to May when cashew apples are available. For the rest of the year the distillers are engaged in other economic activities (see Chapter 4) and many do not possess adequate economic resources to store Feni and so tend to sell soon after distilling. On the other hand, wholesalers and bottlers invest^{3,4} in capacity to store Feni.

Some distillers have considered moving into downstream stages and some have already set up their own tavernas or bars, to reach the consumer directly. For example, Amol Gaunkar, a young distiller from Bicholim has his own bar; the *Trishna* Bar, where he sells his entire stock. Another distiller, Sonu Sawant, also from Bicholim, talks of his enduring social relations with a number of bars that he has been supplying to for over 30 years. Possessing resources for storage, he has been able to wait for better prices in certain years: ‘Because people started selling at the rate of Rs. 700-800 which I could not afford to sell at [...] I kept the liquor [and] later [sold] for Rs. 1700-1800’. In 2007, he applied for a bottling licence and hopes to develop his own brand of Feni, a move which was partly due to the mobilisation for a GI.

Apart from the economic competition within the Feni sector, there is also the cultural dimension, which highlights the diversity that exists in Feni. This is not merely a matter of the different cultural practices of distilling, it is also a reflection on the source of the primary and only ingredient: cashew apples. As well as the practice of harvesting apples that have fallen, many mentioned a subtle understanding of how the source and location of cashew transforms the flavour of Feni. For instance, Janu Kuttikar, a distiller in Tiswadi, spoke of how the exposure of cashew apples to the sun makes the apples juicier. For some distillers, sourcing cashew apples from beyond a certain distance impairs the flavour of Feni as the apples are too damaged. A few also suggested that the introduction of mechanical crushers, while increasing juice extraction, does affect the taste because of the very dry and powdery nature of the heavily crushed apples residues. These differing views on the practice of distilling Feni run right across the sector from distillers, through to bottlers and owners of bars/tavernas, and of course consumers. So, particular values and qualities persist across certain supply routes which may tussle against the qualities and values of other supply routes. This is a struggle which may become more significant as the GI-effort seeks to ‘standardise’ Feni: the question being, whose ‘standards’ will come to matter?

Yet, the ‘lattice of interdependence’ still tends to bind together distillers, bottlers and other participants, and the discussion surrounding GIs has added to this interdependence either through the temptation of a future of plenty or the threat of misappropriation. For instance, at the stakeholder meeting, a number of participants drew attention to the extensive cashew cultivation in the neighbouring State of Maharashtra noting that ‘if someone in Sindhudurg produces cashew Feni with Goan technology, then what do you do?’ or ‘some Goan company may set up a plant there.’⁵ Then what? Reports in the newspapers in July 2009 that cashew-apple distilling may be permitted by the Maharashtra Government corroborated this concern.

Box 14: The Borders of Champagne: A Cocktail of Cooperation and Accommodation

The Champagne indication is based on a detailed specification that sets out the territory, acceptable grape varieties, norms concerning wine-making – and, of course, the fermentation and blending processes and storage, termed *méthode champenoise*. An important stage in establishing this consensus was in the early part of the 20th century when administrative commissions were instituted by the French Government to regulate Champagne. A 1908 decree led to the exclusion of Aube, a department (administrative territory) that was formerly part of the region of Champagne. This exclusion was puzzling as it had a history of producing Champagne, was of similar geological and climatic condition – and equally, its wine was traded as ‘Champagne’. Protests ensued that also turned violent. For instance, in one of the protests in 1911, the army had to be called out to quell the 5000 peasants who had demonstrated. These protests simmered throughout World War I. A compromise was reached in the 1927 decree which allowed 71 communes of Aube to be included within the Champagne indication.

At the start of the 21st century, in response to growing demand for Champagne in China, Russia and the US, some within the CIVC put pressure to expand the region of production. A tussle between different standards and values ensued. After two years of review, in March 2008, it was announced that the designated borders of the Champagne area would be expanded and 40 new communes would be added. For those just included, this was wonderful news as the value of land could increase to €1Mn per hectare. For those who remained excluded, the price stayed, unflinching, at €5000 per hectare.

Being part of the Champagne-club is worth good money. And some things don’t change; the announcement of March 2008 was met with protests from the newly-excluded peasants, who, this time, instead of marching in the streets, took their case to the European Court of Human Rights.

Nonetheless, as the Champagne example demonstrates, the problems of drawing borders are serious and cooperation is not easy (Box 14: The Borders of Champagne), yet it also shows that maintaining the Champagne-club is a continuous effort as new opportunities herald the need to revisit the club-rules.

3:2 Feni-Distilling

Having appreciated the social and cultural context of Feni and its shared collective heritage, it is possible to discuss the norms and practice associated with Feni-distilling.



Photo 5: harvesting cashew apples locally with a Kanto (left), weighing a batch of cashew apples (centre) before depositing them in the Kolmbi (right)

The Cashew Tree

As Feni has one single ingredient, the fermented juice of cashew apples, the discussion of distilling should begin with a few words on the cashew plant. Introduced to the Malabar Coast by the Portuguese in the 16th century, it subsequently moved north to Goa. Percival Noronha suggests that it might have reached Goa sometime between the 1590s and 1640s. Records at the *Indian Council of Agricultural Research* (Old Goa), noted by Dr AR Desai, date the earliest cashew cultivation in Porvorim to the 1770s.

The cashew tree's fruit is the kidney-shaped cashew nut – and the cashew *apple* itself is a false fruit. Local myths about this botanical curiosity are found in the GI-application. The cashew tree flowers from December to April, latterly coinciding with the fruiting and the harvesting of the cashew nut (and apple) from March through till May, ending before the onset of monsoons. Most cashew trees start bearing fruit in the third or fourth year and are likely to reach their mature yield by the seventh year. While trees can yield nuts for over 50 years most trees tend to yield for about 20-25 years.

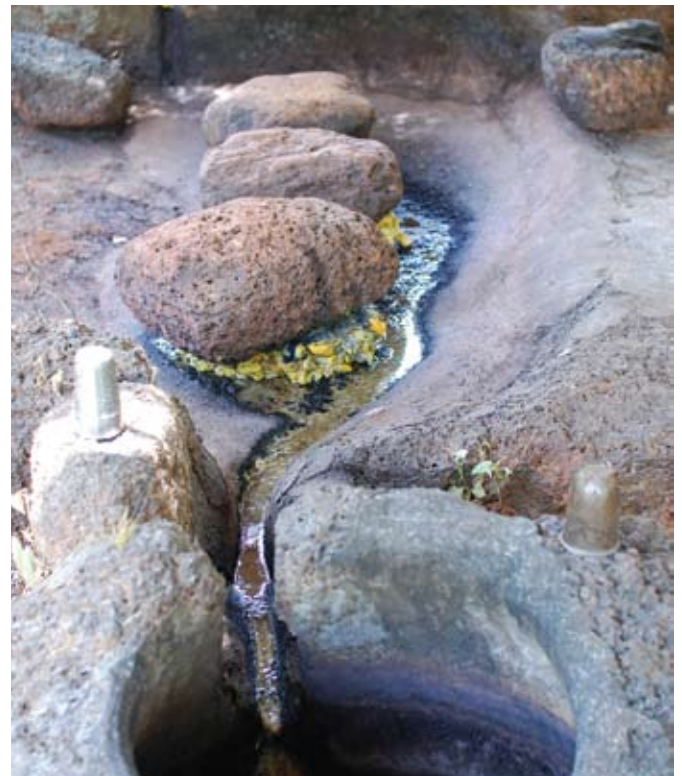
Historically, cashew was valued for its apple, with the nut not always being the primary attribute. This may reflect the nutritional value of the apple and the range of by-products it produces, notably its juice and also cashew-apple wine. It has also been suggested that the toxic liquid found in the shell of the nut might have been a deterrent to its initial use. However, in more recent times, it is the cashew nut that has shaped the breeding objectives for the cashew tree in India; which aim to achieve a mix of prolific nut-bearing with desirable traits like compact canopy, cluster-bearing habit and bold nuts. One of the breeding stations in the neighbouring State of Maharashtra (Vengurla) gives its name to a variety that is popular in Goa. The series of Vengurla varieties developed by the *Indian Council for Agricultural Research* (Ela Farms, Old Goa) have wide adaptability and good nut size. Other varieties have also been developed from indigenous strains.

Sourcing and Harvesting Cashew Apples

From March, the lush green hills of Goa start to become transformed by the brightly-coloured blossoms in the cashew orchards with the unmistakable aroma of the fermenting cashew apple. The harvesting of cashew is labour-intensive. The apples are generally left to fall to the ground before being collected, as this is an indication that the kernel/nut is mature. If picked from the trees, the apple may or may not be ripe; but the kernel/nut would definitely be immature. To an extent, the nut determines the harvesting practice. Yet, many distillers also emphasise that once the apple has fallen to the ground, it is definitely ripe. The riper the apple, the sweeter the juice; thus making it useful for distilling. Distillers also suggest that once the apple falls to the ground it gets slightly damaged and its characteristic rapid fermentation commences. All of this means that there is little need to store apples or wait to begin the crushing process.

The cultural wisdom against plucking apples from the tree is that the unripe apple will give the Feni a bitter taste. Moreover, a ripe apple has better juice content. These practices are reflected in the implements that are used for harvesting the apples. The *Kanto*, a wooden stick with a metallic nail-like protrusion at one end, is used to pick the fallen apples and collect them into baskets, or *Pantlom* (Photograph 5).

These factors tend to promote a local harvesting economy. So distillers will tend to harvest apples from around their distilling sites. In some cases, distillers express a preference for Goan cashew apples. For example, Sonu Sawant (distiller, Bicholim) argues that 'Goan cashew is powerful [but] the ones that come from Belgaum [in Karnataka] is not that powerful. ... the fruit is watery. It's not powerful like our fruits which grow on mountains'. Apart from the difference in flavour, procuring apples from further afield also incurs transportation costs. However, distillers with larger operations do need greater supplies of the apple, thus have a wider circle of collection.



Phot 6: lorry off-loading cashew apples (above). Photo 7: Cashew apples in the Kolmbi awaiting crushing (bottom left) and the Chumal under heavy stones for Niro extraction (right)

This may in some instances entail the transportation of cashew apples from the neighbouring States of Goa, Maharashtra and Karnataka, which come in lorries (Photograph 6). Furthermore, one of the distillers who gets the apple transported from across the borders, said that local supplies were plainly inadequate: ‘The [supply of] Goan cashew will never be sufficient [for local Feni demand]’.

Herein lie some of the differences between distillers. The small and localised distiller would be harvesting apples from the vicinity of his distilling site where local labourers and families might be involved in the collection. This is seasonal work and non-family members who collect apples from the hills are paid piecemeal amounts based on the weight of the apples collected (Photograph 5). The large distiller, for whom the apple is delivered by lorry, would tend not to have these social and local linkages.

Crushing Cashew Apples

As with the emerging cultural differences associated with sourcing cashew apples, there is a growing diversity of practices at the next stage of the distilling process: the crushing of the cashew apples. The apples that are collected are assembled in the *Kolmbi*, a shallow pit at the distilling site. The first job at the *Kolmbi* is to separate the nut from the apple. With the nut being economically treasured, it is taken away for processing. Once the nut is separated, the apples are ready for crushing. Two specific steps are involved: first, the crushing of the apples to get the juice and, second, extracting of the nectar from the remaining pulp. For both processes there are a variety of techniques and materials.

Looking first at the ‘traditional’ method, the crushing is done by feet and the final extraction achieved by tying up the pulp and leaving it under heavy stones. As noted earlier, these two processes have a wider role in socialising Feni-distilling.

Indeed, a number of distillers recall their ‘playful’ participation in these processes (Box 13: Childhood Aromas). The introduction of new materials and techniques into this stage transforms the socialisation of distilling, as the elimination of foot-crushing removes the opportunities for ‘playful participation’ at this stage.

The area for apple-crushing has a slight gradient to allow the liquid to meander into a collecting pit and has a bar/rope assembly that helps individuals to maintain their balance whilst crushing the apples (Picture 7). Once the apple has been adequately crushed, the remaining pulp, called *Chumal*, is collected and bound together with a *Nudi*, a rope made of vine, and then placed under a large stone (Picture 7). This allows further juice, which tends to be clear and free of pulp, to be extracted. This juice, called *Niro*, is a highly refreshing and energising juice which is drunk as a non-alcoholic beverage.

As new materials and techniques are introduced at this stage of the Feni-distilling process, these affect the economics of the distilling and processing capacity of the distiller and it is notable that these are reflected in the biographies of individual distillers. The first of these interventions was the replacing of human labour at the crushing stage by introducing a stone-mortar crusher using draught animals (Picture 8). This was subsequently superseded by the introduction of mechanical crushers (Picture 8). In both developments, the amount of apple that could be crushed, the time taken, the amount of human labour extended and the juice extracted improved substantially. As one distiller who has progressed through all three techniques indicated: ‘crushing 250 tins of cashew apples would take between two and three days using feet and about two days with the stone-mortar, whereas only about a couple of hours using a mechanical crusher’.



Photo 8: a stone-mortar crusher, now disused (top left), a mechanical crusher in operation (below left) and a set of Pinjre for extracting Niro (centre).
Photo 9: The Lavni end of a traditional pot-still (top right) and an innovation of Lavni submerged in water tank (bottom right)

Apart from increased speed and capacity, the efficiency of juice extraction has also changed with these interventions. One study estimated that to produce 1 litre of juice-extract, the amount of cashew apple used decreased from about 3.5 kilograms for manual/foot crushing to 2 kilograms for mechanical crushers. As the amount and speed of apples being crushed increases, the demand for greater capacity to extract Niro also rises. This led to the innovation of the Pinjre, an iron cage that has a truck-jack on the top (Picture 8). The pulp of the crushed apples is loaded into the iron cage and the truck-jack is gradually tightened to add dead-weight pressure to the pulp, which enables the extraction of Niro.

Yet despite the advances and benefits each of these methods co-exists presently. Thus, the question is whether all these practices are culturally acceptable? Some distillers do consider the traditional foot-crushing as 'authentic'. They claim that foot-crushing does not produce a dried pulp like modern methods which gives the liquor a different taste. Those who have adopted the new methods however are dismissive of this.

The juice extracted from the crushing is collected in a *Kodem*, a huge earthen vat that is buried in the ground, and left for natural fermentation. These earthen vats are now rarely seen and have tended to be replaced by food-grade plastic vats. The fermentation takes between two to four days and is completed when the constant bubbling and crackling sound ends and a thick film of froth is formed at the top. Next, the fermented juice is taken for distilling.

Distilling Materials and Techniques

At the heart of Feni is its distilling process. This section gives a brief overview of the distilling materials and techniques involved in Feni-distilling and highlights some of the developments and innovations that have affected the distilling sector.

The original example of distilling equipment is the traditional pot-still, called a *Lavni*, which closely resembles the

Gandharan pot-still discovered in archaeological remains of North-West Frontier Province (Photograph 9). This consists of a globular pot made of earth (sometimes, copper) called the *Bhann* in which the fermented juice is placed. The top of the *Bhann* is closed with a wooden plug, called a *Morem*, and sealed with a particular kind of mud. The *Bhann* rests on the base made of mud-bricks, the *Bhatti*, from where it is fired up by logs of wood. From a single outlet towards the top of the *Bhann* is an extracting pipe, the *Nalli*. This extends to a smaller globular pot, the *Lavni*, that rests diagonally on an incline on a wooden frame, the *Tiketem*. Vapours from the *Bhann* escape through the *Nalli* which condense and collect in the *Lavni* – the latter being kept under constant vigil and cooled by the manual pouring of water.

Keeping the *Lavni* under vigil and cooled at a particular temperature range is a skill that is also very labour-intensive. Any error could lead to overheating which could crack the pot; thus not only generating the loss of a batch of liquor but also loss of equipment. As one gregarious distiller explained:

'One person has to stay with it constantly to pour the water. It cannot be allowed to dry up. If it dries, the liquor will get burnt, the pot may crack. The person has to be with it all the time. And he can't leave unless another person comes to relieve him. Even if you want to go to the toilet, you can't leave.'

There has been some notable and ingenious assimilation of external materials and techniques to maintain the integrity of the *Lavni* system. At the heart of these developments is an attempt to ease the laborious vigil of keeping the *Lavni* cool. Some of these have involved submerging the *Lavni* in a water tank (Photograph 9).

The next types of pot-still could be termed 'extralocal/modern'. Developments have seen the replacement of local resources and the introduction of external materials and technologies. To begin with, the *Bhann* is not made of the special mud but is copper. While this is also observed with some



Photo 10: series of extralocal pot-still in operation (left) and a water tank with the coil being refilled (centre) and a large stainless steel pot-still at Sadashiv Marathe's distillery (right)

Lavni operators, here it is accompanied by a more pervasive transformation. The *Nalli* is entirely replaced by an aluminium (sometimes, copper) coil that lies submerged in a cement water tank (Photograph 10). Further, the *Lavni* as a collecting receptacle is also replaced, in this case with plastic cans. Thus, the vapours circulate through the submerged coils where they condense and are subsequently collected in plastic cans.

There are also some variations seen in these types of pot-still, for example the stainless steel *Bhann* that Sadashiv Marathe operates in Sattari (Photograph 10). As well as the change from copper to stainless steel, the pot-still is substantially larger and designed with a very high retort leading to a 60-foot coil submerged in a cement water tank. Introduced by his father over 20 years ago, the design was developed with the bottler he supplies to, Rhea. The extraordinarily long coil also means that the vapours condense and cool completely before emerging from the coil.

These changes in the extralocal/modern pot-stills reflect changes in the social conditions of distilling. They correspond to difficulties in mobilising labour for certain distilling activities like the vigil on the *Lavni*. They also correspond with the opportunity to source cashew from wider areas (e.g. beyond the borders of Goa) and increase the extractive capacity of distilling while also shortening the distilling time. That said, these distilling pot-stills also demand a higher capital outlay – but with less engagement with local social economies. For example, local materials and skills for the *Bhann*, *Nalli* and *Lavni* are not required anymore. With some, though not all, of these pot-still operations getting their cashew from afar, the ultimate link with locality is also broken.

A final pot-still example that is also in operation is an industrial still. This is single-batch distilling equipment, which is largely automated, and produces liquor in a single step. This does not require the craft and knowledge of traditional pot-still distilling and also eliminates the need for Feni's characteristic

sequential distilling that remains with the extralocal/modern pot-still.

Recalling the earlier discussion of localised specialisation, one of the points made related to how the localised cultural repertoire is in constant flux, influenced by a variety of both local and global factors. The pressures of new materials, technologies and changing tastes can be invigorating but they can also be damaging. An example, discussed earlier, was the introduction of the Coffey still in 1832 that allowed continuous distilling of Scotch (see Box 12, Chapter 2). Its wider adoption by distillers from the 1850s onwards saw the reinvigoration of the practice of 'vatting' that heralded the flourishing of Scotch blends. Even a brief overview of the distilling materials and techniques demonstrates a flourishing field of innovations and ingenuity and the remarkable use of materials and techniques that actually maintain the integrity of the traditional pot-still. There are also examples of a total transformation taking place where industrial distilling techniques have been adopted. The question for the emerging Feni-club is which of these materials and techniques are culturally acceptable and, indeed, which of them have been legally included in the GI?

The Distilling Process

This section focuses on three important aspects of Feni-distilling: the number of distillations, the mix of ingredients that go into each distillation, and the *grau*, a measure of the strength of the liquor, (Box 15: *Grau*). Historically, Feni has been a triple-distilled liquor with various cultural norms about the ingredients and also the *grau* for the liquor produced at each stage.



Photo 11: a local hydrometer, the *Grau*

Box 15: Grau: Measuring the Strength of Feni

The *grau* is a measure of the density of the liquor and is used to convey the concentration of alcohol in terms of volume. It is measured by a hydrometer and translates into a measure of ethanol content. For instance, 18 *grau* measures 42.8% v/v.

However, this has also witnessed a change, with many distillers settling on double distillation. In fact, some suggest a certain consensus towards double-distilled Feni. Cecil Pinto, a Goan journalist and a denizen of Feni, writes in an engaging and amusing exchange with a migrant Goan, that ‘very few distillers go for the third distillation and so what we consume as Caju Feni is actually *Cazulo*’ and suggests that this is ‘quite accepted... Besides, thrice-distilled Caju Feni is so strong and concentrated that it is not really palatable’. While it is true that a third distillation would push the *grau* further up, whether it is unpalatable remains a matter of taste. At the (blind) Feni-tasting that took place during the stakeholder meeting in April 2008, all the samples presented were double-distilled. Many of the bottled brands tend not to advertise the number of distillations on their label and those that do include this information appear to be usually double-distilled (e.g. Cajupina, from Nita Industries). This raises an interesting question for the GI-club of Feni: if double-distilled is culturally acceptable does it become legally included or excluded? This is another reminder of how tradition may be renegotiated and a new consensus developed.

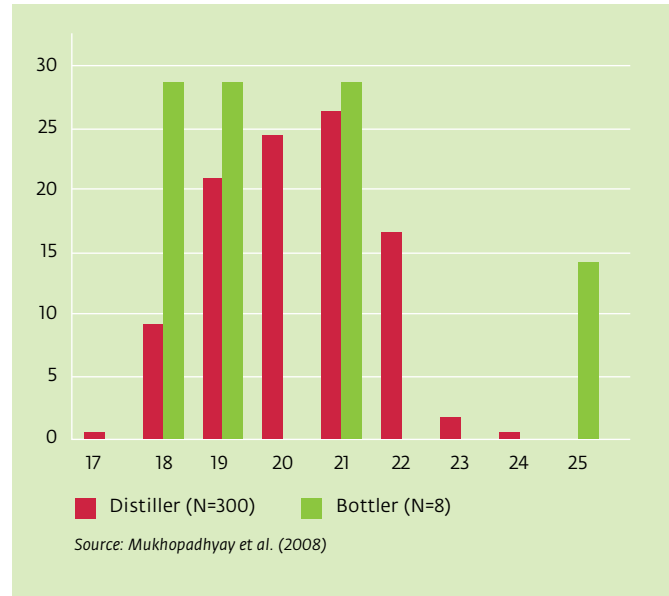
In considering the three stages of distilling, there are cultural norms on the mix of ingredients at each stage. In the distilling of caju, the only ingredient is the fermented juice of crushed apples. The first distillation has this as its only ingredient. The liquor produced from the first distillation is called *Todap*. This is a clear liquor with a *grau* of about 15 – 17. Approximately 130 litres of the juice is used and this produces about 24 – 26 bottled litres. This product is itself highly popular and consumed as a light liquor, called *Urrack*, during the distilling season.

The second distillation involves a mix of the *Todap* with another batch of fermented juice. The ratio of this mix is variable – or, at least, appears to have been differently reported in a number of places, as in the examples below.

- » Mandal et al. (1985): 60 litres of fermented juice with 30 litres of *Urrack* (a ratio of 2:1)
- » Pinto (2007): fermented juice is mixed with *Urrack* in the ratio 1:8.
- » Kamat (2008): 60 litres of fermented juice with 30 litres of *Urrack* (a ratio of 2:1)
- » Mukhopadhyay et al. (2008): 130 litres of fermented juice with 25 litres of *Urrack* (ratio of 5.2:1)

This mix is placed in the *Bhann* and the distilling process is resumed. The liquor of the second distillation is about 19 *grau* and is called *Cazulo*. A third distillation involving a mix of the fermented juice with the second distillate, leads to the triple-distilled Feni.

Figure 1: Distribution of Grau



The Baseline Survey reported a range in the *grau* for Feni. Notably, most distillers (88%) reported a range between 19 and 22 and most bottlers (86%) a range between 18 and 25. (Figure 1: Distribution of *Grau*). The most popular level was 21. On its own, this distribution of alcoholic strength and difference between distillers and bottlers is not a major concern. Most distilled liquors similarly witness a range in the alcoholic strength and variations across the supply chain. The question for the Feni-club rules is what limits, if any, do the specifications put on the *grau* and how do these limits relate to the cultural norms associated with Feni?

Blending and Bottling

This is the near-retail stage of Feni distilling. The next chapter will go into more detail about the supply routes of Feni. However, it is important to note that Feni is mainly consumed in short and direct supply routes. This is made up of direct purchases from the distiller or at bars and tavernas that are either owned by the distiller or supplied by the distiller. The issue of blending and bottling relates to a smaller segment of the Feni market. With hopes of future prosperity with the GI, this segment is likely to grow at least in volume terms. The brief discussion that follows concerns two key areas: first, the practices that culminate with the bottling of Feni, and second, the parameters and standards that are adopted in these practices. For instance, do bottlers adopt any practices with respect to blending? Are there any cultural norms concerning the aging or storage of Feni?

There are three main processes: blending, filtering and bottling. This appears common to all the bottlers interviewed. A few respondents said that they also aged their Feni. For instance, the one bottler ages Feni for a year in large stainless steel vats. Other aging practices that exist in the oral tradition of Feni rarely appear here; thus, no mention of *matka* in the well or Sal-wood barrels either. This said, some bottled Feni brands advertise their Feni as cask-aged (e.g. Anand Distillery’s ‘Old Vat’ brand). However, as the next chapter shows, some of these practices do persist in the short and direct supply routes.

The parameters that bottlers search for when selecting Feni stocks are aroma, taste and strength. Among these, a *grau* test for strength appears to be widely adopted – with 85% of bottlers surveyed in the Baseline Survey using this test. In addition, bottlers also depend substantially on their ‘nose’; thus, seek to ‘sniff out’ a good Feni. As the Rhea Distillery’s Mr Regan Henriques indicates, experience is crucial:

... you can make out in terms of the flavour and your taste if you are experienced enough. It is like you are a tea taster or a whisky taster. They follow no parameters. [...] Similarly like that, we as bottlers who are experienced and who know can make out the taste [of a good Feni].

As bottlers assemble their Feni stocks from a number of distillers they carry out blending. Among some, there is a clear sense of regional variation in Feni supplies. For example, Anthony Fernandes, who has a number of brands, says that ‘Yes Boss’ is based on Feni sourced from the Canacona whereas the ‘Nova Goa’ brand consists of Feni from Sanguem. Interestingly, a few bottlers allude to their competitors in suggesting that water gets added to stabilise the *grau* of their different Feni stocks. But throughout these various practices there is a concern for achieving some standard and homogeneity of quality within each ‘brand’. As one (unnamed) bottler confessed, that quality may change; but only from year to year, because he tries to procure a year’s supply, thus maintaining a homogenous *grau* and taste for that year.

Apparently, as the bottled-Feni segment is relatively small there are also few cultural norms. However, the question for the GI-specifications is whether new rules have been introduced for blending and bottling? For instance, will there be requirements on storage and aging?

3:3 The Making of the Geographical Indication for Feni

Having reviewed the cultural practice of Feni-distilling it is clear that there are a number of cultural norms and also a diversity of practice. This section proceeds to consider the efforts to secure a GI for Feni.

Local Interest for Geographical Indications

Soon after the enactment of the GI Act (in 1999) by the Government of India there were expressions of interest in protecting Feni in Goa through GIs. These were cautious to an extent. For instance, as noted earlier, Vincent Vaz, proprietor of the Madame Rosa Distillery, while favouring a GI has also emphasised the greater problem of Feni’s excise status as ‘country liquor’. While this generates legendary tales of trafficking Feni it does remain a paradox for the prosperous future that the GI promises. Local interest in GIs was given a boost with the roadshows of the central Government. These roadshows were specifically designed to promote and popularise the idea of GIs though they also placed pressure on the local Government to mobilise local interest in GIs.

In January 2002 this roadshow arrived at Goa. The meeting was organised with the help of the Goa Chamber of Commerce.⁶ At this meeting, JK Dadu – then the Development Commissioner in Goa – proposed a ‘GI Committee’ to look at the protection of Feni. A member of the Chamber, Mac Vaz, of the Madame Rosa Distillery, was deputed by the Goa Chamber of Commerce to look at the case for a GI for Feni. As the movement towards a GI progressed, two themes continued to play out in the popular

media and amongst the main players in this movement.

One theme related to the hope of a ‘future of plenty’. People began talking about how the GI would transform Feni into a new global commodity – or as one national newspaper rhetorically asked: ‘Will Feni be the New Tequila?’ The GI was increasingly being presented as the way to enter the global market. Some in the sector were concerned at this rhetoric. In interviews, they responded by drawing attention to the limits of cashew apple supply which they argued would be inadequate for any global launch of Feni.

The other theme around this growing interest in GIs pointed to the increasing threat that ‘Feni’ would be ‘patented’ by somebody else. Misconceptions aside, news reports did assist in building a concern that Feni would be taken by one of the neighbouring States of Goa. Some of these stories have been noted in this report. Equally threatening to some were November 2006 reports in newspapers that Vijay Mallya, the liquor baron behind the Kingfisher brand and United Breweries, was planning to enter the Feni sector. These reports left it open as to whether United Breweries would be investing in cashew plantations and distilling directly or operating through contracted distillers.

Mobilising the Feni Sector

Over the year a series of meetings took place with Dadu’s keen support. In January 2003, the Technology, Information, Forecasting and Assessment Council (TIFAC), a society registered under the Government of India’s Department of Science and Technology, hosted a GI-meeting in Goa and offered to oversee the GI-application for Feni. This followed TIFAC’s experience with other GI-applications concerning Mogha silk, Phulkari textiles, and Kangra tea among others.

The Goa Government’s Department of Science and Technology (DST), then under Dr Verde, was given the responsibility of leading this process. The DST organised a series of meetings throughout 2004/05 and also constituted an informal committee to look at the case of Feni.⁷ As the efforts to assemble and mobilise resources for the Feni application continued, India’s GI law required the applicant to be a body representing the sector, thus the need for an association of the sector grew urgent. The Goa Cashew Feni Distillers and Bottlers Association (see Box 4: The Feni Association, Chapter 1) registered as an association in July 2006 and they, along with the Department for Science and Technology, later become the owners of the GI.

In its present format, the Feni Association has a narrow membership base. This will surely increase as the GI is made operational and authorised users are licensed. Currently, the Feni Association consists of two main groups in the sector: (a) bottlers and (b) distillers who are either large or have their own bottling operations. The largest constituency in the sector, of (smaller) distillers, do not find any direct representation, not being members of the Association. For that matter, the Baseline Survey found that 98.5% of distillers were not aware of the GI-application. One of the office-bearers explained this as being essentially because, unlike bottlers who remain in the same occupation all through the year, off-season, the distiller has to move into other activities. Furthermore, distillers depend on getting bids and licences to operate and, as these are granted annually, they may or may not be in the sector every year.

Assembling the Feni-Application

Real movement on the GI-application occurred on the formalisation of the Committee that Dr Verde had earlier constituted, with a distribution of responsibilities. A Goan journalist, Cyril de Cunha, was requested to prepare a document on the history of Feni, to be complemented by archival material dating Feni's Goan origin which would be assembled by Maria de Lourde Bravo da Costa Rodriques of the Central Library. Documentation of the scientific and technical composition of the liquor was assigned to scientists at the Indian Council for Agricultural Research (ICAR) in Old Goa.

By March 2007, a draft of the GI-application for Feni had been prepared and was reviewed internally under the joint auspices of the Goa Chamber of Commerce and the DST. The applicants were to be the newly-formed Feni Association and the DST. Communications with the GI Registry continued and informal consultations on the draft application took place, allowing for continued amendments to the application. Eventually, in October 2007, the DST sent a revised application for the informal consideration of the GI Registry. And, only after another exchange of views did the application get formally lodged on 19th December 2007 at the GI Registry as No. 120 for 'Goan Cashew Feni' under class 33 for alcoholic beverages, thus making it the first application from Goa and also the first application for an alcoholic beverage.

Review of the Feni-Application

The next stage of the formal process involved an examination of the application by the GI Registrar under the advice of a consultative group.⁸ The first meeting of the consultative group took place in Goa (on 4th January 2008), having requested a presentation of the case for the GI with at least two or three 'producers' in attendance representing the 'producer group'. Attendee representatives from the 'producer group' were the office-bearers of the Feni Association, Messrs Vaz (President), Bhakta (Secretary), and Henriques (Treasurer). Others in attendance were Messrs Sawant and Ravikrishna – both being distillers. Overall, of the seventeen individuals attending to represent the 'Goan interest', twelve were from one or another department of the Government.

This was the moment for the application to be assessed and it was here that the diversity of Feni-distilling noted earlier had to be juxtaposed with the GI-application.

Following this assessment, a revised application was submitted to the Registry in March 2008. The following month, the project's stakeholder meeting took place in Goa and brought together distillers and bottlers and key members from the Goa Government involved in the Feni-application. At this meeting, a number of questions were raised on the pending GI-application, including the implications of registering a GI as 'Goan Cashew Feni'. Further to this, there was a request for another consultative group meeting to consider a change to 'Feni' instead of 'Goan Cashew Feni'. At this meeting in Goa on 2nd August 2008 the proposed change in name was agreed.

Accordingly revised to 'Feni', the application was posted in the *GI Journal* in October 2008 and opened up for public scrutiny and objection. In the absence of any objection during the prescribed 120-day period, the application was finally registered on 27th February 2009 and the certificate received by the DST on 9th March 2009.

In one sense, this represented a successful end to the efforts

and investment by the DST and the newly-constituted Feni Association in that the GI for Feni was granted. However, there is still the issue of its implementation, and the next section examines the GI to explore how the specifications and details relate to the cultural practices and norms associated with Feni.

3:4 Analysing the Geographical Indication

The Definition of Feni and the Rules of the GI-club

The application to register Feni is a substantial document. It includes archival records of the Portuguese period to demonstrate its history. It narrates myths associated with cashew by reference to the local culture, and also reports on the chemical analysis. The study here focuses on two parts of the application: 'specifications' in section F and 'method of production' in section J (Box 16: GI-definition).

Box 16: The GI-definition of Feni

Feni is defined as a double-distilled alcoholic beverage made only from the fermented juice of cashew apples that is produced through the months of March-May with a *grau* of 19 – 20. Further details about its production process include the following 'club-rules':

- » Fallen and ripe apples are 'normally' used
- » The liquor is distilled in a traditional pot-still with the *Bhann* being made of copper and using an earthen *Lavni*.
- » The first distillation produces a liquor of 16-17 *grau*
- » The second distillation begins with a mix of 130 litres of *Todap* with 110 litres of fermented cashew juice, to produce Feni of 19-20 *grau*.

The details in Box 16 (GI-definition) set out the 'rules of membership' for the Feni-club. Under the GI Act, it becomes an infringement of the GI if someone uses the Feni indication for a liquor that does not fulfil the 'rules of membership'. Further, to use the Feni-GI, users need to get authorised by the Feni Association and produce their Feni in line with the 'rules of membership'. All of this makes the definition all the more important.

Questions about these rules emerge in the context of the cultural norms and the wider cultural perceptions surrounding Feni – many of these narrated above. However, before that analysis, it would be useful to see whether there were any changes and amendments to the club-rules through the process of assembling the Feni-application. A first draft of the application was ready in March 2007 and another version was formally submitted in December 2007. After this there were two consultative group meetings in Goa, in January 2008 and again in August 2008. A revised application was then submitted and advertised by the GI Registry in October 2008. The question is whether these assessments and reviews and later revisions led to changes in the application.

Remarkably, there were no substantive changes in the details of the distilling process and the materials and techniques of distilling⁹, although there were some revisions regarding the chemical composition of the liquor, which was in fact the main focus of the first consultative group meeting in January 2008. There was little consideration of the oral traditions of distilling or the cultural norms at this meeting though there were concerns about the eligibility criteria for the Feni Association with the suggestion that all distillers should benefit from the GI.

The other revision that occurred was the change in the indication from 'Goan Cashew Feni' to 'Feni'. This change, as noted earlier, occurred at the second consultative group meeting, which considered three options: the original indication of 'Goan Cashew Feni', the proposed indication of 'Feni', and also 'Goan Feni'. The meeting ended with a recommendation that 'Feni' should be the revised indication; hence the final registering of the GI as 'Feni'. This change, along with other aspects of the final 'rules of the club', is discussed in the following sections.

The 'Name of the Game' and the Case for Coconuts

It is useful to understand the reasoning behind the choice of name for the GI. One of the government officials involved with the application explained that as 'Feni' is not a direct geographical name like Darjeeling or Champagne it needed further adjectives. More importantly, it was suggested that Goa needed to establish its claim on 'Goan Cashew Feni'. This much was made clear by an office-bearer of the Feni Association: 'The idea of insisting on Goan Feni, is the word Goa is synonymous with Feni, Feni is synonymous with Goa and it creates that scenario of Goa getting in the mind of everybody when we say "Goan Cashew Feni"'. Furthermore, as the decision to proceed with only caju had been made, it became necessary to find a way to differentiate the two Fenis.

Lawyers attending the stakeholder meeting sought to explain that there was no primary reason for using adjectives to establish either a geographical association (e.g. Goa) or a distinguishing feature (e.g. cashew). It was argued that introducing adjectives to distinguish a noun implied that the noun on its own was not adequate as an indication for the product. However, adding adjectives (like Goa or cashew) could in fact lead to relinquishing primary claims to the noun (Feni). Two examples serve to illustrate this:

The first example is the case of Feta cheese and the dispute over whether or not it was a GI. Feta was eventually recognised as a Greek GI after a lengthy court battle at the European Court of Justice where countries like Denmark, Germany and France argued against the grant. Among the evidence presented to the court, it was shown that legislation in Denmark did not refer to 'feta' but to 'Danish feta'. The Court noted this and gave the view that the noun by itself retained a Greek connotation.

The second example is for cheddar and is quite the reverse. 'Cheddar' is undoubtedly a direct geographical term as in the Cheddar gorge and the village of Cheddar, both in the UK. And for that matter, cheese made in these areas did follow a particular method of cheese-making called 'cheddaring'. However, the term has been rendered generic with respect to cheese by its widespread use with various types of cheese that are not necessarily either produced in the region or produced following the method of cheddaring. In recent years, a group of producers from the West Country (counties of Somerset, Dorset, Devon, and Cornwall in the UK) organised themselves to return to the traditional way of cheddaring and applied for a GI in Europe as 'West Country Farmhouse Cheddar'.

Both examples suggest that among the options reviewed at the second consultative group meeting the choice of 'Feni' would be the most beneficial. However, this still left unresolved the issue of coconut Feni.

The total absence of any reference to coconut either in the GI or in the two consultative group meetings is difficult to

understand. Distilling liquor from coconut has a long history along coastal India (Box 17: Coconut). Indeed, there is ample documentary proof, and of course oral tradition, to establish its antecedents in Goa and priority to caju Feni, and, particularly as a triple-distilled liquor. In Goa itself, as noted earlier, the term 'Feni' is used across both caju and coconut. For that matter, the *Goa Excise Duty Act*, 1964 does not use the term 'Feni' distinctly for either one of the two. Rather, in Chapter VII it refers to 'manufacture of country liquor from toddy' and Chapter VIII is titled 'manufacture of liquor from cashew juice'. State excise aside, popular and commercial use establish prior-user rights for those distilling coconut Feni. Legally speaking, prior users and honest and concurrent users tend to be good defences against a claim of infringement. Thus, it may be difficult to stop the use of 'Feni' by coconut Feni distillers.

Box 17: Coconut: The 'Most Fruitful' Tree

There is a long history and tradition of distilling in India. Among the various pot-stills that have been historically identified, such as the vertical type and the Mongol and Chinese still, there also is the Gandharan pot-still. The *Lavni* that is seen in Goa is very much in this tradition.

Along coastal India, coconut has seen many uses. Early travellers and ethnobotanists made notable mentions of coconut. A 16th-century traveller from Italy, Ludovico di Varthema, did a number of excursions along the western coast and in Goa. He expressed his wonder at seeing the coconut palm, calling it the 'most fruitful' tree and the 'best in all the world' which reflected his observations of the manifold uses of the tree and its various parts and products – of which he listed ten. It is here that there is a reference to the distilling of toddy into liquor with a specific record of triple distilling:

'This they place over the fire and boil it one, two, and three times, so that it appears like brandy, and will affect a man's head by merely smelling it, to say nothing of drinking it. This is the wine which is drunk in these countries.'

Source: The Travels of Ludovico di Varthema, A.D. 1503 to 1508

Resolving this loss of history and practice is not entirely easy as it requires returning to the application for a serious revision. If such a decision is taken, then a way forward to incorporate coconut would be to clarify in the specifications the two distinct liquor routes: caju and coconut. Under the broad umbrella of 'Feni' the two could co-exist. It is here that a broader recommendation for labelling is made in Chapter 4. Thus, the Feni label would communicate to the consumer whether it was caju or coconut.

Cashew Apples: Rules on Harvesting, Sourcing and Crushing

In terms of cashew apples the Feni-GI states that these are '[N]ormally, the apples, which have fully ripened and fallen on the ground'. This reflects what was observed to be the cultural consensus on the harvesting of cashew apples. The GI also provides useful documentation of the implements for harvesting cashew. However, there are a number of silences in the GI.

The GI says nothing about where cashew is sourced from. There is nothing in the GI that prohibits the use of cashew apples from outside Goa or conversely suggests that it is cashew apples from Goa that are to be used. This silence may be a subtle acceptance of the transportation of cashew apples from across

the border. Yet, among some bottlers and distillers there is a distinction regarding where cashew is sourced. Even for those who get their cashew transported by lorry there is a sense that the taste differs. Moreover, they also note that some cashew spoils in this transportation. It might therefore be useful to consider whether specifying a geographical zone of collection might help. In this respect, the Feni Association can also reflect on Scotch whisky. The rules for Scotch do not require barley to be sourced from within Scotland. Often barley is imported from other European countries. Introducing clarity in the Feni-GI about the source of cashew apples would be useful. It would also present an opportunity for distillers and bottlers to differentiate their Feni in terms of the source of cashew apple.

The GI also makes no mention of the materials and techniques of cashew-crushing. This is surprising, as the application lists relevant implements such as the *Kolmbi*. As a consequence, those practising traditional foot-crushing and *Chumal* are put on a par with those using mechanical crushers and *Pinjre* with the truck-jack. For that matter, the absence allows for the introduction of any kinds of techniques in the future. Here, opinions are quite divided. Some suggest that there is little difference in how cashew juice is extracted; thus all these can be on a par. On the other hand, those practising foot-crushing say that the gentler crushing of the apples by feet ensures that the dry pulp of apple does not get into the distilling mix. For some drinkers, these differences matter and the cultural acceptability of mechanical crushing may exist within some pockets of drinkers, but possibly not all.

It is suggested that fuller details would make the specifications complete. Again, the recommendation is for a consideration of how labelling might help distinguish between the different practices. The next chapter builds on this idea of the label as a marker of difference under a shared GI-umbrella.

Rules on Distilling Materials and Techniques

This is possibly the substance of the GI and generates the core of the 'rules of membership'. It is here that the Feni Association seeks to make its Feni-club. Authorised users will have to scrupulously follow the specifications elaborated here. In the GI it is the *Lavni* pot-still that is mentioned, though with the modification that the *Bhann* is made of copper. None of the other distilling materials or techniques finds mention in the GI-application. This raises a set of complex questions concerning what is considered to be pervasive (e.g. the coil in the cement water tank), what is culturally appreciated (e.g. the *Lavni*) and what has been legally included in the GI-specifications. The point of law would be that any non-adherence to the rules of the GI-club would amount to a breach of the GI. The person in question would be disallowed from using the Feni-indication. See, for example, the Parma Ham case discussed earlier (see Box 8: Parma Ham, Chapter 2), the point being, the GI is now exclusively available only for Feni distilled using the *Lavni*.

The members of the Feni Association will need to review their club-rules. The Baseline Survey found the extralocal/modern pot-still to be the most popular technique being used by over 75% of the distillers. Here, a wider and more public engagement on what is considered culturally acceptable and legally possible would help. The *Lavni* is an important cultural standard – and much of the concern with Feni is with ensuring that 'tradition' is maintained. However, the changing pressures on distilling, the intervention of new materials and techniques, and the changing

market itself has compromised the position of the *Lavni* distiller. On the other hand, the pervasive presence of mechanical crushers and the extralocal/modern pot-still means that most of the distillers would be excluded from the Feni-club. Balancing these different interests and values requires the Feni Association to engage in conversation with a wider constituency.

Rules on the Distilling Process

Reflecting the wider cultural consensus amongst drinkers and distillers, the Feni-GI adopts double distillation as the standard. The other club-rules concerning the distilling process concern the *grau* and the mix for the second distillation. It was noted that

- » The *grau* for Feni should range between 19 and 20.
- » The mix for the second distillation consists of 130 litres of *Todap* and 110 litres of fermented juice.

It is always difficult to set standards that seek to be legally enforceable, even more so when standards seek to translate cultural practices into legal rights. The Baseline Survey of the project reports a wider range for the *grau* and also draws attention to some difference in the preferred norm between bottlers and distillers (see Figure 1: Distribution of *Grau*). Some bottlers responded with a *grau* of 25 while there were a sizeable number of responses for a *grau* of 17 as well. If one looked for a *grau* with the most number of responses, this would be 21. Legally, these distillers and bottlers would be excluded from the Feni's GI-club. Keeping this spectrum in mind and noting that cultural preferences amongst the drinking public might be similarly broad, it would make sense to revisit the rules concerning the *grau*. Two options for revisiting exist; the rules could specify a minimum *grau* that is culturally acceptable, say 19. Alternatively, a broader spectrum, say 19 to 25, might be the option. One of the benefits of this might itself be a wider adoption of the Feni-indication by distillers and drinkers.

A similar response could be made about the specifications concerning the mix for the second distillation. An observation of the different distilling practices and some of the relevant documentation suggests that this is not as homogenous and strict as the GI outlines. Some commentators talk of a 1:8 ratio for fermented juice and *Todap*. In contrast, the Baseline Survey of the project suggests the ratio is 5.2:1. The rules for the Feni-club might consider adopting an accommodative approach that builds a standard around a wide set of cultural practices that are considered acceptable. This would be inclusive of the tradition and also make the rules easier to implement.

Footnotes

4. All this should not suggest that alcoholism and drunkenness are not social problems that are further complicated by spurious liquor. However, such issues are not unique either to Goa or to Feni.
6. In a memo of January 2008, Mr Michael D'Souza, Director of the Department of Science and Technology, identified candidate GIs such as *Mankurad mango*, and fish varieties of *Catla* and *Finfish*.
7. The decision to focus on *caju Feni* was made early in the process.
8. See Appendix 2 for the GI-application process.
9. It should be noted that the application has a detailed presentation of the different instruments used in the distilling process.

Chapter 4

Geographical indications and localisation of Feni

The chapter proceeds from the analysis of the GI-specifications of Feni to explore how these specifications might be used to localise cultural and economic control. Let us recall the enthusiasm for GIs and the promise that it will protect the rights of communities and enable local development. With these objectives in mind, the chapter identifies possible revisions to the specifications, though broadly suggesting a need for public debate to evolve a cultural consensus.



The chapter begins with a presentation of the 'Feni Sector' using excise data and data collected in the project's Baseline Survey. This is followed by a presentation of the supply routes of Feni where two notable routes are identified: 'short and direct' and 'long and bottled'. Based on the patterns and cultures of consumption in these supply routes, the chapter proceeds to explore the local linkages of Feni and examine the GI-specifications. It ends with a speculative discussion on future labels of Feni by drawing on the ways in which Scotch and Mezcal have developed different types under the GI-umbrella.

4:1 The Feni Sector

The production of Feni is often characterised as an 'unorganised' sector. Also, it's often placed in the category of 'small-scale'. In one sense the former is accurate: workers here lack the various benefits like pensions that accompany employment in the 'organised' sector. On the other hand, the activity of distilling requires a tremendous effort of organisation. This includes engaging with the State's excise and licensing system and assembling the raw material for and equipment of distilling. Then there is the distillation and marketing of the liquor. The characterisation of 'small-scale' is also unfair and incomplete. In terms of volume of (licensed) production¹⁰, in 2006 Feni registered just 12.4 lakh¹¹ litres compared with 240 lakh litres of 'Indian Made Foreign Liquor'. However, it might be useful to consider the question of scale from the perspective of the distiller and their livelihood which may shed a different light on the social and economic significance of Feni. While this question is not probed here, the Baseline Survey of the project, based on primary data, assembles socio-economic and qualitative data which is used here to enquire into the question of localisation.

Socio-economic Indicators

The main groupings across the Feni sector are: distillers, wholesalers, retailers and bottlers. These groupings correspond

to the way that the sector is licensed by the excise department (Box 18: Excise). Outside these categories there are also 'middlemen' – individuals engaged in the ever-crucial activity of transporting Feni from one stage to another. Though these are separate stages and activities, it might be the case that some bottlers actually distil their own Feni or that some distillers have their own retail outlets. While such examples of integration exist and some have already been noted, for the greater part there tends to be a high level of 'specialisation' along the supply chain. However, many distillers tend to supply directly to final consumption, thus exhibiting how they organise themselves right through to the consumer.

Box 18: Excise Licences for Feni

Through the *Goa Excise Duty Act, 1964* the Excise Department grants various licences for different stages of Feni-distilling. These provisions are mainly found in Chapter VIII of the Act, titled 'Manufacture of Liquor from Cashew Juice'. The area of cashew cultivation is delimited into cashew zones according to cashew orchard ownership patterns. Through the months of February and March these zones are put up for auction. These annual auctions are for licences to extract cashew juice. The bid with the highest estimate of cashew juice extraction is granted the licence for that year. The duty to be paid is a function of the amount of juice that will be extracted. If the bids are insufficient or not forthcoming, the Excise Department disposes by tender. At times, cashew zones remain even after attempts to tender them. The Audit Report for 2002 noted that between 1999 and 2002, over 250 cashew zones were not taken up and resulted in a loss of excise revenue of Rs. 12.7 lakh.

Separately, a licence to manufacture liquor from cashew juice is required. Typically, the person who has secured the auction also applies for the licence. This is also an annual procedure and the applicant has to inform the Excise Department of the number of stills to be operated and their location.

In terms of numbers, the only data available is that of State excise licences issued (Table 1: The Feni Sector²²). There are over 2500 licensed stills which suggests a vibrant collection of distillers. Most distillers tend to operate a single still and only 3% of those surveyed operated five or more stills. At the other end of the supply chain there are upwards of 6500 retailers licensed to sell Feni. This includes a vast spectrum of sites such as bars, tavernas, shops, and restaurants. On the other hand, the intermediate stages of the supply chain do not exhibit a similar spectrum. One immediate explanation is that for the most part Feni is not consumed in sealed bottles. Thus, the rather small grouping of 19 bottlers – though, as shall be seen, many have a number of brands.

Table 1: The Feni Sector (2005-06)

Category	Numbers
Licensed stills	2656
Retailers	6589
Wholesalers	94
Bottlers	19

Source: Mukhopadhyay et al. (2008)

There are striking differences in the social and economic conditions of the different groups. To begin with, most distillers tend to be located closer to their sites of operation because of the apple being perishable. Thus, they tend to be in the mountainous and hilly tracts of the interior talukas. Talukas like Sattari (32%) and Bicholim (16%) account for the majority of licensed stills (Table 4: Geography of Cashew). This physical location might partly account for why most distillers have not been involved in the GI debate in Goa. For that matter, a mere 2% confirmed knowledge about the GI-application in comparison with over 80% of bottlers.

Another striking difference across the sector is reflected in formal education. From the research, as a group, bottlers and retailers held the lowest formal education qualifications: 79% had not proceeded beyond class 10. All bottlers, on the other hand, had gone beyond class 12, and 86% were graduates. Wholesalers also reported higher educational achievements with 60% having completed class 10 or 12. The differences in educational background are further aggravated by employment activities. Feni-distilling is a seasonal activity that runs between the months of March and May when the apple is available. Feni-related activities do occur before this period (e.g. organising licences) and after May as well (e.g. dismantling the still). But, as a source of income for distillers, the period is limited by the seasonality of the cashew apple. Over 95% of distillers had other occupations as well and 65% of them worked in agriculture. In this one aspect, they are different from all other participants in the sector. Bottlers do bottle other liquors as well and hold down the same job all year round. Likewise, retailers are in the same employment throughout the year.

It is no surprise that data on Feni is difficult to assemble. This has less to do with Goa and is more a reflection on the subject: liquor. It is invariably difficult to be sure that the data

collected by the excise system is reflective of the activity. With that serious lacuna, the data assembled here approach the question of the ‘size of the Feni economy’ from proxy measures of the area under *caju* cultivation, excise collection, and other similar statistics.

A first proxy measure is the area under cashew cultivation (Table 2: The Cashew Supply Economy). In the 20 years since 1986 there has been an 18% increase in the area under cashew. This expansion accompanies an expansion in the area under agriculture in Goa. However, it is not clear how this increase relates to Feni-production. With the cashew nut determining the broader interest in this expansion, it is likely that some of the increase may not enter into Feni-production. This speculation aside, the cashew varieties that have been developed in Goa tend to be better for nut production rather than apple juice extraction. In this vein, data collected from the other Goa Government departments indicate that cashew nut production increased by some 150% between 1987 and 2005, thus supporting this speculation. The table also indicates that the number of licences does not entirely correspond with changes in the area under cashew cultivation. In fact, they have greatly reduced. A final point of caution with this data is the observation from Chapter 3 that apples are transported over State borders. Thus, the limits of local apple supply are not insurmountable.

Table 2: The Cashew Supply Economy

	Number of Still Licences	Area Under Cashew Cultivation (hectares)
1986	3037	46888
1996	3991	51360
2000	3217	53767
2008	2703	55612

The excise department collects other licensing data that generate further proxy measures such as the volume of litres distilled and the excise revenue generated (Table 3: Volumes and Excise Revenue). The volume of Feni distilled (and licensed) more than halved in twenty years from its high of 9.9 lakh litres in 1986; however, there was a remarkable resurgence in 2006 with over 12 lakh litres. Juxtaposing the volume with the reduction in the number of stills is puzzling. As data on individual stills does not exist and could not be collected through the field survey it is difficult to speculate. The explanation lies somewhere between under-reporting on the one hand and the increasing volumes per still (with apples from across the border?). The amount of Feni distilled is itself a small share of the overall production of liquor in Goa. In 2006, for example, the other liquors distilled included 5 lakh litres of coconut Feni, 192 lakh litres of Beer and 240 lakh litres of ‘Indian Made Foreign Liquor’. The excise revenue collected from country liquor also increased astronomically. Given that it includes other country liquors, it is difficult to say anything about the collection from Feni.

Table 3: Volumes and Excise Revenue

	Cashew Liquor (Lakh litres)	Excise Revenue (Rs. Lakh)
1986	9.86	9.46
1996	7.36	9.25
2000	4.84	6.00
2006	12.39	62.55

Excise revenue is for 'country liquor' and includes coconut Feni also

4:2 The Geography of Cashew Liquor

Cashew Zones and Distilling

Within the limits of the excise data it is possible to get a snapshot picture of the production and consumption of Feni at the taluka level. The descriptive geography that is presented here is based on data collected under the *Goa Excise Duty Act, 1964* (No. 5 of 1964). The latter regulates the various stages of Feni, from the bidding for cashew zones to the licence to extract cashew juice and so on (Box 18: Excise). Without doubt, all this data is tenuously contingent – a public secret reflecting the porous legality that generally surrounds liquor.

Areas of Production of Feni

Table 4 presents data on cashew zones and licence to extract juice. The major areas for cashew cultivation are the talukas of Sattari (19%), Pernem (15%), Bicholim (14%) – all in North Goa, and Sanguem (13%) in South Goa. These are talukas in the interior that constitute areas of the *New Conquest* and consist of undulating hills and plateaus of Goa – a terrain where cashew flourishes. Bicholim, Sattari and Quepem are also talukas containing many of the mining areas of Goa, thus possibly representing a certain clientele.

Naturally, most of the cashew zones are also in these talukas with Sattari alone accounting for over 35% of the cashew zones. Equally, North Goa accounts for over 75% of the cashew zones. Another licence is required for distilling the cashew juice. As noted earlier, the cashew apple is rapidly perishable, which demands a certain proximity to its use. Despite the 'public secret' of the transportation of apples, it is illegal to transport either cashew juice or apples from one cashew zone to another. Consequently, the locations of cashew zones and stills closely overlap, with North Goa accounting for 78% of the stills. Again, Sattari accounts for the largest number of pot-stills, at 32%. There is a noticeable certain proliferation of the geography of cashew at this stage. Bardez, accounting for 6% of the cashew zones, has a larger presence in terms of licensing, with 10% of the total number of still licences.

Table 4: Geography of Cashew Cultivation and Distilling

	Area under cashew cultivation ('000 hectares)	Cashew Zones	Location of Licensed Stills
North Goa	40.109	1165	2067
Tiswadi	4.054	76	150
Bardez	6.428	91	253
Pernem	8.264	140	140
Bicholim	7.738	169	424
Sattari	10.255	561	853
Ponda	3.37	128	247
South Goa	14.912	367	589
Sanguem	6.955	150	221
Canacona	3.241	90	110
Quepem	2.448	79	129
Salcete	1.915	17	78
Mormugao	0.353	31	51
All Goa	55.021	1532	2656

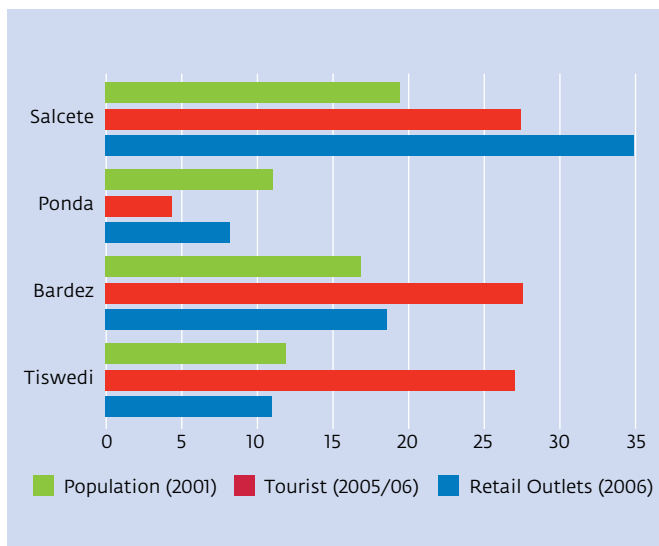
Note: Data for 2005/06 Source: Mukhopadhyay et al. (2008)

The Main Retailing Talukas

This widening geography of cashew expands further at the retail stage with licences for retailing country liquor being sought in a larger range of talukas. Unfortunately, data available from the excise department does not give separate licence data for either Feni or for country liquor. Combining 'Indian Made Foreign Liquor' and 'Country Liquor', gives the number of licences issued for 'retail sale for consumption' and 'retail sale in sealed bottles'. Thus, it is not possible to enquire in particular detail about the sites of consumption and whether patterns differ for country liquor (and Feni, in particular) and Indian Made Foreign Liquor. There are noticeable differences, though; which is evident from the fieldwork interviews.

One general picture emerges from assembling aggregate data on retail licences and population and tourist-flow shares. Quite obviously, the talukas with larger share of population and tourist traffic together account for most of the retail licences (Figure 2: Main Talukas). Thus, Salcete with 19% of the Goan population and 28% of tourist-flows also accounts for 35% of all retail licences. But Salcete is in South Goa and accounts for a mere 1% of cashew zones and 3% of still licences. On the other hand, the two talukas with the largest share of licensed stills, Sattari at 22% and Bicholim at 16%, are also distant from tourist areas, are less-densely populated (7% and 4%, respectively) and form part of Goa's mining belt. Together, these two talukas account for fewer than 6% of all licensed retail outlets.

Figure 2: Main Talukas: Liquor Retailing, Population and Tourist Traffic



Without statistical data on Feni in particular, or country liquor in general, it is difficult to map the consumption side of Feni. A common refrain during the fieldwork, and shared by all participants in the supply chain, was that Feni rarely moves in the form of 'sealed bottles' bearing 'brands'. There are 'brands' no doubt such as 'Big Boss' which is quite likely the market leader, and with nineteen licensed bottlers there are a number of brands (Photograph 13: Long and Bottled). It is also the case that 'master distillers' exist with their reputation and fame, thus presenting themselves as 'brands' in every sense of the term. The next section traces these different brands through a discussion of the Feni routes that have been identified.

4:3 The Supply Routes of Feni

Much like the diversity that is observed in the distilling and bottling of Feni, there is a rich diversity in the supply routes, the drinking cultures and the drinking spaces. A Feni can be enjoyed in the confines of one's home with friends or as a solitary drink of reflection. This may be Feni that has been sourced from a particular distiller or it may be a bottled brand from a shop. The drink could be savoured in a taverna with all the pleasure and bustle of the venue or it might find its way into a cocktail in one of the bars of a five-star hotel. It could be at a favourite and regular taverna where the evening ends with a purchase of an (unsealed) bottle for personal consumption.

These different places of drinking Feni can be grouped together on the basis of different factors, such as the way in which the identity of the master distiller is conveyed to the patron. Other factors separating these supply routes could be the knowledge and awareness of the patron and the rituals and culture of drinking. The difference between the supply routes has little to do with quality and price of Feni as a broad spectrum of quality and price are available in both supply routes. Using these ideas and observations from the fieldwork, a number of distinct Feni supply routes are identified:

- » Short and direct: The supply route is characterised by the identity of the master distiller and the proximate connection between the (knowing) patron and the distiller.
- » Long and bottled: In this supply chain around a bottled Feni, the identity of the distiller is absent and the patron and distiller have no direct linkages.

The Short and Direct Feni Route

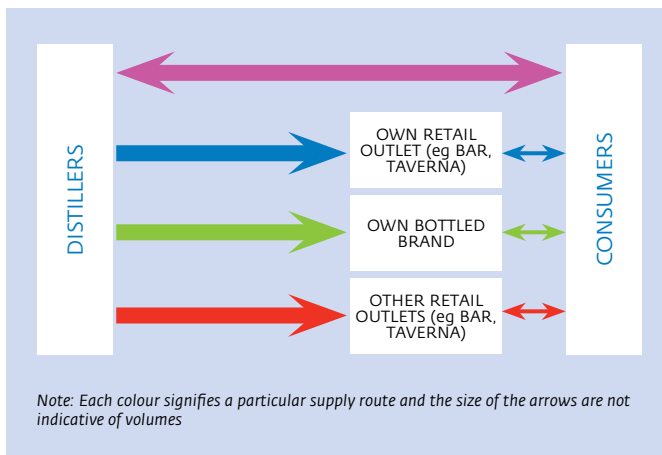
One of the consistent responses in the Baseline Survey was that distillers overwhelmingly supplied directly to retail outlets, e.g. tavernas, bars and restaurants: 75% said that they supplied to retailers. And retailers responded that most of the Feni they sourced (about 80%) was sold at restaurants, with more than half being at their own outlet. When coupled with the popular narrative of directly collecting Feni from the distiller, the picture of a short and direct supply route emerges. There are a number of variations within this short and direct supply route (Photograph 12: Short and Direct):

- » Sourced directly from the distiller: The patron directly sources the Feni from the distiller. Either the patron arrives at the distiller's still for the Feni or it is delivered to the patron's home. The latter route may be via a middleman.
- » Distiller's own bottled brand: The distiller has his own bottling plant and brand.
- » Drunk and purchased at the distiller's taverna or other retail outlet: Many distillers tend to have their own retail outlets and exclusively stock their own distillation; thus, patrons come to drink and purchase their supplies there.
- » Drunk and purchased at a taverna or other retail outlet: A patron's 'local' or 'regular' taverna will be where the Feni is drunk and personal supplies procured.



Photo 12: collecting a bottle of Feni from a master distiller (left) and picking up a sample that was enjoyed at the taverna (right)

Figure 3: Feni Supply Routes: Short and Direct



A primary feature of these short and direct supply routes is that the identity of the master distiller lies at the heart of the supply route. With few intermediaries, the identity of the master distiller is retained and communicated to the patron. One example of this is the connections between an aficionado consumer and the master distiller which tend to build through long-established and enduring social relations. In some instances, the social relations are inherited within the family or shared within a drinking circle of friends. The aficionado returns each season for annual supplies of Feni. A number of aficionado drinkers have (grudgingly) shared details of their favoured master distiller and helped build a portfolio of master distillers. Even in bars and tavernas that sell a number of different Feni stocks and other liquors, there are those retail outlets that have a reputation for good quality of Feni. In these retail outlets there are enduring social relations through which the quality of Feni is confirmed. One owner of a Panaji restaurant told of the importance of

regulars who assure him of the quality of his Feni: 'See basically I ... used to ... go searching like someone told me that this guy is good; so I would buy a bottle, give it to my regulars. If they liked it, then I would continue buying it'.

Another feature of this supply route is that it equally hinges on the local reputation of the master distiller and the cultural knowledge of the patron. Distillers are locally known and some of them are well-known. It is this local repute that builds an enduring relationship between the distiller and the circle of patrons. The case of a distiller/bottler (from Mapusa) who works all three types of Feni (*Lavni*, coil and single-batch industrial as well) while also forward integrating into bottling with his own brands provides an interesting example. The *Lavni* distilling is his specialty and, while it sells under a brand name, he also sells it unbranded and loose: 'Yes there are people locally who buy loose. [...] Once my customer I feel he is for life. Even in my bottled stuff I believe that if once a person takes my product he will remain loyal to my product for life, because of the quality that I guarantee in that. No questions asked'.

Supporting this localisation is the response of a retailer in Panaji who agreed that only few of his patrons are in the city as people buy locally. 'They get it directly from their distiller or taverna, you know they buy it in big *kolso* and all'. It is here that some distillers have either already entered into the sealed bottled segment of Feni or are seeking to enter into this segment. In this move, two aspects of localisation are discernible. On the one hand, the distiller aims to directly present the liquor to consumers and ensure its quality and integrity. Alongside this localisation of quality control, by integrating into bottling, the distiller also seeks to localise economic control.

The repute of a master distiller spreads through and with the circle of drinkers. A restaurant owner in Panaji narrated how he checks tavernas in particular talukas to locate a master distiller. His other source of information for good *caju* is his set of regulars. In a similar way, a master distiller from Tiswadi

who does *Lavni* confirmed this aspect of short and direct supply routes. His patrons tend to be quite local and proximate. He then proceeded to explain that either they come to him or they know the bar he supplies to and get their *Kolso* from there.

Complementing the reputation of the master distiller is the knowing patron; patrons in such short and direct supply routes tend to know their Feni and have built long-standing social relations with the master distiller and /or the drinking outlet. A typical example would be this ritual of buying Feni at one's doorstep. The intermediary transports the liquor and carries reports of the master distiller to the networks of consumers. The transactions are themselves rich in their tapestry of the cultures of drinking. Often, the middleman has a number of batches from either one or a couple of distillers. The patron gets a chance to hear about the different batches and the various distillers while also sampling some of the liquors. Following these accounts and tastings, the patron decides which of the liquors he might like to purchase.

Even in bars and tavernas there is a drinking ritual that generates trust between the patrons and retailers, as this response from a bar owner in Goa's capital illustrates: 'If you come to my restaurant you'll say "do you have good *caju*?", I won't say "yes I do have good *caju*"; I'll say, "I'll give you some, you try it, you like it, you drink it; otherwise not"'. Throughout the fieldwork such examples of local knowledge and testing were narrated. Apart from the *Grau*, patrons tended to use the aroma as one of the tests. As was explained and demonstrated a few times: 'You've got to have a trained nose for that; a very trained nose. [...] you just put your finger in it and then smell it and you know this is good'. Thus, the arbiters of quality and authenticity are largely the patrons themselves. As these supply routes are short and direct they tend to endure, and the reputation of the master distiller and the patronage of the regular drinkers are interconnected.

The Long and Bottled Feni Supply Route

The other broad type of supply route is that of bottled Feni; that is, Feni which is sold in sealed and branded bottles. Before describing this supply route, it is useful to point out that there are many shared features with the short/direct supply route. For instance, many bottlers have enduring social relations with the distillers who supply Feni. Similarly, the difference is not an issue of quality per se, but a reflection of how information concerning the distiller is communicated to patrons (or not communicated!). It is also the case that some retail outlets, like tavernas and bars, stock bottled brands alongside their locally-sourced loose Feni.

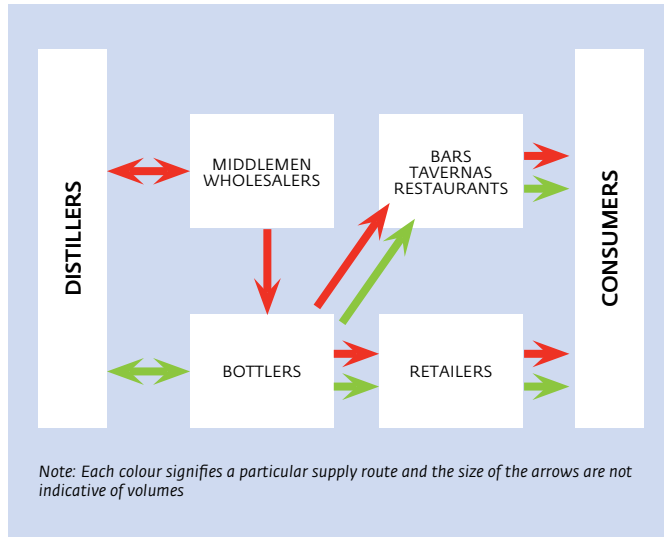
Bottled Feni is in part a consequence of the excise system that Goa inherited from the Portuguese. Distinguishing drinks between *vinhos nativos* (country liquor) and *vinhos europeos* (European liquor) led to the separate drinking places of tavernas and bars respectively. This subsequently led to the excise requirement for a category of licensed premises (e.g. bars) where only liquor in sealed bottles could be served.

Given the local preference for 'loose' liquor, the supply routes of bottled Feni are intriguing. There are two primary places where bottled Feni presides: licensed liquor shops and bars and restaurants in more elite places. However, it is also the case that bottled Feni caters to a wide spectrum of socio-economic classes. Much like other commodities, the range of choice is reflective of the range of patrons – and many bottlers have developed a portfolio of brands with a range of prices.



Photo 13: a Feni bottling plant (top), a display of some of the available brands (centre), and deciding on which bottle to buy (bottom)

Figure 4: Feni Supply Routes: Long and Bottled



A feature that distinguishes this supply route is the negligible presence of the master distiller. Labels rarely include any information about the distilling process, its location or the distiller. A notable exception is 'Old Vat' from Anand Distillery which mentions that the Feni is matured in wood. As discussed in the last chapter, bottlers take a number of measures to source good Feni. Many have long-standing social relations with their distillers. Some of this filters through informal channels and reaches patrons. For instance, as the owner of a well-noted drinking place in Panaji explains: 'A lot of the genuine drinkers would prefer a local [Feni] or they would try the local. If they are not happy with the local then they would go to 'Big Boss' because they are familiar with the brand'.

The lesser position of the master distiller in this supply route is accompanied by the 'limited knowledge' amongst patrons. One bottler contended that it is the non-Goan who buys bottled Feni. A leading shop in Panaji suggested that it is the tourist who comes to purchase bottled Feni. This was neatly summed up by a shopkeeper from Bardez: 'What happens you know some shops they have only tourists. This is a tourist land. Goans are very few. [...] This full market is a tourist spot where they come. They won't be knowing anything that's why whatever you tell them they buy it'.

Bottled Feni is also available in bars and restaurants at the top-end of the social and economic scale. Bars and restaurants in luxury hotels in the coastal talukas (e.g. Tiswadi and Bardez) constitute another segment of this supply route. As such, these places cannot – by law – sell Feni from unsealed bottles. They therefore procure some of these well-known brands with a strong presence, such as 'Big Boss' from the Madame Rosa Distillery. Drinking cultures and practices are quite different here with Feni mainly consumed as a mix in a cocktail (see below). Here, it would be rare for Feni to be drunk neat or in ways that are witnessed in other supply routes. Bottled Feni is also to be found in shops, competing for the attention of patrons along with other (Indian Made Foreign) liquors. Without the drinking rituals of Feni, the brand becomes the mediator of quality and authenticity. For patrons in this drinking circle, brand recognition becomes an important factor.

In this supply route the allure of Feni is modified. One

segment of patrons, the tourists, sees Feni as a memento of their holiday in Goa – a reminder of the beach and the languid spirit of their holiday. Hence, some brands have packaged themselves to present Goan exotica. A number of bottlers have brands with variously shaped and coloured bottles with very striking packaging. The allure of the bottle at times suggests that the liquor contained in it may be the less attractive aspect of the purchase. As one shopkeeper notes, about an unnamed brand: 'It's not too bad. But the shape of the bottle is what makes it attractive'. Yet, as another shopkeeper explains, it is partly a matter of convenience: 'Some of the tourists...are asking for sealed packed bottles. Only our Goans mostly use loose. Outsiders prefer sealed. Even the people from Karnataka, they come and ask "do you have a sealed bottle?" they otherwise don't take [it] because it's not convenient'.

The proliferation of the numbers of brands makes for another dimension to this supply route. On the one hand, it is demonstrative of a marketing drive; on the other hand, it suggests a geographical segmentation of the market. In many ways, it's a combination of both. Thus, one bottler talks about two of his leading brands and says that they are identical. When probed further, he explains that in response to the demands of shopkeepers who want the exclusivity on a brand, he decided to launch separate labels: 'Some people as I told you [...] want monopoly of that label and another fellow wants the other label. They don't want to mix their customers; so I launch two labels'. Another bottler talks about how the tastes of certain regions demand a particular kind of Feni. For example, 'Nova Goa' has been developed for Sanguem because it has a slightly higher *grau* while 'Yes Boss' is better suited for Canacona.

Feni and the Tourist Drinker

Along with fish curry, fiesta and football, Feni is part of what is considered the 'Goan experience'. Guide books, tourist brochures and travelogues are incomplete without some reference to Feni. A number of bottlers and retailers suggest that tourists, domestic and international, are part of their clientele, and there is little doubt that bottled brands of Feni flourish in this segment; hence, the hope that with its GI, Feni will be launched as a global liquor. Going by newspaper reports, such efforts are already under way. For example, United Breweries has been considering proposals for a global launch of Feni as an Indian liquor. This follows earlier attempts by bottlers like Rhea Distillery and Madame Rosa to promote Feni overseas. Exports in 2005/06, according to newspaper reports, topped 40,000 cases and were destined for the US, UAE, Canada, Germany and UK.

Tourists present a particularly different patron in terms of drinking cultures, taste and knowledge. To begin with, Feni tends to be represented as 'fiery and potent' liquor that should be sampled with much caution (Box 19: Tourist Trap). This misrepresentation of Feni will prove to be problem for the expectations of an expanding market. Attempts were made to remove the distinct *caju* aroma of Feni to make it more palatable for the tourist and export market. One of the bottlers involved in this expressed the predilection well: 'Smell is one of the properties of Feni but it has an irritating smell [for the tourist]. ... But if you take out the smell it won't be a Feni then'. Another bottler narrated how a few samples taken to Sweden were scoffed at because of the aroma, and potential buyers suggested the liquor should undergo a series of charcoal filtrations to remove the aroma.

Table 5: Tourist Flow and Liquor Licences

	Tourists		Shops Licensed to Sell IMFL and CL*	
	Domestic	Foreign	For Consumption	As Sealed Bottles
North Goa	1,207,668	200,920	3677	763
Tiswadi	555,224	73,046	948	272
Bardez	518,999	121,737	1428	273
Pernem	18,539	5,063	302	44
Bicholim	15,748	152	262	41
Sattari	0	0	156	33
Ponda	99,158	922	581	100
South Goa	767,112	141,155	3072	472
Sanguem	7,553	339	264	32
Canacona	15,184	9,160	328	45
Quepem	0	0	388	28
Salcete	524,395	113,192	1604	297
Mormugao	219,980	18,464	488	70
All Goa	1,974,780	342,075	6749	1235

Note: All data 2005/06, *Indian Made Foreign Liquor and Country Liquor, Source: Mukhopadhyay et al. (2008)

Box 19: Feni as a Tourist 'Trap'

Guide books and travel writers give Feni an uncomfortable image by describing it as a 'throat-burning adaptation of agua dente'. Anita Desai in *Baumgartner's Bombay* talks of the liquor as a 'poison called Feni'. In similar vein, the *Lonely Planet* guide book on Goa has the following passage:

'It's as clear as water, it tastes like aromatic gasoline and it really packs a punch [...] Feni first-timers might be well advised to mix it with a soft drink like Limca or cola – or just close your eyes and shoot it. [...] You can also buy colourful decorative bottles from wine stores (between Rs. 100 and 400), which make a good gift for friends you want to incapacitate.'

Feni as a tourist trap is an unreliable basis for the prosperous future that some talk about for Feni.

As indicated earlier, the talukas with high tourist flows are also the talukas with the larger share of licences for liquor (Figure 2: Main Talukas). As the excise data does not separate out country liquor or Feni it is difficult to make any meaningful analysis of a relationship between the number of licences and tourist flow. However, a few speculative points can be raised on the data that is available (Table 5: Tourist Flow).

There are a variety of segments in the large flow of tourists

that come to Goa. One obvious split is between 'domestic' and 'foreign' tourists. Further, within the 'foreign tourist' flow is the growth of a charter holiday segment. Accounting for a mere 10% at the end of the 1980s, the charter holiday segment now accounts for nearly 50% of the foreign tourists. The latter tend to be highly 'managed' tourists and it is doubtful whether such tourists get to actually 'see' and 'engage' with Goa and its rich culture, let alone Feni. A broad trend within the domestic tourist market is the shorter weekend break visitor. The Government's tourism department indicates that the domestic tourist tends to stay for less than five days and that this 'short break' segment is growing rapidly.

An important element in these tourist segments is the way in which Feni is represented. Equally crucial is the role of the vendor of the drink whether it is the owner of the taverna, or the bartender, or the shopkeeper. Common features in the bars and restaurants of (top-end) hotels catering to the tourist are the following: only bottled brands are available, very few patrons ever ask for a straight Feni, and when Feni is consumed it is as a cocktail (Box 20: Cocktails). This is not too dissimilar from the way Feni tends to be consumed in the beach-shack area; though with the proviso that 'loose' Feni is also available at the beach-shack.

Box 20: Feni Cocktails

Two very popular cocktails that exist, with minor variations, also reflect the two different Fenis:

Goan Rumba: Equal measures of *caju* Feni and white rum, mixed with generous splashes of orange or pineapple juice and served in a long glass with crushed ice.

Silver Sands: A double measure of coconut Feni, mixed with a generous splash of pineapple juice and 7 Up, served in a long glass with crushed ice.

Other popular cocktails tend to be modifications of existing cocktails where Feni replaces the base liquor. One example is the Margarita, where Tequila is replaced by *caju* Feni. Another example is the Pina Colada where white rum is replaced by coconut Feni.

Beyond the attention to the tourist drinker as an ambassador for a global launch of Feni, it appears that the overseas market is actually catering to the Goan diaspora. The latter is reflected in the destination of Feni exports: the US, UAE, Canada, Germany and UK. One leading brand-owner corroborates this point: 'We were able to get into the Middle East segment because there is a large Goan community there and they have given us this exposure now'. However, an attempt in the 1990s to export to Canada demonstrates the problems of regulation and lack of cultural awareness. The Liquor Control Board of Ontario sought Feni samples with a view to allowing domestic sales. A test entry was also tried in Toronto. However, the samples were too variable and the mix of aroma and liquor strength led to the Board's refusal.

The tourist segment may prove to be attractive to bottlers who look to a 'Tequila-like' future for Feni where a new culture of drinking is promoted. Since competing against other IMFL spirits, the future for Feni in the tourist market will depend upon how it is promoted as the preferred cocktail choice. Alternatively, bottlers might consider inventing a drinking tradition much like the Tequila-shot as a way to be attractive. Otherwise, getting the average tourist to consider the nuances of a Feni is an uphill task. For one, it would require a serious effort of education and cultural awareness – a task that awaits the Feni Association.

4:4 Specifications for Localising Feni

The different supply routes of Feni and the various drinking circles and practices demonstrate the rich diversity surrounding this liquor. It also reveals how the drink travels and enters new markets both locally (with the tourists) and overseas (through the diaspora). Other changes in the production of Feni also hint at the use of more distant materials and technologies (see Chapter 3). These changes point towards various tussles between different possible future developments for the liquor and it is here that the GI-rules occupy an important place. The following questions can be asked regarding the GI-specifications for Feni:

- » How strongly tied to Goa are the GI-specifications in terms of cultural and economic factors?
- » Are the GI-specifications flexible and accommodative of the diversity of Feni that currently exists?
- » Do the GI-specifications allow future developments in Feni that are culturally acceptable and economically viable?

To place these questions in context, it is useful to recall the Parma Ham dispute discussed earlier (Box 8: Parma Ham, Chapter 2). In the case of Parma Ham the GI-specifications for different aspects of the production process have varying levels of attachment to defined geographical territories. For example, the area in which the pigs can be reared covers a very wide geographical territory across Italy. But it is specified that the processing of the ham, on the other hand, must take place in particular areas of Parma, thus tying it more tightly to region. The Feni-specifications can consider exploring a similar relationship to geography that varies across the different stages of distilling.

Localising the Ingredients of a Feni

The lack of clarity on the geographical source of cashew apples has already been discussed (see Chapter 3). The analyses of the GI-specifications noted the silence on this as tacit acceptance of the practice of cashew apples being transported from beyond Goa's borders. While this 'public secret' might reflect a necessity to meet local demand, it would be useful to consider specifying certain limits. On the one hand, the limits should reflect the viability of transporting cashew apples into Goa in a state suitable to be used for distilling. On the other hand, the limit should also consider the biodiversity of cashew as a means of safeguarding the integrity of Feni and also the future sustainability of Feni-distilling. In both respects, lessons from the cycle of surplus and shortage in the case of Tequila will be instructive (Box 21: Uncorking Tequila). The adoption of a single variety of agave has given Tequila a very narrow genetic base, making agave cultivation vulnerable to pathogens and dependant on high doses of various plant protection chemicals.

Placing a geographical limit on the area from which cashew apples may be sourced is a difficult matter. In this respect, the experience of other spirits like Scotch is useful but not wholly applicable. It is useful to note that GI-rules for Scotch don't specify a requirement for local sourcing of barley – either from Scotland or even the UK. The case for Feni is quite different, however, as the cashew apple degrades rapidly; hence the necessary biological requirement for considering a geographical limit.

Box 21: Uncorking the Tequila Story

Tequila is a globally-recognised liquor from Mexico and was referred to during the fieldwork as an example to emulate. A closer analysis of the experience might suggest otherwise. Like Feni it comes with a rich and long history from a particular part of Mexico with records running back to the mid-1500s. Tequila is made by fermenting and distilling the roasted heart of the *Agave tequilana weber* (the blue agave). The town of Tequila is in the State of Jalisco. The current regulatory system began with a 'denomination of origin' (a system similar to GIs) in 1974. The geographical area for sourcing the blue agave is a very large one that includes Jalisco and parts of the neighbouring States of Guanajuato, Michoacán, Nayarit and Tamaulipas. As the specifications mention only the blue agave, other varieties of *Agave tequilana* have been lost to active cultivation, thus raising concerns among ecologists about the biodiversity loss. In addition, the increasing industrial production of agaves has contributed to a cycle of shortage and surplus.

The 'Tequila club-rules' of the 1974 regulation recognise two types of Tequila:

- » Tequila 100% Agave: This is made of only agave sugars and has to be bottled in the demarcated region.
- » Tequila *mixto*: This is made of agave sugars and other sugars and can be exported in bulk.

It is with the latter type of Tequila that there has been a gradual relaxing of the club-rules. Initially, the minimum requirement of agave sugars in Tequila *mixto* was set at 70% and subsequently reduced to 51%. This reduction allowed the introduction of other sugars (sugar cane and other generic sugars) and reduced the link to local blue agave production.

Tequila *mixto* can be exported in bulk, and over 75% of it is exported and bottled overseas, mainly in the US. Efforts to reintroduce a domestic bottling requirement for Tequila *mixto* have met with stiff resistance from large domestic exporters and foreign bottling and distribution companies. For that matter, many Mexican companies are now owned by multinational liquor houses (e.g. Diageo and Fortune Brands). These interests have brought about a gradual weakening of local links in the specifications of the Tequila club-rules and the disruption of the 'traditional' cultural characteristics of Tequila.

The experience in the case of Tequila provides another insight into the GI-rules for the Feni-club. One of the issues of debate here was whether the mixing of other sugars was acceptable (Box 21: Uncorking Tequila). Over time the minimum requirement for agave sugars has been reduced for Tequila *mixto*. The Feni-specifications, on the other hand, are eminently clear that the only ingredient is the fermented juice of cashew apples. For that matter, the specifications are strongly localised even compared to Scotch where other grains are permitted and certain colouring agents (like caramel) are allowed.

Localising the Distilling Materials and Techniques

The GI-specifications identify only the *Lavni* pot-still, which is an important marker of how a GI recognises history. As a result, other distilling materials and techniques are excluded from Feni's GI-club. This exclusion, going by data assembled in the Baseline Survey, could result in 80% of distillers being prohibited from using the GI – a potential exclusion that surely needs to be addressed.

A point to consider is whether the cultural norms, like those towards a consensus on double distillation, have generated a possible acceptance for the extralocal/modern pot-still with the coil? A response along these lines requires the Feni Association to engage with local patrons and the community of distillers so as to settle on a consensus that is socially acceptable. In considering options, a reflection on the experience of Scotch whisky is useful (Box 12: Scotch Whisky, Chapter 2). The growing adoption of the Coffey still in Scotch distilling through the 1860s placed the pot-still (barley-based) distillers in a compromising position. Looking at this long history of the changing definition of Scotch, it is possible to see how new materials and technologies have presented new opportunities and pressures on earlier practices. In the early 19th century the pot-still was articulated in the specifications and its later removal has also accompanied other changes that have modified the way Scotch is tied to its local geography (Box 22: The Search for Scotch).

Box 22: The Search for Scotch: A History of Definitions

The history of Scotch is an example of how changes in materials and techniques and changing geography of sourcing raw materials lead to revisions of specifications. In the 18th and early 19th century, the idea of Scotch was already well established with cultural norms where the pot-still was the distilling apparatus and barley was locally sourced in Scotland. The distinction was between 'aqua vitae' (pure malt whisky in Scotland) and 'usquebaugh' (a spiced version that possibly owes a greater tradition in Ireland). By the early 19th century, Scotch whisky was clearly understood to be made in Scotland from home-grown malted barley and distilled in a pot-still.

The monumental change in defining Scotch occurs with the *Royal Commission on Whisky, 1908-09*. The Commission had to resolve a number of issues, such as whether the Coffey still could be included for making Scotch, whether spirit distilled from grains apart from barley was permissible, and of course, the geographical source of barley. The definition the Commission proposed was quite simple: '... "whiskey" is a spirit obtained by distilling from a mash of cereal grains saccharified by the diastase of malt; that "Scotch whiskey" is whiskey, as above defined, distilled in Scotland ...'.

The legal definition placed no restrictions on distilling materials and techniques. In fact, it dismissed arguments that the form of the still had an impact on the quality of the spirit distilled. Neither did it set out that only malted barley should be the sole ingredient, which allowed grain distilling to flourish. Nor was there a requirement for double-distilling that was the distinct feature of pot-still distilling. For that matter, neither is there any mention of maturing the liquor in casks.

A third attempt to set out the GI-specifications of Scotch occurred in the 20th century with the passage of the *Scotch Whisky Act, 1988*. Under this Act, the *Scotch Whisky Order* was passed in 1990 where the following definition is proposed:

- » which has been produced at a distillery in Scotland from water and malted barley (to which only whole grains of other cereals may be added)
- » which has been distilled at an alcoholic strength by volume of less than 94.8 per cent and has been matured for at least three years in Scotland in oak casks of a capacity not exceeding 700 litres
- » to which no substance other than water and spirit caramel has been added.

The definition might be understood as setting a low standard for inclusion; thus, allowing the inclusion of 'whole grains of other cereals', not demanding local home-grown barley, and permitting any distilling technique to be used whilst also having a short minimum period of maturing of only three years.

The Feni Association needs to engage with the sector and the community of drinkers on resolving these parameters of the GI-specification. If there is a cultural consensus that accepts the extralocal/modern distilling technique using the coil, then it makes sense to include it within the specifications. A possible legal solution would be to define the distilling technique in terms of ingredients and process: fermented juice of cashew apples and double distilled using a mix of *Todap* and fermented

juice of cashew apples. The benefit of a specification like this is that it includes the two pervasive pot-stills whilst ensuring that the single-batch industrial distilling system remains excluded from the Feni-club. *Lavni* distillers will have other opportunities to distinguish themselves and differentiate their Feni.

Localising Around the Sites of Distilling

At present, the specifications are written in a manner where the political borders of Goa are taken to mark out the cultural borders of Feni-distilling. A common refrain from aficionados is that Feni is a North Goa preserve and that coconut Feni tends to be a South Goa preserve. Many distillers and bottlers also corroborate this cultural knowledge. No doubt, time has relaxed some of these preserves and the expanding cultivation of cashew has itself allowed the geography of distilling to spread to other parts of Goa (Table 4). However, the expansion of the area of cashew cultivation does not necessarily have to translate into a similar expansion of the sites of Feni-distilling?

The GI presents an opportunity to visit this expansion and negotiate a consensus on a culturally acceptable decision on the sites of distilling. Contemporary data on still licences indicates that *caju* is broadly a North Goa preserve accounting for 78% of licences in 2005/06. Yet, even within this there is a further taluka-level concentration with Sattari, Bicholim, Bardez and Ponda accounting for major shares (Table 4). It would be useful to consider the evolution of this taluka-level concentration and to arrive at a cultural consensus on drawing the borders of *caju* distilling. Such a specification would be useful in delivering the development and localisation promise of a GI.

Localisation of Post-Distilling Processes

In both supply routes there are a number of practices and norms around post-distilling processes. Some, as noted earlier, such as aging seem to have receded from general practice. As the bottled supply route is still evolving it hasn't generated strong cultural norms about practices of aging, blending and bottling. On the other hand, the short and direct route revolves around a single pot-still distiller; thus, akin to a 'single malt' in the Scotch scenario.

For the present, the GI-specifications have not introduced any club rules on post-distilling processes. Specifications on post-distilling have serious consequences for how the liquor travels from the distiller and onwards to patrons. On the one hand, it concerns the integrity and quality of Feni. And, on the other hand, it has implications for further local linkages to Feni-distilling. However, the two are also interwoven as exemplified in the example of Tequila noted earlier (Box 21: Uncorking Tequila). The specifications on Tequila *mixto* allow for it to be exported in bulk which has over time caused local distillers to lose control of the integrity and quality of bottled Tequila as these operations are now located in the US.

Similarly, in the case of Scotch there have been no local bottling requirements in the GI-specifications; though, these are now under consideration. This has allowed the growth of bulk exports of Scotch. There are complex sets of issues here that include the lower costs of exporting in bulk and in containers and the import duties in export markets which tend to discriminate against bottled imports. On the other hand, local bottling leads to the growth of a home industry in bottling and packaging. In addition to these different economies to consider, Scotch Whisky has also been concerned about how

bulk exports are used in export markets. One concern related to the mixing of Scotch with other liquors. For the most part, Single Malt Scotch Whisky is exported bottled. It is only recently that bottling requirements are being discussed along with other changes that will see the introduction of a new category – 'Blended Malt Scotch Whisky'.

Finally, the examples of Tequila and Scotch are also demonstrative of options for how maturing requirements might be introduced. The specifications for Tequila have four age categories: *blanco* or *joven* (aged less than two months), *reposado* (aged at least two months), *añejo* (aged at least one year) and *extra añejo* (aged at least three years). In the case of Scotch, there is a single requirement for a minimum period of maturing in oak casks for three years. However, the cultural practice for Single Malts is to age for at least eight years. In the case of blends, there is a practice of 'vatting' where different spirits are 'married' for a period of time to allow them to homogenise.

The issue for the Feni Association is to reflect on some of the post-distilling practices and seek to revitalise them through their inclusion in the GI-specifications.

Geographical Indications and the Labels of the Future

The introduction of GIs as currently specified or with some of the revisions recommended here will have differing reception and adoption across the sector. The difference of reception is not entirely on the basis of the two broad supply routes noted above. Though, it's quite likely that those involved in the short and direct supply chain might find it initially less useful to look at the GI. The proximate and enduring relationship between the master distiller and the patron means there is no requirement for a third-party certification of quality and authenticity. In a different sense, there will be some in the long and bottled supply route who may consider the GI an additional regulatory layer that they would rather not bother with. It will only be with broader engagement by the Feni Association with patrons and distillers and bottlers that interest in the GI and the possibilities it heralds might be appreciated.

One of the interesting results of other distillates is the process of proliferating types within the broad umbrella of a GI. For example, even while the GI-specification of Scotch is rather open and low, it has allowed the presence of single malts to co-exist with blends. More than that, there are further attempts at differentiation such as on the basis of years of maturing and innovations around double-casking. Using Scotch as a reference point, it is possible to map out this proliferation of types under a GI-umbrella in the case of Mezcal (Box 23: Differentiation within the GI-Umbrella). Mezcal is a distillation from the *maquey* plant of the Agavaceae family. While there are over 100 species, the most commonly used plants for Mezcal are the *maquey espadin*, *tepestate*, *larga* (long) and sometimes *maquey azul*. The main production area is the State of Oaxaca, though it is also produced in the States of Zacatecas, San Luis Potosí and Guerrero y Durango. Producers from these States have, with the assistance of various Government institutions, formed the Mezcal Regulation Council to coordinate and organise the spirit's production and promotion. In June 1997, through the passage of order NOM-070-SCFI-1994, Mezcal received protection that denominates two types of Mezcal (Box 23: Differentiation within the GI-Umbrella), both of which must be bottled in Mexico. However, it's the differentiation across the formal definition, as with Scotch, that is of interest.

Box 23: Differentiation within the GI-Umbrella

The Scotch Reference Point

Pure malt whisky

100% barley malt whisky

Scotch whisky*

Distilled from a mix of barley and other whole grains and meeting the legal definition (cf. Box 23)

Blended malts

Created from many different malt whiskies and grain whisky; typically about 80% grain and 20% malts

Single malts

Consists strictly of malt whiskies from a single distillery; variations include single-cask malts and other innovations

Speyside single malt

Single malt Scotch whisky, distilled in Strathspey, the area around the River Spey

Mezcal Product Differentiation

Type I Mezcal*

100% Agave: Distilled from juices that contain sugars from only 100% Agave

Type II Mezcal*

Distilled from a mix that contains 80% of agave sugars and 20% of non-agave sugars

Blended Mezcal

Made with Mezcal of different agaves and possibly blended from different distilleries

Single Mezcal

Made from Mezcal from a single distillery; sometimes from a single distillation batch

Mezcal Papalote de Guerrero

A Mezcal from a specific Agave (Papalote) and specific region (Guerrero)

*Definitions regulated by the relevant GI laws of the country

Source: Communication from Jorge Larson; further information Mezcal Regulation Council (www.oaxaca.gob.mx)

The examples from Scotch and Mezcal are demonstrative of a proliferation within and around a GI. Keeping in mind that consumers themselves differ in their tastes and demands such differentiation is quite intuitive. Elements of such variation and differentiation already exist in the case of Feni and are evident in both supply routes.

The future labels of Feni will play an important role in communicating the diversity and differentiation of Feni. Keeping in mind the earlier discussion of coconut Feni, a first level of differentiation would be between *caju* and coconut. Unlike the cases of Scotch and Mezcal, Feni is always made with the fermented juice of a single ingredient; thus, there is no space for allowing the use of sugars of other ingredients. In a manner of speaking Feni is a 'pure malt whisky'. In the short and direct supply route, the Feni that exists is from a single master distiller; thus, falls into the category of 'single malts'. This would also be the case for bottled Feni in the case of distillers who have forwarded integrated into bottling. Some bottlers might also be observing similar practices. That said, for the most part, Feni in the long and bottled supply route would fall into the 'blended malt' category.

Other options of differentiation also exist. Assuming that the Feni-specifications are revised to include the extralocal/modern coil distilling system, distillers and bottlers will find it useful to distinguish their Feni based on their pot-still. It is here that the aficionado would be happy to be informed about

the Feni being made by the *Lavni* method. Finally, there has been discussion of a taluka-level localisation of distilling. In this vein, there have been references to regional variations in the Feni. Much like Speyside, Sattari has the largest number of distilleries. It would be quite possible to see this differentiation also translate into a label of the future.

Footnotes

10. It is a public secret that the data of the excise department may be reasonable but probably not accurate. This much was clear whilst preparing the Baseline Survey.

11. Part of the Indian numbering system, 1 lakh is 100,000.

12. All data reported in this chapter is from the Baseline Survey and the sources therein unless indicated otherwise.

Chapter 5

Conclusion

It is quite easy to appreciate the wide popularity of GIs that includes advocates at various multilateral institutions, the Government of India, scholars and, most importantly, producer groups. Unlike other marks indicating the conditions of origin of goods (like organic or fairtrade), GIs emerge from the locally stabilised cultural practices of producer groups. In this way, 'club-rules' are authored by groups themselves and an association representing the producers are the owners of the GI.



As noted in Chapter 2, the nature of GIs is consistent with many aspects of local and traditional cultural practices: the legal protection tends to be consistent with customary practices, the knowledge remains in the public domain, and the rights can potentially be held in perpetuity. It is no surprise then that there is strong promotion of GIs as a development policy and a way to localise cultural and economic control for communities. Examples noted in Chapter 2, such as those of the Maori Mark (Box 7), Parma Ham (Box 8) and Grana Padano cheese (Box 9), bear out many of these theories. However, as explored in this report, the enthusiasm that GIs will deliver ‘futures of plenty’ needs to be qualified and tempered with some caution. This concluding chapter brings together the main findings of the report and makes a series of recommendations on the Feni-GI and the GI system in India.

5:1 Theoretical Approaches for a Study of Geographical Indications

The successful mobilisation of interested parties and resources to secure the Feni-GI is testimony to the cultural and economic interests vested in Feni. A closer analysis of the efforts undertaken by the Goa Government, the Goa Chamber of Commerce and Industry and the Feni Association demonstrates the range of resources that are required for a GI to achieve a social consensus. The benefit of this experience and hindsight might provide useful pointers to help ensure that other producer groups are better prepared in mobilising and investing the necessary resources. These aspects of making a ‘GI-club’ emerge from the theoretical approach adopted in this research, namely:

» The idea of ‘clubs’ draws attention to the difficulties in arriving at a consensus on club-rules for a GI and emphasises how individuals and firms that otherwise compete must also find ways to cooperate.

» The idea that at the heart of a GI is a locally stabilised cultural repertoire draws attention to histories and traditions, and the diversity of values associated with GIs.

There is an intuitive appeal with the idea of ‘clubs’, which comes from the manner in which GIs are treated by law where a ‘club-like’ situation is created. Legally, members of the club are required to adhere to its rules, i.e. the specifications submitted as part of the registration procedures, whereas those who fail to adhere to these rules are excluded from the club and are thus disallowed from using the name of the GI-club. There were a number of examples of this in Chapter 2, such as the dispute between a consortium of ham producers in Parma and the large UK retail chain, Asda (Box 8, Chapter 2). An effective club requires a number of elements, such as membership rules, systems for monitoring use of the club and policing the borders of the club. In terms of a GI this translates into product specifications, certification schemes and legal protection of rights.

Agreeing on product specifications should, theoretically, be easy – after all, these are the locally stabilised norms concerning the product and it is also true that the benefits of protection are collectively shared by all producers. However, the report draws attention to the peculiar nature of competition that characterises GI-products: ‘cooperative competition’ (Box 11, Chapter 2). Firms and individuals in the supply chains of a GI-product are also competitors for shares of the economic returns. For example, distillers and bottlers will compete with each other regarding the price of a *Kolso*. Competition also occurs between retailers for a share of the market. Yet, there is a ‘lattice of interdependence’, as everyone must cooperate to ensure that the collective reputation of the GI is not compromised.

The second main idea in this research concerned the cultural dimensions of a GI. A GI-product has a long history,

reflecting locally stabilised cultural norms in the making and consumption of the product. For example, in the case of Feni there is a cultural norm that only those cashew apples that have fallen to the ground are harvested. Cultural norms like these place constraints on how things are made. As the research here demonstrated, these norms are always in flux, and can change through the assimilation of new materials and technologies, and market opportunities, as illustrated by the case of Scotch (Box 12, chapter 2). However, the cultural dimension to the norms of production also highlights that some opportunities for change may not be culturally acceptable. Negotiating this tussle is one of the hurdles in making a GI-club.

These two features of the study help to draw out important dimensions in the making of a GI and also allow us to juxtapose the (new) legal rules with the long-established cultural repertoire of the product. We reflect back on the initial enthusiasm surrounding GIs and enquire whether they are delivering their promise. In advocating this type of approach, the report calls for similar research for other GIs in India. The promotion of GIs and the public support from central and state Governments and parastatal organisations is truly encouraging. In the few years since GIs were introduced in India, the number of applications has reached 162 and around 90 have been granted. Based on Feni's experience, this report would call for an audit of the GI-system to review whether the promises of GIs are being translated into reality.

5:2 Mobilising Resources for a GI The Geographical Indication

A feature of the 'Making of the GI for Feni' mentioned earlier was the strong engagement and support of the Goa Government particularly from certain officials and departments. The role of other institutions, such as the Goa Chamber of Commerce and Industry, proved to be instrumentally useful as well. The detailed history narrated here also highlights the significance of the role of the GI Registry which made presentations in Goa and responded informally to the draft application. These inputs were useful in building an appreciation of the registration process and the information to be assembled for a successful application.

This experience of the Feni-application appears to resonate with reports from other GIs in India and elsewhere, highlighting the efforts required for mobilising individuals and firms across the supply chain. In this sense, a 'neutral' body like the Government can provide the appropriate space for constructing a consensus on GI-rules. However, the case study of the Feni-GI identifies two concerns in terms of the engagement and involvement of these bodies.

There is a thin line between providing a space for negotiating a consensus and coalescing an agreement. Reflecting the strong efforts of the central Government in promoting and popularising GIs, the case study of Feni suggests that the enabling support of the Goa Government may have over-reached. At various stages, it was the Government that saw the GI-application proceed forward and this support culminated with the Goa Government's Department of Science and Technology becoming co-applicant with the Feni Association. This raises a particularly difficult concern: the neutrality of the Government with respect to different interests in the Feni sector. How would the Government adjudicate such a difference in the future if it is also obliged to protect its own rights in the GI?

Another concern arises from the engagement of the GI Registry. The enabling role of the Registry and its informal consultations proved to be useful in assembling the GI-application. However, to what extent did this communication compromise the quality of assessment of the GI-application? An examination of the different drafts of the application, along with the final GI-specifications, with the cultural practice of Feni-distilling brings this into question. A number of aspects of Feni were neglected in the two consultative group meetings that took place, such as the case of coconut Feni, or the wide adoption of the extralocal/modern distilling technique, among others. In many ways, the consultative group assessment concerned itself quite narrowly with the chemical composition of Feni rather than its cultural history and local traditions.

In the light of such observations, this report would make the following recommendations:

- » The State Government should continue to enable and support producer groups to consider GIs and provide the space and forum, if necessary, for consensus-making. In maintaining a position of neutrality, the State Government should seek to ensure the wide participation of all sections of the relevant producer group. Rather than entering the process as a co-applicant, the Government is better placed in the role of enabling participation.
- » The GI Registry should continue to share information about the GI process and encourage applications. The review process must incorporate individuals with a cultural awareness of the product being registered and the consultative group should include local patrons and experts.
- » The publication of GI-applications in the GI-journal should be simultaneously accompanied by local circulation of the application to ensure fair access to information. This could be achieved by placing the application in local-language newspapers, the radio, TV and other distribution channels.

Feni-Distilling

One of the striking features of Feni is how it is woven into everyday life. Unfortunately, the research reported here does not do adequate justice to its wider context in terms of local myths, social uses, medicinal practices, cooking and more. However, what is clear from our focus on the distilling and consumption of Feni is its collective heritage and cultural norms. Throughout the supply routes of Feni are enduring relationships such as those between a bottler and his group of supplying distillers or between a patron and his preferred master distiller. Another notable feature of Feni is the social context of its distilling and consumption as evidenced by the narratives of distillers about their childhood participation in Feni-distilling (Box 13, Chapter 3) or the drinking rituals surrounding Feni.

The research also notes the deep and enduring local linkages of Feni. This is not only a feature of the very local procurement of the sole ingredient – cashew apples, but also in terms of the materials and techniques of Feni-distilling which depend on local resources and craftsmen. As with other cultural objects, Feni is in flux and is influenced by external materials and technologies, some of which have been assimilated and culturally accepted. Three pot-still types were identified in the research:

- » The traditional pot-still with the *Lavni* as the collecting pot
- » The extralocal/modern pot-still with its coil submerged in a cement water tank
- » The single-batch industrial distilling system

The diversity in Feni is also reflected in variations of certain norms, such as the adoption of mechanical crushers instead of foot-crushing cashew apples. Another notable feature of this is the evidence assembled on the *grau* of Feni where, interestingly, the most popular level – a *grau* of 21 – lies outside the GI-specifications for Feni (Figure 1, Chapter 3), thus rendering those distillers (and bottlers) outside the GI-club. Moreover, such variations around cultural norms demonstrate how consensus is made and re-made. In this respect, the cultural acceptance of double-distilled Feni from the earlier norm of triple distillation is testimony to the evolution of cultural norms.

5:3 The Geographical Indication for Feni

This analysis of the Feni-GI reveals a fascinating mix of factors (Box 16, Chapter 3). On the one hand it is observant of certain cultural norms, such as the practice of only harvesting cashew apples that have fallen to the ground. It also makes an important retrieval of history by identifying the *Lavni* as the pot-still for distilling Feni. Another feature of the specifications is that it takes note of evolving cultural norms by identifying Feni as a double-distilled liquor. On the other hand, it misses out other evolutions in practice such as the wide presence of the extralocal/modern coil-based distilling technique. Overall, the specifications are equally prescriptive and detailed whilst in other respects remaining silent and incomplete. For example, the mix for the second distillation is fixed (130 litres of *Todap* and 110 litres of fermented cashew juice) and the *grau* of Feni must be within the narrow range of 19 – 20. But there are no specifications about the geographical source of cashew apples or how they are crushed. As discussed, two other notable aspects of the specifications require further consideration: the case of coconut Feni and the post-distilling processes.

With these features of the Feni-GI in mind, the Feni Association should consider a public engagement with its two key constituencies, the distillers and patrons, to arrive at a culturally acceptable consensus on the specifications.

Localising Feni through a Geographical Indication

One of the promises of a GI concerns localised development where the GI presents opportunities to a local community to use their local resources and cultural objects for development. On this point, the research makes the following observations:

First, the absence of any geographical limits to the sourcing of cashew apples might be a tacit acceptance of a ‘public secret’ that apples are transported from across Goa’s borders. However, distillers and bottlers are well aware that there are quality differences. Given the rapid fermentation of cashew apples, it is necessary to consider introducing a specification on the geographical limits to this sourcing from beyond Goa’s borders.

Second, the area under cashew cultivation has expanded in Goa (Table 2, Chapter 4). However, the expansion of the area of cashew cultivation does not necessarily have to translate into a similar expansion of the sites of Feni-distilling. Thus, the

GI might be a useful opportunity to revisit Feni’s history and consider which talukas and areas of Goa are appropriate for Feni-distilling. It is here that public engagement with patrons might allow for a culturally acceptable consensus.

Third, the GI-specifications make a notable mention of the *Lavni*. This has wider implications because of the deep and enduring linkages the pot-still has with the local economy in terms of materials and crafts.

Fourth, some considerations on post-distilling specifications need to be introduced. While reinvigorating past practices of aging are worth considering, they present new opportunities (e.g. higher prices) and might incur new costs (e.g. storage). Equally, specifications for bottling are necessary. Both these factors have important implications for localising control and generating stronger ties with locality. A requirement for aging and bottling in Goa would have the benefit of generating demand for these ancillary processes within Goa.

The Case for Coconut Feni

Given the long history of coconut Feni-distilling, its neglect and absence in the GI is difficult to understand. There is ample documentary proof and oral tradition to establish its priority over *caju* Feni (Box 17, Chapter 3). Even with the GI for ‘Feni’ being granted to *caju*, legally speaking, prior users and honest and concurrent users would have a good defence to allow their continued use of the term. This reality prompts the following recommendation: that coconut should be incorporated into the specifications to allow dual use of Feni by both groups of distillers. The label on the bottle would differentiate for the consumer whether it was made with coconut toddy or cashew apples.

5:4 Geographical Indications and the Supply Routes of Feni

The research identified two broad supply routes: ‘short and direct’ and ‘long and bottled’. The short and direct supply route is distinguished by the central identity of the master distiller and that patrons tend to be culturally knowledgeable (Figure 3, Chapter 4). While there are a number of variations in the short and direct supply routes, they share these features. The long and bottled supply route is characterised by having many more intermediaries between the distiller and the patron, and the identity of the distiller tends to play a negligible role (Figure 4, Chapter 4). It is important to keep in mind that the difference is not in terms of the quality or price of Feni – as both routes have a spectrum of quality and price.

At this early stage of the Feni-GI it is possible only to speculate on some of the possible outcomes for the future. There is, firstly, the limited awareness amongst distillers about the GI – only 2% of those surveyed knew of it. In the short and direct supply route, one possible outcome might be a minimal expression of interest. The proximate connections between distiller and patron suggest little use for a third-party mark of authenticity and tradition. The deep and enduring practice of procuring Feni ‘on the loose’ will surely persist and find little use for a GI to certify authenticity. However, there are some in this supply route who might find the GI as a novel opportunity of widening circuits of patronage. This might occur for those distillers who have already set up their own bottling plants and/or have their own retail outlets. Both suggested a keen interest in maintaining the integrity of their identity and the quality of their Feni. Using the GI could provide this opportunity

and might lead to strategies of 'differentiation under the GI-Umbrella' (Box 23, Chapter 4).

It is in the 'long and bottled' supply route that the GI will be more widely and quickly used. As the idea of GIs catches on – a job for the Feni Association – there will be increasing adoption by bottlers, who will find it useful as a way to differentiate their 'Feni' from the non-certified 'Feni'. Depending on how some of the pending specifications are resolved, the future labels of Feni will become more detailed and descriptive. Thus, for example, if the specifications include the extralocal/modern coil system, it would become useful for the *Lavni* distiller/bottler to mark this speciality on their label. Much like the proliferation of Scotch and Mezcal types, the contemporary diversity of Feni can only be reinvigorated through the GI.

An important role of educational awareness is required of the Feni Association. Presently, the way in which Feni is presented in Goa's tourist sector is unfortunate (Box 19, Chapter 4). For the present, the tourist will be an unreliable and unlikely ambassador for a future export market. For that matter, the export market largely resides amongst Goa's diaspora. Yet, generating a cultural awareness of Feni and its drinking rituals would remedy some of the ways in which Feni is presented to the tourist. The Feni Association should take some of the responsibility in remedying the image of Feni and here they could find a strong ally in local patrons.

The future possibilities of the GI are really what one makes of the opportunities. And these opportunities can only be built on the foundation of a vibrant and rich local practice – a diversity that will allow for such opportunities to be pursued.

Appendices

Appendix 1: The Legal Protection of Geographical Indications

The Legal Means to Protect Geographical Indications

The TRIPS Agreement expresses its obligations for protection of GIs in a remarkably non-prescriptive manner: Member Countries have an obligation to provide the 'legal means' for interested parties to secure their rights in a GI. The absence of prescribing the legal means is a reflection of the multiple possibilities that exist across member countries. Three broad options for legal protection exist: laws focussing on business practices, trademark law and special means of protection.

Laws focussing on business practices: Under this category there are no provisions for the direct or positive protection of GIs. Instead, indirect protection is offered through provisions that prohibit certain business practices that involve GIs, such as misleading a consumer and unfair competition. This would include false representation of goods and services and false advertising. In common law countries, indirect protection of GIs occurs through the law of 'passing off' where imitation of a competitor's mark is likely to cause confusion and is a source of harm to consumers and the goodwill of the producers. While there are differences in these legal traditions, it can be argued that the harm is because someone is "free riding" on the reputation of others and this impacts the consumer (who is misled) and the producer (whose reputation is harmed).

Trademark law: The main purpose of trademark law is to protect distinctive signs; thus, it is generally not possible to register geographical terms as they are considered descriptive such as in 'Made in India'. The use of a geographical term in a trademark could also be deceptive if the goods were not from the identified region. As trademarks are exclusive private rights, many jurisdictions tend to retain geographical terms for the wider use of the public. However, there are a number of instances where trademarks may consist of geographical terms: such as when it is entirely fanciful (e.g. Montblanc) or when the geographical term has acquired secondary meaning linked to a particular firm (e.g. Oxford University Press). Some countries have a system of 'special' trademarks through which GIs are protected, such as collective marks, guarantee marks and certification marks.

Special means of protection: Included within this category are legal means that are dedicated to the protection of GIs, a *sui generis* system like India's GI Act. In many instances, like in India, the system is registration-based. In such systems of protection, the law seeks to set out ways in which GIs might be granted protection; thus, separating out those geographical terms that have become generic from those that merit protection. Most laws with registration-based systems have provisions for assessing applications, much like the consultative group meetings of India's GI law. The application requires detailed information about the indication seeking protection. This information would need to specify the 'indication', its particular qualities, and how those qualities are related to a demarcated geographical territory.

Despite the different legal means, from the perspective of a producer group there are shared elements. A producer group

will have to look at the legal means available in a jurisdiction to see how best to protect their GI. In this way, it is quite possible that they will access all three legal means. For example, consider the case of Darjeeling. Even before the introduction of GI laws in India it had already developed a logo in 1983 (Photograph 3, Chapter 1) and registered it in a number of overseas jurisdictions (e.g. UK, USA, Canada, Japan, Egypt and a number of European countries) Trademark and/or Certification Trade Mark. In India, Darjeeling tea was registered as a GI in October 2004 as the first domestic GI. Simultaneously, to secure these rights, it has sought to appeal to laws of business practices and 'passing off' depending on the jurisdiction in question.

The example of Basmati and RiceTec's trademarks discussed in the Report (Box 2, Chapter 1) illustrate the nature of law. Even while Basmati has not been registered as a GI, the Government of India was able to appeal against the trademarks on the grounds of 'laws of business practices'. And, in the UK, RiceTec sought not to defend the trademark which was subsequently withdrawn. Similarly, when the Scotch Whisky Association challenged the Highland Chief trademark granted to Dyer Meakin Breweries (Chapter 2), it was appealing to similar provisions in India's laws concerning consumers being misled and reputation being harmed.

Appendix 2: Applying for Geographical Indications in India

Frequently Asked Questions

Through a series of questions, the discussion below explains some of the features of India's GI law.

Who can apply for the registration of a geographical indication?

- » Any association of persons, producers, organisation or authority established by or under the law can apply;
- » The applicant must represent the interest of the producers

Who is a registered proprietor of a geographical indication?

- » With a GI-application being successfully registered, the applicant becomes the registered proprietor of the GI.

Who is an authorised user?

- » A producer of goods can apply for registration as an authorised user
- » An authorised user has the exclusive rights to the use of the geographical indication in relation to goods in respect of which it is registered and can seek legal protection when the GI is infringed

Is a registration of a geographical indication compulsory and how does it help the applicant?

- » No; registration is not compulsory, but,
- » Registration affords better legal protection to facilitate an action for infringement

- » As only the registered proprietor and authorised users can initiate infringement actions

How long does protection of a GI last and can it be renewed?

- » Protection is for an initial period of 10 years;
- » Yes; it can be renewed from time to time for further periods of 10 years.
- » If a registered geographical indication is not renewed it is liable to be removed from the register.

When is a registered Geographical Indication said to be infringed?

- » When an unauthorised user uses the GI that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the public as to the geographical origin of such goods.
- » When the GI is used in a manner that constitutes unfair competition including passing off.
- » When the GI is used in a manner that constitutes false representation to the public.

Can a registered geographical indication be assigned, transmitted, etc?

- » No; a GI is limited to the territory that is designated in the specifications.
- » A GI cannot be the subject matter of assignment, transmission, licensing, pledge, mortgage or such other agreement. Though, when an authorised user dies, the rights devolve to the successor in title.

Can a registered geographical indication or a registered authorised user be removed from the register?

- » Yes; the Appellate Board or the Registrar of Geographical Indications has the power to remove an authorised user from the register.

Can a registered geographical indication be amended or corrected?

- » Yes; the provisions for correcting and expunging a GI exist
- » Further provisions exist for altering the specifications also

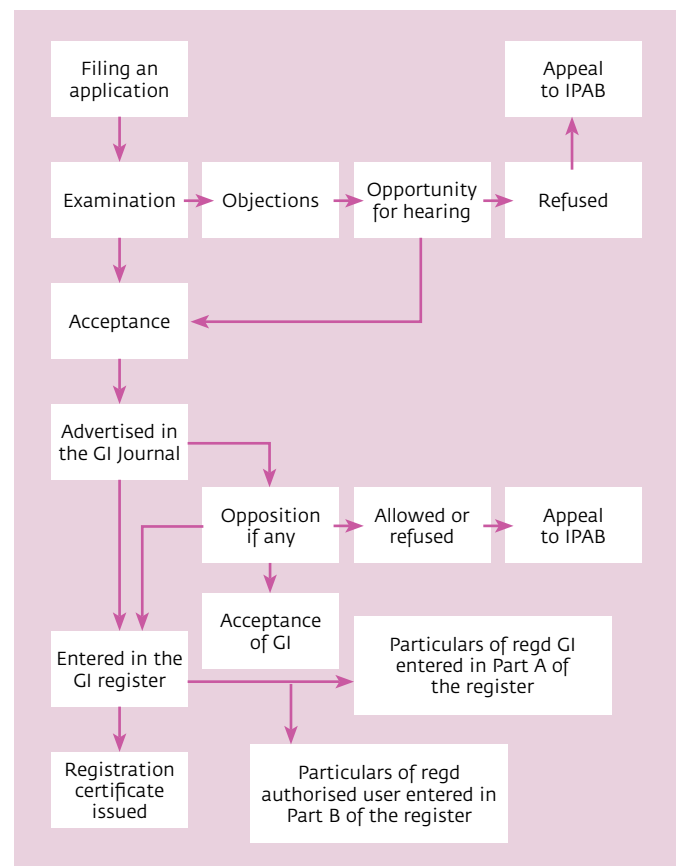
Applying for a Geographical Indication

The application should include the various requirements and criteria for processing a geographical application as specified in Rule 32(1) which details inter alia:

- » How the indication serves to designate the goods as a Geographical Indication;
- » The Class of goods;
- » The territory;
- » The particulars of appearance;

- » Particulars of producers;
- » An affidavit of how the applicant claims to represent the interest;
- » The standard benchmark or other characteristics of the geographical indication;
- » The particulars of special characteristics;
- » Textual description of the proposed boundary;
- » The growth attributes in relation to the GI pertinent to the application;
- » Certified copies of the map of the territory
- » Special human skill involved, if any;
- » Number of producers; and
- » Particulars of inspection structures, if any, to regulate the use of the geographical indication.

The following flow-chart gives a pictorial representation of the process.



On receipt of the application, a number will be allotted. Thereafter, the application would be examined to check whether it meets the requirements of the Act and Rules. For this purpose the Registrar shall ordinarily constitute a

Consultative Group of experts to ascertain the correctness of the particulars furnished. After issuance of the Examination Report submission would be considered. If no objections are raised it would be accepted and would be advertised in the Geographical Indications Journal. An opposition can be lodged within a maximum four-month period. If the opposition is dismissed, the application will proceed to registration in Part A of the Register unless the Central Government otherwise directs.

After a geographical indication is registered any person claiming to be the producer of the registered geographical indication can file an application for registration as an authorised user in Part B of the Register. The procedure for registration as an authorised user is similar to that for the registration of a geographical indication.

Applications are to be lodged at the following address:
Geographical Indications Registry
Intellectual Property Office Building
Industrial Estate, G.S.T Road
Guindy, Chennai – 600 032
Ph: 044 – 22502091-93 & 98
Fax: 044 – 22502090
E-mail: gir-ipo@nic.in
Website: www.ipindia.gov.in

Appendix 3: Guide to Further Reading

The Report has been intentionally written with few references to the literature. However, as Chapter 2 indicates, there is a theoretical approach to the study of GIs that is being advocated. Further, the examples used to illustrate points and the historical context of other distillates, are all derived from detailed research. The appendix assembles some of the references as a guide to further reading.

Theory of Clubs

One of the approaches to study GIs adopted here is the idea of clubs. This emerges from the political science and public finance literature where in the 1960s it was concerned with analysing and explaining the market provision of goods that shared features of public goods and private goods.

Berglas, E. (1976). “On the Theory of Clubs.” *The American Economic Review* 66(2): 116-121.

Buchanan, J. M. (1965). “An Economic Theory of Clubs.” *Economica* 32(125): 1-14.

Cornes, R. and T. Sandler (1996). *The Theory of Externalities, Public Goods, And Club Goods*. Cambridge, Cambridge University Press.

Samuelson, P. A. (1954). “The pure theory of public expenditure.” *Review of Economics and Statistics*: 387-389.

Sandler, T. and J. Tschirhart (1997). “Club theory: Thirty years later.” *Public Choice* 93(3-4): 335-355.

Sterbenz, F. P. and T. Sandler (1992). “Sharing among clubs: A club of clubs theory.” *Oxford Economic Papers* 44(1): 1-19.

The idea of clubs has since been developed and used to examine the formation of collective organisations, social networks and multilateral institutions. Useful explorations include the following:

Congleton, R. D. (2004). “Mutual advantages of coercion and exit within private clubs and treaty organizations: Towards a logic of voluntary association.” *Rivista di Politica Economica* 94(7-8): 49-78.

Lawrence, R. Z. (2006). “Rulemaking amidst growing diversity: A club-of-clubs approach to WTO reform and new issue selection.” *Journal of International Economic Law* 9(4): 823-835.

Prakash, A. and M. Potoski (2007). “Collective action through voluntary environmental programs: A club theory perspective.” *Policy Studies Journal* 35(4): 773-792.

Costello, M. J. (1996). “Impure public goods, relative gains, and international cooperation.” *Policy Studies Journal* 24(4): 578-594.

Contributions that critically engage with the idea of clubs and suggest other perspectives focussing on social norms for cooperation can be found in the following works:

Ostrom, E. (1990). *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge, Cambridge University Press.

Ostrom, E. (2003). “How types of goods and property rights jointly affect collective action.” *Journal of Theoretical Politics* 15(3): 239-270.

Geographical Indications as Localised Specialisation

Responding to the long history and cultural norms associated with GI-products, the study borrows from a mixed literature of cultural studies, anthropology and sociology to build an idea of ‘localised specialisation’. Some of these contributions include the following:

Appadurai, A. (1981). “The past as a scarce resource.” *Man* 16(2): 201-219.

Appadurai, A., Ed. (1986). *The Social Life of Things: Commodities in Cultural Perspective*. Cambridge, Cambridge University Press.

Berard, L. and P. Marchenay (2006). “Local products and geographical indications: taking account of local knowledge and biodiversity.” *International Social Science Journal* 58(1)

Callon, M., C. Méadel, V. Rabeharisoa (2002). “The economy of qualities.” *Economy and Society* 31(2): 194-217.

Goodman, D., B. Sorj, J. Wilkinson (1987). *From Farming to Biotechnology*. Oxford, UK, Blackwell Publishers.

Moran, W. (1993). “Rural Space as Intellectual Property.” *Political Geography* 12(3): 263-277.

Spooner, B. (1986). Weavers and dealers: the authenticity of an oriental carpet, in *The Social Life of Things: Commodities in Cultural Perspective*, A. Appadurai (ed.). Cambridge, Cambridge University Press: 195-235.

van der Ploeg, J. D. (1992). The reconstitution of locality: Technology and labour in modern agriculture, in *Labour and Locality: Uneven Development and the Rural Labour Process*. T. K. Marsden, P. Lowe and S. Whatmore, D. Fulton Publrs.: 19-42.

Geographical Indications, Consumption and Development

In Chapter 2 an attempt is made at placing the growing interest and promotion of GIs within a broader framework. Here two interrelated literatures have proved to be informative: one concerning social movements of consumption and the other emerging from critical theories of development.

Castree, N. (2004). "Differential geographies: place, indigenous rights and 'local' resources." *Political Geography* 23(2): 133-167.

DuPuis, E. M. and D. Goodman (2005). "Should we go "home" to eat? Toward a reflexive politics of localism." *Journal of Rural Studies* 21(3): 359-371.

Escobar, A. (1995). *Encountering Development: The Making and Unmaking of the Third World*. Princeton, Princeton University Press.

Escobar, A. (2001). "Culture sits in places: reflections on globalism and subaltern strategies of localization." *Political Geography* 20(2): 139-174.

Goodman, D. and M. J. Watts, Eds. (1997). *Globalising food: agrarian questions and global restructuring*. London, Routledge.

Harvey, D. (1996). *Justice, Nature and the Geography of Difference*. Oxford, Blackwell.

Jenkins, T. N. (2000). "Putting postmodernity into practice: endogenous development and the role of traditional cultures in the rural development of marginal regions." *Ecological Economics* 34(3): 301-314.

Lee, R. and T. Marsden (2009). "The globalization and re-localization of material flows: Four phases of food regulation." *Journal of Law and Society* 36(1): 129-144.

Prazniak, R. & A. Dirlik (2001). *Places and Politics in an Age of Globalization*. Oxford and New York: Rowman and Littlefield.

Ray, C. (1999). "Endogenous development in the era of reflexive modernity." *Journal of Rural Studies* 15(3): 257-267.

Raynolds, L.T., D.L. Murray & J. Wilkinson (2007). *Fair Trade: The Challenges of Transforming Globalization*. London, Routledge.

van der Ploeg, J. D., H. Renting, et al. (2000). "Rural development: From practices and policies towards theory." *Sociologia Ruralis* 40(4): 391-411.

Geographical Indications

Even while GIs have only recently been formalised as an intellectual property right, the legal literature has flourished rapidly. Some useful monographs on the law of geographical indications are:

Echols, M.A. (2008). *Geographical Indications for Food Products: International Legal and Regulatory Perspectives*. Kluwer Law International.

O'Connor, B. (2004). *The Law of Geographical Indications*. Cameron May.

A survey of the 'legal means' to protect GIs is available in documentation prepared by the World Trade Organisation's TRIPS Secretariat based on responses of Member Countries to a checklist of questions on the implementation of their obligations in the following document:

WTO (2001). Review under article 24.2 of the application of the provisions of the section of the TRIPS agreement on geographical indications: Summary of the responses to the checklist of questions (IP/C/13 and add.1). Note by the Secretariat. IP/C/W/253 (subsequently revised, IP/C/W/253/Rev.1).

For a comprehensive discussion of India's GI legislation that is also placed in a broader context of case law in India and elsewhere, see:

Nair, L.R. and Kumar R. (2005). *Geographical Indications: A Search for Identity*. New Delhi. LexisNexis Butterworths.

Discussions of the provisions for GIs in the TRIPS Agreement are available in the following:

Escudero, S., 2001: International protection of geographical indications and developing countries. TRADE working papers no. 10, South Centre, Geneva. Available at: <http://www.southcentre.org>

Evans, G.E. & M. Blakeney (2006) "The protection of geographical indications after Doha: Quo Vadis?" *Journal of International Economic Law*, 9(3), 575-614

Rangnekar, D. 2003. *Geographical Indications: A Review of Proposals at the TRIPs Council: Extending Article 23 to Products other than Wines and Spirits*. UNCTAD-ICTSD Capacity Building Project on IPRs and Sustainable Development: Issue Paper No. 4, <http://ictsd.net/i/publications/11767/?view=document>

UNCTAD/ICTSD, 2005: *Resource Books on TRIPS and Development: Part Two - Substantive Obligations; 2.3 Geographical Indications*. Cambridge, Cambridge University Press. Available at <http://www.iprsonline.org/unctadictsd/ResourceBookIndex.htm>

Work on the socio-economics of GIs has flourished with the growing interest in GIs and can be found in scholarship that focuses largely on case studies, such as the European Commission funded project, 'Strengthening International Research on Geographical Indications' at <http://www.origin->

food.org/2005/base.php?cat=20. The following publications cover the subject:

Giovannucci, D. & Collaborators (2009). *GIs – A Guide for Best Practice*. International Trade Centre.

Rangnekar, D. (2004). The socio-economics of geographical indications: A review of evidence from Europe. UNCTAD-ICTSD Capacity Building Project on IPRs and Sustainable Development: Issue Paper No. 8. Available at <http://ictsd.net/i/publications/12218/>.

Riccheri M., B. Görlach, S. Schlegel, H. Keefe and A. Leipprand. (2006). *Assessing the Applicability of Geographical Indications as a Means to Improve Environmental Quality in Affected Ecosystems and the Competitiveness of Agricultural Products*. With the collaboration of Graham Dutfield and Dwijen Rangnekar. Final Report, Chatham House, UK. Available at http://www.underutilized-species.org/Documents/PUBLICATIONS/wp3_final_report.pdf

Soam, S.K. & R. Kalpana Sastry (2008). Socio-economic implications of GI registration for agricultural and non-agricultural commodities/ products in India. Studies commissioned by UNCTAD, India. National Academy of Agricultural Research Management, Rajendranagar, Hyderabad.

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At various parts of the study there have been references to drinking and distilling in India. This is based on a reading of the following:

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Champagne

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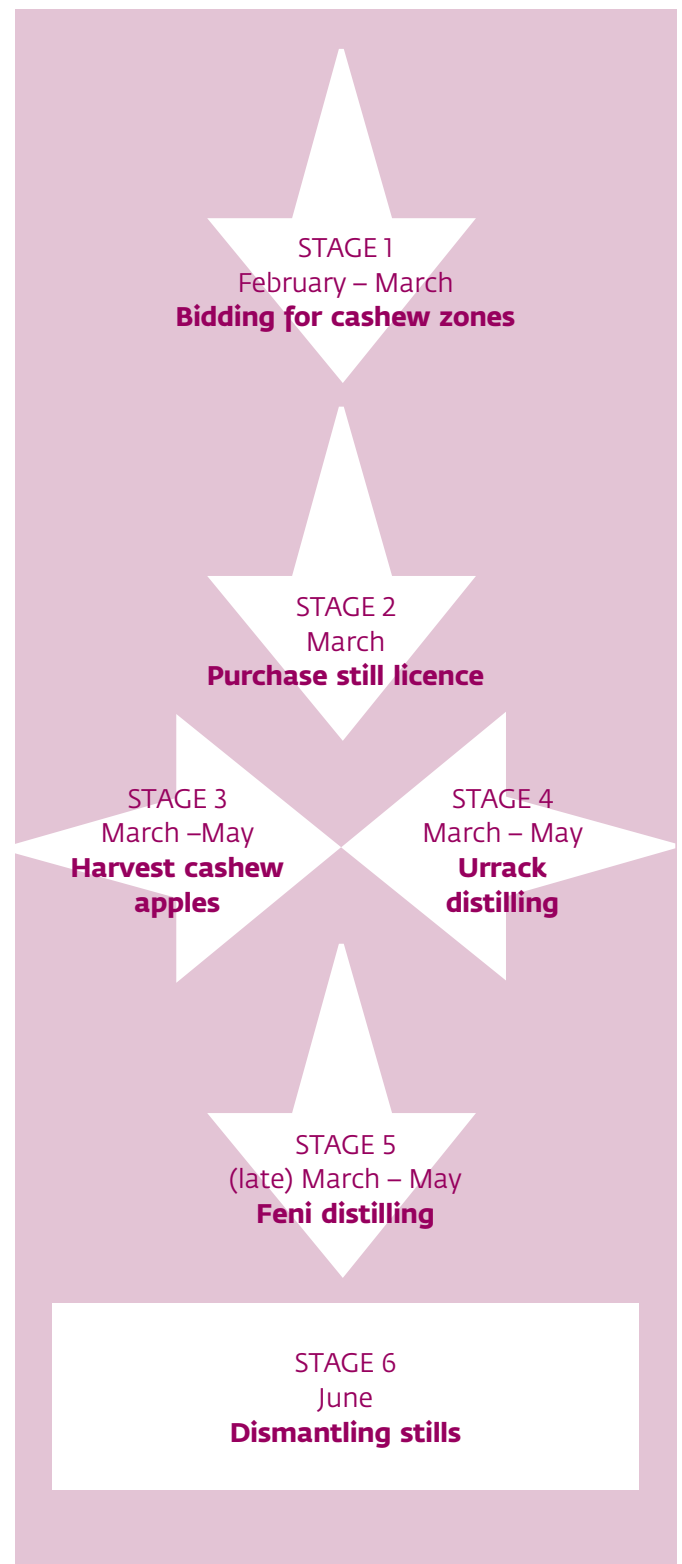
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Appendix 4: The Feni Calendar



Appendix 5: Project Meetings and Interview List

Focus Group Meeting: 30th April 2007

The first focus group meeting was held at the International Centre, Goa and primarily aimed to bring together a group of distillers to discuss the research questions of the project and solicit views on the GI that was already being drafted by the *Department for Science and Technology* and the *Feni Association*. The following distillers attended the meeting:

Santosh Mapari (Bardez), Amol T. Gaonker (Bicholim), Pratap Govekar (Bicholim), Tukaram Naik (Bicholim), Dinesh K. Naik (Canacona), Bhoja Naik (Mormugao), Rajninath Shirodkar (Ponda), Yashwant Tendulkar (Sanguem), Janu Kuttikar (Tiswadi), Santaram Gawas (Tiswadi), Sridhar B. Parvatker (Tiswadi), Tulsidas Naik (Mormugao).

Stakeholder Meeting: 5th April 2008

With the GI Application already under examination at the GI Registry, the day-long stakeholder's meeting provided a moment for a wide-ranging discussion of the specifications and implications of the proposed GI. Presentations from members of the Research Advisory Group covered GI law, experience of distillates like Mezcal and Tequila, and overview of case studies from the UNCTAD/India project; thus, providing useful background material. Others invited to make presentation also included GI laws of India. Findings from the Baseline Survey were also presented. A roundtable session gave ample opportunity for an exchange of views. Attendees included the following:

Distillers: Pratap Govekar (Bicholim), Shridar Parvatkar (Tiswadi), Sonu D. Sawant (Bicholim), Girish Dharadekar (Bardez), Janu Kuttikar (Tiswadi), Dinesh K. Desai (Canacona), Herculan Gama (Mormugao), Digambar Naik (Tiswadi), Marathe (Sattari), Bhoja Naik (Mormugao), Santosh Mapari (Bardez), Gurudatta Bhakta (Mhapsa), Amol T. Gaonkar (Bicholim), Yeshwant Tendulkar (Sanguem), Agnelo Da Costa Barreto (Salcete).

Retailers and Wholesalers: Jackson Lobo (Salcete), Joaquim Rodrigues (Mormugao), Camilo Coutinho (Mormugao), Roque I Gomes (Salcete).

Bottlers: Anthony Fernandes (Salcete), Ramesh R. Nerurkar (Salcete), John Mascarenhas (Salcete), 'Representative' Madame Rosa Distillery.

Goa Government & Other Institutions: Michael D'Souza (Department of Science & Technology), Mohan Girap (Department of Science & Technology), AR Desai (Indian Council of Agriculture Research), Parab (Excise Commission), PK Pinto (Goa Chamber of Commerce & Industry).

Project Team & Others: Pranab Mukhopadhyay, S. Maurya, S. Mourya, TC James, SK Soam, Fr. R. D'Souza, David Vivas, Jorge Larson, Octavio Espinosa, Latha Nair, Dwijen Rangnekar.

Focus Group Meeting: 8th April 2008

The second focus group meeting took place soon after the stakeholder meeting. As the latter raised a series of questions about the GI-specifications and the opportunities to localise cultural and economic control, the focus group meeting presented an opportunity for a closer conversation on specific issues, such as the future labels of Feni. The following participated in the meeting:

Distillers: Santosh Mapari (Bardez), Amol T. Gaonkar (Bicholim), Dinesh K. Desai (Canacona), Bhoja Naik (Mormugao), Gurudatta Bhakta (Mhapsa), Rajninath Shirodkar (Ponda), Yeshwant Tendulkar (Sanguem), Sandesh Sawant (Bicholim), Sudhin Sadashiv Marathe (Sattari), Gurudatta Bhakta (Mhapsa)

Bottlers: Mac Vaz (Mhapsa), Anthony D'Souza (Chandor), John Mascarenhas (Salcete), Ramesh Nerurkar (Salcete).

Individual Interviews

Fieldwork took place over two periods: April – June 2007 and April – May 2008. The interviews were largely one-on-one and were semi-structured. For the most part, the interviews took place in Konkani with the help of a translator (Ashwin Tombat) and occasionally in Marathi and English. The following were interviewed during the fieldwork:

Distillers: Pratap Govekar (Bicholim), Amol T. Gaonkar (Bicholim), Angelo Barretto (Salcete), Gurudatta Bhakta (Mhapsa), Bhoja Naik (Mormugao), Precios Soares (Salcete), Dayanand Naik (Quepem), Dinesh Desai (Canacona), Janu Kuttikar (Tiswadi), Paul D'Sa (Salcete), Pratap Govekar (Bicholim), Rajninath Shirodkar (Ponda), Rohidas Ghadi (Bicholim), Sadashiv Marathe (Sattari), Sonu Sawant (Bicholim), Sridhar Parvatkar (Tiswadi), Tukaram Naik (Bicholim), Umesh Sawant (Bardez)

Bottlers, Wholesalers & Retailers: Jackson Lobo (Salcete), Regan Hendriques (Salcete), Mac Vaz (Mhapsa), Anthony Fernandes (Salcete), Ramesh Nerurkar (Salcete), Ernesto Alvares (Panaji), Luis (Panaji),

Government officials and other individuals: AR Desai (Indian Council for Agricultural Research), Maria de Lourde Bravo da Costa Rodrigues (Goa Central Library), PK Pinto (Goa Chamber of Commerce & Industry), Michael D'Souza (Department of Science and Technology), Mohan Girap (Department of Science and Technology), Carlos Fernandes (Goa Central Library), M. Modassir (Department of Tourism), Parab (Excise Commission), Cyril de Cunha (Journalist), Mario Cabral, Percival Noronha (former government official).

Appendix 6: Glossary of Konkani Terms

- Bhann:** Large globular pot in which the ingredients for distilling are placed
- Bhatti:** Distillery also refers to the base structure of mud and bricks on which the Bhann rests and from where it is heated.
- Cazulo:** Glow-worm (firefly); though also used to refer to the second distillate from cashew apples
- Chumal:** Pulp of crushed cashew apples
- Fenn/Fennō:** Flake, foam, froth; to froth and to foam
- Grau/Grāu:** Degree (e.g. of relationship); with reference to Feni it is a density measure (hydrometer) conveying the alcoholic strength of the liquor
- Kāiso/Kolso:** Big pot made of mud or metal that has a capacity of 14 seer (a seer is mass and volume measure)
- Kanto:** Wooden stick with a metallic nail at one end; used to harvest cashew apples that have fallen to the ground
- Kolmbi:** Shallow pit where cashew apples are crushed by feet
- Lavni:** The term is used to refer to distillation and also refers to a particular pot-still technique used for distilling
- Madd/Mād:** Coconut tree/palm; also used to refer to the liquor that is distilled from the toddy of coconut palm
- Morem:** The wooden plug that seals the Bhann
- Nalli:** Conductive pipe that leads from the Bhann and into the Lavni; made from natural materials
- Niro:** The juice extracted from crushed cashew apples; also used variously for water and juice,
- Nudi:** A rope made of local vine that is used to bind together the Chumal for extraction of Niro
- Pantlom:** Basket used to collect cashew apples during the harvesting; now tend to be replaced by plastic buckets
- Pinjre:** Cage; used in Feni distillation for assembling the Chumal and extracting Niro with the use of truck jacks as dead-weight. Variously made of iron and natural materials also
- Soro/Soreā:** Variously used to refer to wine and country liquor or arrack
- Taverna/Tavārne:** Derived from the Portuguese, refers to liquor shop; toddy shop and in earlier excise terms was where 'country liquor' was available
- Urāk/Urrack:** First distillate of cashew apple, which one dictionary refers to as "a kind of mean liquor"

Source:

Francisco, A. C. J. (1916) *A Dictionary of Concanim into English*

Janardhan, P. B. (1999) *A Practical Konkani-English Encyclopaedic Dictionary*

Maffei, A. F. X. (1883) *An English-Konkani Dictionary / A Konkani-English Dictionary*

Pinto, J. M. (1923) *An English-Concanim Pronouncing Pocket Dictionary*

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

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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.

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