

GEOGRAPHICAL INDICATIONS AND ITS MESO-INSTITUTIONS: the role of the code of practice in translating, monitoring, and implementing rights¹

Abstract

Geographical Indications (GI) are likely to add value to farmers' products and foster regional development. However, if the GI rules are not well designed, all these benefits are threatened. This paper aims to describe how the code of practice (CoP) of the Alta Mogiana coffee GI, a Brazilian GI, performs the function of translating, monitoring, and implementing rights. To reach this goal, documents related to the GI were analyzed and people that helped drawing draw the rules were interviewed. Also, five coffee farmers were interviewed. The results show that the original CoP excluded farmers who were able to produce higher quality coffee, which led to the design of a new CoP. Therefore, depending on the way that rules are set, they can fail in translating, monitoring, and implementing rights.

Keywords: coffee, Alta Mogiana, farmers.

1. Introduction

According to the World Trade Organization (2021), Geographical Indications (IG) are used to indicate that a good has its origin in a certain territory, region, or locality of that territory and that its characteristics, like quality and reputation, are attributed to its place of origin. The GI is internationally governed by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), which states that all its members should establish legal means to protect the interested parties from being misled by false representations of origin, and it also offers protection against unfair competition (WTO, 2021). In Brazil, the Law n° 9,279 of May of 1996 is responsible for regulating the GI (BRAZIL, 1997).

A GI can bring together different agents of a territory and foster collective action (BELLETTI; CHABROL; SPINSANTI, 2016) and add value to the farmers' production by identifying the product as a higher quality one (MCMORRAN *et al.*, 2015, DENTONI; MENOZZI, GIACINTA, 2012, LAMARQUE & LAMBIN, 2015, Rahmah, 2017, Egelyng *et al.*, 2016), what can lead to higher prices. Also, GI is seen as a way to help in the development of the region (NEILSON; WRIGHT; AKLIMAWATI, 2018).

To have access to the GI and its benefits, a producer must attend to all the rules established in the code of practice (CoP). These rules describe how to produce the product of the GI, as well as its characteristics and control mechanisms (BRAZIL, 2019). Furthermore, these rules determine what are the conditions in which the use of the GI is forbidden (INPI, 2018).

Therefore, the rules of the CoP are responsible for allocating the rights of use of the GI. For that reason, we can understand the code of practice as a meso-institution. According to Ménard (2018), meso-institutions are responsible for translating, adapting, and allocating rights. They are an intermediate level between the macro and micro-institutions, and they translate the general rules, which are at the macro-institutional level, into specific ones, and also define mechanisms that determine their implementation (MÉNARD, 2017).

In Brazil, there are 88 national GI registered and, among them, there are twelve coffee regions: Cerrado Mineiro, Norte Pioneiro do Paraná, Alta Mogiana, Região de Pinhal, Oeste da Bahia, Campo das Vertentes, Matas de Minas, Espírito Santo, Mantiqueira de Minas, Caparaó, Montanhas do Espírito Santo and Matas de Rondônia (INPI, 2021a, 2021b). Coffee is an important product to the Brazilian economy, since the country is the largest producer of this commodity (ICO, 2021). Also, there has been increasing demand for specialty coffee,

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which makes the GI an important strategy for coffee producers. According to Giesbrecht and de Minas (2019), the GI can attend to this new demand because they guarantee not only the origin of a product but also its special characteristics and its production process.

This paper focuses on the CoP of the Alta Mogiana GI. We aim to describe how the CoP of Alta Mogiana translates, adapts, and allocates the rights. This analysis is relevant because when meso-institutions fail due to failure in design, the macro-institutions fail too since the general rules are not translated in an efficient way (VINHOLIS *et al.*, 2021). Therefore, if the CoP is not well designed, all the benefits that a GI can offer are threatened. Bowen (2012) and Galtier, Belletti, and Marescotti (2013), for example, have shown cases where the CoP does not represent the interests of some producers, mostly the small ones.

2. Research problem and objectives

Considering the importance of the CoP to the right of using the GI, this paper has the following research question: how the CoP of the Alta Mogiana GI performs the function of translating, monitoring, and implementing rights? Therefore, this paper aims to describe how the CoP of the Alta Mogiana GI performs the function of translating, monitoring, and implementing rights.

3. Theoretical approach

3.1. Geographical Indications

GI has evolved together with the history of humanity. Initially, these geographical names were used to identify the property of a certain product. The notion of GI started to evolve when producers, consumers, and also merchants realized that some products that were originated in a certain region presented special characteristics. To differentiate these products from others, people started to name these products according to the name of their region of origin (BARBOSA, 2013).

According to the Law nº 9,279 (1996), there are two types of GI in Brazil: Indication of Provenance (IP) and Denomination of Origin (DO). According to this Law, IP and DO are defined as follows:

Art. 177. An indication of provenance is the geographical name of a country, city, region, or locality in its territory, which has become known as the center of extraction, production, or manufacture of a given product or provision of a given service.

Art. 178. Denomination of origin is the geographical name of a country, city, region, or locality in its territory, which designates a product or service whose qualities or characteristics are due exclusively or essentially to the geographical environment, including natural and human factors (BRAZIL, 1996).

Besides Law nº 9,279 and TRIPs, all international agreements from which Brazil is part of and that are related to Intellectual Property Rights must be observed, because they can have a direct impact on the way that GI functions (INPI, 2021c). Also, it is worth mentioning the Normative Instruction nº 95, of December of 2018 of the National Institute of Industrial Property (INPI), which establishes the rules of the process of registering a GI. It also describes all the elements that must be present in the CoP (INPI, 2018).

Among these elements are the description of the product or service, the delimitation of the geographical region that the GI is protecting, the description of the production process and of the control mechanisms, the conditions for using the GI, and the applicable sanctions in case of disobedience of the rules (INPI, 2018). Also, a regulatory council must be established to ensure that all the rules of the CoP will be followed (MAPA, 2010).

According to Locatelli and Carls (2015), the CoP is meant to formalize the production patterns that were already used before the registration of the GI. It is worth noting,

however, that encompassing all the different productions practices adopted in the region is a challenge because there are different actors with distinct interests and characteristics, which involve distinct productive capacities (LOCATELLI; CARLS, 2015).

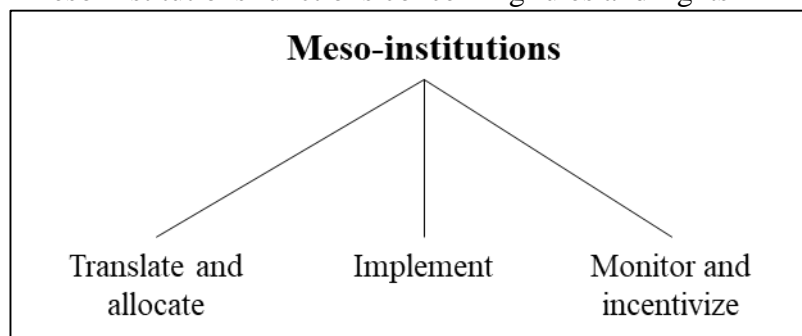
The Normative Instruction n° 95 also states that it is possible to alter a GI after its registry. Among the factors that can be changed are the type of GI (from IP to DO) and the delimitation of the geographical area. However, it is important to highlight that the special characteristics of the region that justified the original registry of the GI cannot be altered (INPI, 2018). Therefore, the special qualities of the region that are the base of the GI cannot be changed.

3.2. Meso-institutions

This paper uses the New Institutional Economics as its theoretical approach, more specifically, the concept of meso-institutions. There are three levels of analysis in this theory. The micro-institutional level is where the governance structures lie and the macro-institutional level is formed by the institutional environment, which is formed by the general rules that set the base for human interactions (AZEVEDO, 2000).

Despite these two institutional levels being well defined in the literature, there was a gap between these two levels. This problem was noticed by Ménard (2014, 2017, 2018), that developed the concept of meso-institutions as a way to fill this gap. Meso-institutions are “arrangements through which rules and rights are interpreted and implemented, thus framing the domain of possible transactions among stakeholders” (MÉNARD, 2017, p. 07). This layer is responsible for working as a bridge between the macro and micro-institutional levels and, to do so, it has the duty of translating, adapting, and allocating rights. They also implement specific rules and monitor and incentive the system (MÉNARD, 2018). Figure 1 shows the different functions of meso-institutions regarding rules and rights.

Figure 1 – Meso-institutions functions concerning rules and rights



Source: Ménard (2018).

The meso-institutions are formed by devices and mechanisms that, through specific rules, shape the limits of the transactions and also establish the procedures of enforcement. Therefore, we can define mechanisms as “the procedures through which coordination and monitoring are processed, while ‘devices’ are the organizational modalities through which mechanisms operate” (MÉNARD, 2018, p. 08).

For this reason, we understand the CoP as a mechanism, since it determines the characteristics that a certain product or service must present, as well as control mechanisms that are going to be used to ensure that the GI’s rules will be followed (BRAZIL, 2019). The regulatory council is a device because it must control the quality of the products and guide the

farmers' production according to the CoP. It is responsible to guarantee that all the rules are followed (MAPA, 2010).

4. Methodology

This is qualitative research with a descriptive approach. To answer the research question, documents related to the Alta Mogiana coffee GI were analyzed. These documents were provided by the Alta Mogiana Specialty Coffee Association (AMSC), and some of them were made available by the INPI. Among these documents are the GI CoP and the Normative Instruction 001/2016 of the AMSC. The analyses of these documents were necessary to understand how Alta Mogiana's meso-institutions work since they present the rules of the GI.

Also, the manager of AMSC, an extensionist who helped in the development of the Alta Mogiana GI, and five coffee farmers of the region were interviewed. In-depth interviews were conducted due to their flexibility, which allows the interviewer to adjust questions, and also to explore a certain subject in depth. These interviews made it possible to collect the perception of the different actors regarding the rules of the GI.

The information gathered was analyzed according to the methodology of content analyses of Bardin (2016). Firstly, during the pre-analyses, the documents and interviews were organized, and indicators that provide the basis for the final analyses, according to the theory and literature review, were defined. Secondly, during the exploration of the documents, the information gathered was codified according to the rules established in the previous step. Finally, all the results were treated and interpreted. The result allowed us to identify how the code of practice of Alta Mogiana translates, adapts, and allocates the rights.

5. Results analysis

The São Paulo state has historical importance regarding coffee production in Brazil (COSTA, 2020). During the First Republic, the São Paulo coffee production was mainly exported to other countries, which made this commodity extremely important to the Brazilian economy (PERISSINOTTO, 1994). The Mogiana region, at the beginning of the 20th century, was specialized in coffee production and also was the biggest world exporter of this commodity (COLISTETE, 2015). The importance of coffee production is also evident in the history of the cities of the Mogiana region. For instance, in 1833 at a city called Franca, was established a rule that obligated farmers to have at least 25 coffee plants, and the ones that do not obey this rule could be arrested. In 1890, with the opening of the Train Station of Franca, coffee production became the most important commodity to the region (SEBRAE, 2021). It is in this region that the Alta Mogiana GI is localized.

In addition to the historical importance of this region, the Alta Mogiana GI was also established in a context of increasing demand for specialty coffee (EUROMONITOR INTERNATIONAL, 2017). When coffee is considered special due to its origin, its specialty characteristics come from its production region, the climate, temperature, soil characteristics, altitude, and also coffee roasting and drying methods (CARVALHO; AREVALO; PASSADOR, 2018).

As a consequence of the increasing demand for higher quality, non-governmental and governmental organizations, like the Ministry of Agriculture, Livestock and Food Supply (MAPA), the National Institute of Industrial Property (INPI), and Brazilian Service of Support for Micro and Small Enterprises (SEBRAE), have been promoting and supporting the development of the production of specialty coffee in Brazil. Also, there is an increasing number of coffee shops that sell specialty coffees, and various coffee quality competitions, like the Cup of Excellence (CARVALHO; AREVALO; PASSADOR, 2020).

The Alta Mogiana region is located in the north part of São Paulo state, and it was registered on September 17th of 2013. The farmers' organization responsible for requiring the

GI is the Alta Mogiana Specialty Coffee Association (AMSC) (INPI. 2021b). This association approved, in 2011, the CoP responsible for regulating the IG (AMSC, 2011). However, after some years after the establishment of the GI, the producers realized that some rules of the CoP do not properly represent the region, which led to the adoption of the Normative Instruction 001/2016, which is an internal set of rules that replaces the original CoP.

In 2018, the INPI Normative Instruction n. 095/2018 made it possible to make changes in the CoP. So, the AMSC requested some changes at the CoP. Currently, these changes are under review by the INPI. Among the changes that the new rules bring are the higher quality requirement, a different and broader geographical delimitation of the region, and also a new logo that is shown in Figure 2. While the new CoP is not approved, the Normative Instruction 001/2016 is used to regulate the GI.

Figure 2 – Alta Mogiana GI logo



Source: INPI (2021) and AMSC (2011).

According to the Attalea Agribusiness Magazine (2019), the logo was changed to improve the communication with consumers, and also as a way to attend to the new market demands.

5.1. Translating, adapting, and allocating rights

The code of practice of the GI translates and allocates rights by establishing the rules that coffee producers must follow to have the right of using the GI registry. One of the most important rules is the one regarding the geographical delimitation of the GI. Therefore, to be part of the region, the producer's farm must be located in one of the cities that are part of the GI. According to the original CoP, 15 cities from the São Paulo state were part of the GI.

However, the AMSC realized that there are coffee farmers that can produce coffee as good as the ones with the Alta Mogiana GI, but their farms are located outside the geographical delimitation of the territory. Therefore, these farmers did not have the right to access the GI. According to Ménard (2014), the meso-institutions delimitate the domain in which the different agents can act. In this sense, the original CoP failed in properly allocating the right of use of the GI due to the imprecise geographical delimitation established.

To fix this problem, the Normative Instruction 001/2016 and also the new CoP under review added more eight cities (one from São Paulo State and seven from the Minas Gerais state) to the Alta Mogiana GI. Besides the broader region, the new set of rules also determines that all farms must be above 800 meters of altitude. According to the AMSC, when the rules of the first code of practice were designed, they did not know that two different states could be part of the same GI, which explains why only São Paulo cities were originally considered as part of the GI.

Figure 3 shows the original and new geographical delimitation proposed for the GI.

Figure 3 – Geographical delimitation of the Alta Mogiana GI

Original Geographical Delimitation	New Geographical Delimitation
Altinópolis - SP	Altinópolis - SP
Batatais – SP	Batatais – SP
Buritizal – SP	Buritizal – SP
Cajuru – SP	Cássia – MG
Cristais Paulista – SP	Cassia dos Coqueiros – SP
Franca – SP	Capetinga – MG
Itirapuã – SP	Claraval – MG
Jeriquara – SP	Cajuru – SP
Nuporanga – SP	Cristais Paulista – SP
Patrocínio Paulista – SP	Franca – SP
Pedregulho – SP	Ibiraci – MG
Restinga – SP	Itamogi – MG
Ribeirão Corrente – SP	Itirapuã – SP
Santo Antonio da Alegria – SP	Jeriquara – SP
São João da Bela Vista – SP	Nuporanga – SP
	Patrocínio Paulista – SP
	Pedregulho – SP
	Restinga – SP
	Ribeirão Corrente – SP
	Santo Antonio da Alegria – SP
	São José da Bela Vista – SP
	São Tomas de Aquino – MG
	São Sebastião do Paraíso – MG

Source: AMSC (2013, 2021).

In addition, only arabica coffee can be part of the GI, which is the most produced coffee species in the region. Also, only green and roasted coffee can use the GI registry. According to Souza *et al.* (2004), arabica coffee can produce beverages that have a sweet taste, and also higher quality and remarkable aroma. In addition to the coffee species, the original CoP also describes in a detailed way the coffee production process, which involves the harvesting and drying methods, as well as how farmers should storage their production and what they must do with the production waste. The Normative Instruction 001/2016, on the other hand, does not specify in such a detailed way the production methods.

Regarding the farmers' perception of the GI rules, it is worth mentioning that from the five farmers interviewed, three have already used the GI label. They are located in São Paulo State, while the other two producers are from Minas Gerais state and did not know about the GI and its rules.

Among the benefits of the GI label, all the producers that have previously used the GI stated that the registry is important to guarantee that the coffee was produced at Alta Mogiana region, so the consumers know that the coffee came from a place that has a reputation in producing high-quality coffee. One of the producers from Minas Gerais stated the GI is important to protect the *terroir*. Four out of five producers interviewed believe that the GI is an incentive to coffee farmers to improve the quality of their production.

When asked about the difficulties in accessing the GI label, the lack of information and demand were the most cited barriers. According to the farmers, it is necessary for the market to know more about the GI and to demand it from producers. As stated by the farmers, producing a higher quality coffee is not hard due to the characteristics of climate and geography

of the Alta Mogiana region, however, consumers must demand the GI label in order for farmers to start using it. Indeed, all the farmers interviewed produce coffee that is classified as special.

Also, some farmers said that older producers tend to resist new ideas, and they need to “open their minds” to the idea of producing higher-quality coffee and to use different ways to communicate with the market. Regarding the knowledge transmission, it is worth mentioning that the AMSC was cited by the farmers as the most important source of information regarding the GI. This information is transmitted through social media, speeches, and also coffee quality competitions. Besides the AMSC, the Brazilian Micro and Small Business Support Service (SEBRAE) and the National Service of Rural learning (SENAR) were also mentioned as institutions that offer some kind of support for coffee production to farmers.

5.2. Monitoring and incentives

To guarantee the coffee quality, the CoP determines that the Specialty Coffee Association of America (SCAA) methodology must be used to measure the quality of the beverage. According to this methodology, on a scale from 0 to 100, coffee that reaches at least 80 points is considered special. Among the factors considered during this classification process are fragrance, aroma, taste, and sweetness of the beverage (SCAA, 2015). According to the AMSC, this methodology was chosen because it is internationally recognized as an efficient way to measure coffee quality.

The original GI CoP established that at least 75 points must be achieved according to the SCAA methodology for a coffee to be classified as an Alta Mogiana one. However, the Normative Instruction 001/2016 and also the new CoP, now under review by the INPI, changed the punctuation requirement to 80 points. All farmers interviewed produce coffee that score 80 points or above at the SCAA scale, according to the AMCS about 70% of farmers of the GI region can achieve this pattern of quality. According to the INPI (2021c), the rules of CoP must reflect the reality of the region that is protected by the GI. In other words, the rules cannot hinder the access of the farmers to the GI (INPI, 2021c).

The AMCS explained that another reason why they changed the punctuation requirement is that 80 points are the minimum required for a coffee to be considered as special according to the SCAA methodology. When asked why they initially established 75 as a minimum requirement, the association explained that the farmers that established this rule did not know that to be considered special, the coffee should have at least 80 points in the SCAA.

To avoid the same mistakes, the group of people responsible for designing the new set of rules is a technical one, formed by two farmers and also professionals who understand the technical aspects of specialty coffee and also about coffee marketing. After finishing drawing the rules, the new CoP was presented to the other farmers in order to understand if all of them agreed with the new CoP before submitting the document to the INPI. Although the quality now required is higher, the AMSC believes that most farmers of the region are able to achieve it and that the new set of rules is quite flexible.

As stated in Normative Instruction 001/2016, samples of the farmer’s production are evaluated by a Q Grader, who is the AMSC responsible for quality control. Regarding roasted coffee, its evaluation is made according to the Agtron System, where the disk number of this evaluation system must be between 45 and 75. The Agtron System is used to identify the roasting level of coffee. The Agtron/SCAA Roast Classification Color Disk is formed by different disks, which present various shades of brown, and they are used in a comparative way to roasting, powder, and raw coffee (AGTRON INC., 1997, *apud* ROBELO *et al.*, 2015).

The original CoP, besides describing how to monitor and control coffee quality, also describes how the regulatory council monitors the farmers’ production process. Among the councils’ responsibilities are to monitor if the farmers are working in accordance with health surveillance and food safety standards, and also to audit all documents that record each step of

the production process. The normative Instruction 001/2016, on the other hand, also highlights that the AMSC can at any time, without notice, ask farmers to review again the samples of the final product and it also can visit the farm to verify if its production process is in accordance with the rules established.

Moreover, the original CoP also states that the regulatory council must pursue actions to guide and foster the farmers' production, as well as take action to preserve and encourage the production of coffee with higher quality in accordance with what is established at the CoP. Although actions to incentive the adoption of GI is not mentioned in the Normative Instruction, the AMSC explains that they take several actions to promote the benefits of this food label, as well as information about the GI requirements. Among those actions are posts on social media, lectures, leaflet distribution, and coffee quality competitions.

Regarding the incentives to produce coffee with the GI registration, three out of five farmers believe that farmers receive a better price for their products when they sell their coffee with the GI signal. For the other two farmers, the demand for higher quality coffee products is yet small, and even if they produce coffee with better quality, a great amount of coffee has to be sold as a commodity coffee.

5.3. Implementation

The original CoP states that farmers must produce according to the current environmental, social, and labor legislation, and also adopt impact mitigation practices. If these legislations are not followed, the use of the GI is not allowed. According to the Geographical Indication Manual (INPI, 2021), the CoP does not need to describe the sanitary, environmental, and labor legislation, since all production processes, regardless of being related to the GI or not, must follow these laws. The Normative Instruction 001/2016 does not describe this legislation as the original CoP does.

Ménard (2018) explains that meso-institutions implement the rules and rights through sanctions and exclusion of the agents that do not follow the rules. According to the original CoP, depending on the infringement, the sanctions can vary from a written warning or a fee, to a temporary or permanent suspension from the right to use the GI. Producers who receive a permanent suspension can have the right to use the GI label only after two years of suspension.

At the Normative Instruction 001/2016, the AMSC states that they will use all the sanctions provided by the Law in case of the misuse of the GI representation. However, the three farmers that already used the GI do not believe that its rules are sufficient to protect the reputation of the territory and its farmers from unfair competition. The same problem was also stated by the AMSC. The association said that it is too costly to file a suit against someone who is using the GI representation inappropriately, which hinders the process to protect the GI from misuse. Therefore, one of the functions of meso-institutions

6. Conclusion

Depending on the way that the CoP is set, it can fail in translating, monitoring, allocating, and implementing rules and rights. The rules of the Alta Mogiana GI were designed in a way that excludes farmers who can produce a higher quality coffee. Also, the original quality pattern established did not reflect the quality of the coffee produced in the region, which led to the change from 75 to 80 points at the SCAA methodology. Due to these imprecise rules, the original CoP was replaced by an internal set of rules, and a new CoP was designed.

Therefore, the GI's rules must be designed in a participative and democratic way, so the interests of all farmers are equally considered. Also, farmers need to receive information about how GI functions and its potential to build competitive advantage and recognition to the

region since many of the mistakes made regarding the CoP were due to a lack of knowledge. It is also important that consumers learn more about the GI and its benefits, in order to start demanding it from farmers so coffee producers will feel motivated to start using the GI. Regarding the control of the GI use, some farmers believe that the GI is not enough to protect their products from unfair competition. Also, the AMSC states that the process to file a suit against someone who misused the GI registry is too expensive, which hinders the process of protecting the region's reputation.

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