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Establishing Geographical Indications without State Involvement? Learning from Case Studies in Central and West Africa

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Summary. — This paper addresses the debate on establishing GIs in weak national institutional contexts. It builds on evidence provided by six case studies in a project implemented by the African Intellectual Property Organization (French acronym OAPI) in Western and Central Africa: Oku white honey, Penja pepper, Ziama-Macenta coffee, Dogon shallots, Galmi purple onions, and Korhogo cloth. Thanks to OAPI's unique status and an appropriate methodology, three GIs have been registered. We notice a lack of sound and effective state involvement which can limit the successful development of GIs. We identify some decisive factors in successful collective action.

Key words — geographical indications, OAPI, Africa, Cameroon, Guinea, food quality

1. INTRODUCTION

Geographical Indications (GIs) are of growing political and economic relevance in the Global South. GIs are viewed as a way to reap market benefits from cultural identities, which are of increasing importance in a globalizing world (Ilbert & Petit, 2009), and are said to have a significant potential impact on development (Bramley, Marie-Vivien, & Bienabe, 2013).

For instance, the European Union has registered more than 14 GIs from emerging third countries (China, Colombia, India, Vietnam) and has received applications for nine more (India, Morocco, Thailand, Turkey) (European Union, 2014), whereas India alone has registered more than 200 GIs since 2003. However, nearly 10 years ago, Kerr (2006) wrote that the GI approach ûmay lead developing countries wasting their limited resources chasing an illusive dreamý (p. 8).

Scholars and experts from the Food and Agriculture Organization of the United Nations (FAO) argue that origin-linked food quality schemes are an appropriate rural development tool outside of Europe and a way to minimize the risks linked to globalization (Barham, 2003; Bowen, 2009, 2010; Bowen and Zapata (2009); Vandecandelaere, Arfini, Belletti, & Marescotti, 2009). Effective GIs could open a profitable market niche for southern producers on both domestic and more profitable international markets. GIs also offer a way to protect indigenous knowledge (Blakeney, 2009; Rangnekar, 2004), although they may also be a threat to local skills and genetic resources (Boisvert, 2006). In Africa and predominantly rural economies elsewhere, the development of GIs takes on strategic importance as a mechanism that enables agricultural development to be both environmentally sustainable and based on codified traditional knowledge.

In the wake of TRIPS (Trade-Related Aspects of Intellectual Property Rights agreement), specific legal frameworks have been progressively established by a large number of developing countries at both national and regional levels (Audier, 2008; Giovannucci, Josling, Kerr, O'Connor & Yeung, 2009; Marie-Vivien, 2010, 2012; Xiaobing & Kireeva, 2007). African countries are no exception. In West and Central Africa, the *Organisation Africaine de la Propriété Intellectuelle* (African Intellectual Property Organization [French acronym OAPI])[1] has provided its 17 member states with a common legal framework for intellectual property (IP) rights since 1977. New regulations for the definition of GIs were adopted in 1999 (OAPI, 1999).

GIs in West and Central Africa are something of a paradox. Although consumers and producers make extensive use of place names to describe a wide range of products reflecting biodiversity, local production, knowledge, or social identities, and GIs have been instituted by the OAPI as a legal protection tool, no GI (except Champagne) was registered in this region before 2013 (Bramley *et al.*, 2013; Oguamanam & Dagne, 2014). What is more, at the time of writing, no national-level implementation plans are in place.

The scientific literature addressing the development of GIs in Africa, albeit still scant, echoes our concern about state involvement. Some authors assess the opportunities and risks represented by GIs in Africa; they focus on food commodities such as Ethiopian coffee (Schüßler, 2009; Sereke-Brhan, 2010) or Ghanaian cocoa (Hughes, 2009; Oguamanam & Dagne, 2014), and consider GIs as a way to decommodify these products and thus hedge against market price fluctuations. The main aim of this literature is to evaluate the costs/benefits of the *sui generis* GI system compared to trademark schemes, or to assess the benefit of enhanced multilateral GI protection for African ACP countries (Blakeney, Coulet, Getachew, & Mahop, 2012). Some authors focus on origin foods and point to GI as a way to valorize them with benefits for local actors (Chouvin, 2005; Cormier-Salem, Juhé-Beaulaton, Boutrais, & Roussel, 2005; Cormier-Salem & Roussel, 2009; Roussel & Verdeaux, 2007; Tekelioglu, Ilbert, & Tozanli, 2009), but provide scant documentation of actual experience. To date, little

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literature has focused on the particular challenges of setting up GIs in countries where government regulatory capacity is weak, and none on setting up GIs in sub-Saharan countries. Further research is thus clearly needed into the role of the state in establishing GIs.

This paper aims to contribute to the debate on establishing GIs in Western and Central Africa. It builds on the evidence provided by six case studies conducted in the framework of the PAMPIG project (*Projet d'Appui à la Mise en Place d'Indications Géographiques* Support for the Implementation of Geographical Indications). The French Development Agency (French acronym AFD) has been funding PAMPIG, for which OAPI is the contracting authority, since 2008, and CIRAD[2] has been providing technical assistance since 2010 (Edou-Edou, 2009). The project methodology is detailed below. Three of the products concerned by the project have been registered as a GI (Oku white honey, Penja pepper, and Ziama-Macenta coffee), while the other three (Dogon shallots, Galmi purple onions, and Korhogo cloth) were evaluated but registration was postponed. As the first three GIs were registered very recently, their effects are not yet fully clear.

Our aim here is to build on the experience gained in these projects for the benefit of future GIs and to assess the role of the state in this process (in this paper we use "state" as national domestic state). We argue that establishing GIs without effective state involvement is possible and can produce at least some initial positive effects, as long as a clearly defined methodology is followed. However, the lack of a strong and appropriate legal framework and state involvement can be a limiting factor for the successful further development of GIs.

2. ANALYTICAL FRAMEWORK

(a) *Local and origin products in Africa: a vibrant landscape*

Attributing the name of a place to a food or craft that presents specific features is and has been a common practice in many places and historical periods (Sautier, Bienabe, & Cerdan, 2011). In Western and Central Africa, the names of many local products refer to their cultural and/or geographical origin, and are often used all over the country of origin and sometimes in several other countries as well (e.g., *Sissili* shea butter from Burkina Faso and *kilishi,* a dried meat product of Niger, Nigeria, and Cameroon). Like in the EU, the name of localities associated with local products may refer either to the place of origin of the raw material or to the cultural origin of manufacture (i.e., who does the processing and where) or both (Moity-Maïzi & Sautier, 2006). Although very few inventories exist, while assessing GI potential in the African, Caribbean, and Pacific Group of States, Barjolle, Renard, and Bernardoni (2013) found written documentation on 150 agricultural products whose quality was said to be linked to their origin. In 2011–12 a FAO/PISA project (*Programme italien pour la sécurité alimentaire* Italian food security program) conducted a thorough inventory in the small Guinean region of Kindia and identified 13 local products with a strong link to quality and/or place (Rupp, s.d.). If so many products were identified in such a small area, the number of origin-based products in Western and Central Africa is likely to be higher than reported in the literature so far.

The existence of local specialty foods and the challenge of achieving their formal recognition apply to both domestic and regional markets. People's taste for local foods persists when they move to town from rural areas. It is influenced by availability and price, but also by people's cultural and professional identification with products linked to specific territories, one example being the Malian preference for shallots over onions. These expectations can be compared to the "new quest for identity" in urban areas identified in European countries (Amilien, 2005). In Africa, this quest for identity may reflect the feeling of a break between rural and urban areas, making some consumers want to (re)discover their roots and traditions through their food practices (Bricas, 2006; Carré, 2008).

However, local reputations can be misused or appropriated, when populations, knowhow, and products change location, and today both producers and consumers may be losing the guarantee that interpersonal relations previously provided for local products (Cheyns, 2006). In West Africa, the situation is exacerbated as rural-to-urban migrant families are gradually further removed from their village or region (Moity-Maïzi, 2006). In Africa's big cities, these dynamics underlie the increasing search for guarantees of origin via distinctive markets and networks—and for other signs based on alternative quality conventions—that guarantee the genuine origin of products, as evidenced by the case of Penja pepper.

(b) *The role of the state in establishing GIs*

Much of the literature on GIs assesses the factors that determine their success, concentrating on economic issues on local *versus* global markets (Arfini, Belletti, & Marescotti, 2010; Barham, 2003; Benkahla, Boutonnet, & Fort, 2005). As suggested by Bowen (2010), even the literature that considers GIs as alternative food networks, and emphasizes how these unconventional markets are embedded in social relations, often fails to clarify the power dynamics underpinning the localization of food chains. Sonnino and Marsden (2006) warned that understanding alternative food networks requires paying careful attention to the institutional context as well as to the power relations along the value chain. Bowen (2010) recommends that the commodity chain approach, applied to GIs, should be used for any analysis of the national and global institutional and political context, as well as of agricultural policies. Comparing French and Mexican GI policies, Bowen considers that to ensure that local populations share the long-term benefits "the importance of strong national support for GIs should not be underestimated" (p. 233).

In Europe, GIs benefit from a strong institutional framework. In France, the failure of first the administrative decision, and then of the judicial ruling at the beginning of the 20th century led to the setting up of a dedicated body comprising both representatives of public authorities and professionals (National Institute of Appellations of Origin, French acronym INAO) (Marie-Vivien, Bérard, Boutonnet, & Casabianca, 2015). However this original private/public "sharing" of the role is now undergoing profound changes as reported by Marie-Vivien *et al.* (2015), in which the driving forces are the privatization of controls and increased roles for the European Union and the Ministry of Agriculture. The concept of a "state-oriented" European GI model is thus no longer entirely justified.

In Latin America, the experience of Café de Colombia, one of the largest GIs in the world (and the first third country GI registered by EU) "is a producer-led effort without direct influence of international roasters, donors, or government authorities" (Xiomara, Quiñones-Ruiz, Penker, Vogl, & Samper-Gartner, 2015, p. 434). The federated coffee system dates back nearly 100 years, but Café de Colombia was only