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GEOGRAPHICAL INDICATIONS IN BRAZILIAN FOOD MARKETS: QUALITY CONVENTIONS, INSTITUTIONALIZATION, AND PATH DEPENDENCE

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ABSTRACT

This paper discusses the institutionalization of the Geographical Indications (GI) system in Brazil. Emphasis is placed on the evaluative disputes underway in hybrid forums where different actors seek to build compromises concerning production rules and standards. Linking economic sociology and a conventionalist approach to market institutions, analysis highlights the different understandings of GIs as they emerge from the discourses and practices of actors involved in food qualification processes. The results are derived from research conducted in the most important GI areas in Brazil over the last six years. That research demonstrates that GI projects have been developed without a stabilized institutional frame, thus leading to the reproduction of a variety of subsystems implemented within different territorial and sectoral contexts. This, in turn, has created several obstacles to market development.

For a decade or so, Brazil has been witnessing the emergence of a market for products with Geographical Indications (GI). This is a distinctive sign that emphasizes the sociocultural embeddedness of goods. It recognizes traditions, habits, practices, and knowledge associated with a territorial identity and a specific geographic origin (Barham 2003; Bérard and Marchenay 2008; Vandecandelaere et al. 2009). The architecture of this market reveals itself to be one of the most eloquent expressions of the current quality turn in agri-food markets. It is a movement characterized by the accelerated development of a wide range of differentiation devices (organic, fair-trade, local foods, etc.), each of which structures networks, institutions, and certification systems specifically connected to a set of quality conventions (Allaire 2010; Goodman 2003; Wilkinson 2007).

The creation of the GI system within the Brazilian context offers a distinctive example of social construction of markets that articulates three simultaneous processes. First, the market structure requires the development of a social network including a variety of actors involved in new production and consumption circuits (producers, consumers, associations, government). Second, to render an organized

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and well-established network, a stable institutional arrangement (laws, norms, rules, and conventions) that allows the actors to exchange must be defined. Linked to this there is a process of negotiation around the configuration of a specific convention of quality for GI products, generating compromises between different evaluative conceptions. These processes are responsible for what we call institutionalization of the GI system, in other words, the construction of systems of established and prevalent social rules that structure social interactions, defining who has the right to participate in the market, what goods can be part of transactions, how exchanges should unfold, and what the rights and obligations of each economic agent are (Hodgson 2006).

The institutionalization process takes place at multiple and integrated territorial levels, so that at the outer limit, social networks and normative frameworks are connected on a global scale. In this paper we analyze this process from the particular configurations produced in different (but connected) projects. One project illustrates a territorialized experience of the social construction of a GI. However, this notion is also used as a heuristic category that can represent the constitution of a logic of social action guided by normative principles. According to Boltanski and Chiapello (1999), the project, more than just a network of social actors, is an occasion and a pretext for network formation. Through it, the relevant actors and artifacts that make up the GI system are defined and cooperation among actors who are guided by different interests becomes possible. Networks are structured because of the project and in its service. Its very existence is contingent upon the construction of a system of common values, one that establishes compromises among different normative principles (Thèvenot 2001).

Focus thus turns to the relationship among actors, artifacts, and values that define a qualification device integrated into a normative system at the national level, allowing for its adjustment to different local conditions (e.g., responsibilities of organizations, requirement and recognition rules, constitutive elements of the Code of Practices, minimum control standards). Based on the consideration of empirical situations related to different Brazilian GIs, this paper looks at how the projects are articulated to a larger institutional arrangement, configured at the national level. We argue that certain mismatches between the current sectoral regulation and projects established at the territorial level create a series of challenges to building this qualification system, and therefore, challenges for market stabilization. In other words, this article analyzes how new arrangements around property rights, notions

of control, norms of transaction, and governance structures¹, defined through the construction of a GI system, collide with “old” sectorial institutions, creating uncertainties that encumber the development of these food markets.

Initially, the paper proposes an interpretation of the social construction of GI as an innovative qualification device in market dynamics. We then go on to analyze the regulatory framework for GI in Brazil, pointing out how certain regulatory gaps create obstacles to and uncertainties within project development. We also explore the implications of the fact that these projects are being developed without a well-stabilized normative basis. In this regard, we argue that the alternatives that local actors build in attempting to deal with this normative vacuum are defining a particular trajectory for GI in the Brazilian context. The specific format that this device has taken in different projects determines a path whose degree of irreversibility hampers future change. As a result, we are facing the emergence of a conflict that raises the issue of the stabilization of the system of rules, a need that becomes urgent considering the increasing expansion and diversification of the list of products and territories under the GI sign in Brazil.²

THE SOCIAL CONSTRUCTION OF A QUALIFICATION DEVICE

According to Eymard-Duvernay (1999), GI construction may be subdivided into five phases or stages. First, there is a period of *engagement*, in which individuals and organizations decide to invest in cooperative action, each member being mostly aware of the benefits this may bring. At this stage, it has not yet been clearly determined how cooperation will take place, but the individual is willing to do so. This is followed by a moment of *mutual understanding*, in which actors express their intentions and begin to define common goals. This then inaugurates a third phase, *clarification and extension*, in which engagement begins to be stabilized through a system of rules, thus setting the patterns which relationships will take. In this manner, a network is shaped and solidified. The fourth stage, *criticism*, involves evaluating actions and identifying problems that need to be solved, posing

¹We refer here to Neil Fligstein's (2001) four institutional forms for analysis of the instruments that social actors use to create the *stable worlds* that enable them to carry out transactions and find solutions to the “problem of competition” within markets. For a precise definition of property rights, notions of control, norms of transaction, and structures of governance, see Fligstein (2001). For an example of how this theory can be applied to the study of food markets and geographical indications, see Allaire (2010).

²For an updated list of registered Brazilian GI, we suggest consulting the National Institute of Industrial Property (INPI) website: www.inpi.gov.br

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challenges to previously-established agreements. Finally, we come to the *review* phase, in which institutions and networks are adjusted and a new configuration emerges.

Three considerations must be retained from this process. First, recognizing that this division is only an analytical tool is imperative. Phases usually overlap and produce complex dynamics. Second, the *criticism* phase may be seen as an engine of change. Where there are no channels for criticism, possibilities for change in the system are null (Boltanski 2009). Finally, networks are formed because of engagement and stabilized through the construction of institutions. This point is crucial for understanding the dynamics of innovation within the GI system. Let us now take a more detailed look at this matter.

GI construction is innovation that takes place within an interactive context. It means that, rather than focusing specifically on the individual entrepreneur, mechanism formation requires an approach that identifies social or socio-technical networks. In both approaches, analysis turns to the links between different actors, the circulation of resources, translation processes, and how this type of structure encourages innovation. However, approaches may diverge in their interpretations of the process, in at least two ways. According to Granovetter (1973, 1985), we can affirm that innovation is contingent on the prior existence of a social network and the formation of *weak ties* that allow the circulation of non-redundant information within the network (i.e., original information from other social networks capable of catalyzing innovation processes). In this case, the relevant actors may be those who are in more peripheral positions within the network, connecting it with other networks.

A different perspective is found in Callon's (1986) research on socio-technical networks. Besides the principle of symmetry in relation to nonhumans (objects), Callon's approach differs from Granovetter's in at least one basic sense: whereas for Granovetter, social networks are interpersonal, homogeneous, and stable; for Callon (1986) socio-technical networks are heterogeneous, short-term, and instrumental, that is, constructed from the existence of a common project. This means that while Callon's work views the network as a way to implement innovations, Granovetter's framework perceives innovation as the result of interaction within previously established social networks. Yet GI projects reveal the way different types of networks complement one another. Rather than representing irreconcilable ontological divergence, these different reticular structures are associated with different stages in GI construction. Simultaneity of phases is thus able to determine the temporal and spatial overlap of these networks.

Nevertheless, neither approach greatly considers the moral engagement of the actors in shaping action, nor do they explain how networks are stabilized. It is in this light that the construction of GI systems has drawn the attention of conventionalist authors, for whom there are conventional principles that define the format of the network and stabilize social ties (Allaire 2012; Marescotti 2000; Straete and Marsden 2006; Sylvander et al. 2006). Innovation is not a random process, nor an endless exchange of information, even if it contains a high degree of uncertainty and unintended consequences. It is a relatively conventionalized process based on minimum agreements that establish the relevance of people, artifacts, and quality standards regarding expected results (Eymard-Duvernay 2009; Thèvenot 1986).

Simultaneously, the innovation represented by a GI involves the construction of certain “socio-technical routines.” This concept has two important aspects. First, it shows that innovation does not focus on a particular and isolated component of the production process, but on a coordinated set of practices that make up an itinerary. Secondly, it suggests a degree of irreversibility of the choices processed, that is, the path to qualifying the product (Callon 1991; Wilkinson 2008).

There are two forms of irreversibility involved. On the one hand, there is a technical irreversibility whereby certain procedural choices cannot be undone without a risk of compromising the efficiency of the entire system, at least in the short term. With wine production, for example, we can see how, after a method of winemaking has been defined by a GI Code of Practices, its latter replacement can lead to the need to change the entire physical equipment layout, invalidating previously-made investments. Economic irreversibility, referring to a moment after which the economic costs of change would be too great to assume (Dosi and Metcalfe 1991; Herscovici 2004), may also ensue. In this case, after setting up a crop base, the costs of vineyard deployment would make the future changes in the Code of Practices unfeasible. Thus, the notion of irreversibility is also fundamental to our understanding of why many actors’ choices do not maximize profit or utility. They constitute reasonable choices that may be much more intelligent than the more obvious rational choices.

A major challenge in GI systems analysis deals with understanding which essential factors of irreversibility are crucial to project trajectory definitions. In other words, it is necessary to identify which *compromises*³ have been

³Compromise is a specific understanding that emerges from the meeting of different values. It is an analytical key that Boltanski and Thèvenot (1991) defined, allowing us to interpret the

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institutionalized based on technical procedures and standards that cannot be undone without high risk of disrupting the entire system. They are basic compromises that, precisely because of their importance for the maintenance of the system, become more durable and resistant to criticism that could question their legitimacy. Thus, the formation of socio-technical routines can also be seen as a way to stabilize determined systems of rules, including quality conventions. Desplobins (2005) illustrated this point by discussing reasons for the persistent prevalence of traditional production of *table wine* (produced from hybrid varieties of grapes) in Brazil, while the modernization project for wine production would lead in another direction.

The stability of a GI system depends on building a complex architecture involving technical artifacts, institutional instruments, and qualitative principles. This stability has absolutely nothing to do with a hypothetical situation of equilibrium, as we find in mainstream economic market theory. Stability here is always a temporary situation where social actors exhibit a relatively high degree of consent with the established system of rules. As stated by Joas, “each agreement presents a conditional and transitory character” (1987:134). An agreement can be questioned by the introduction of a new object, an external actor, or an unexpected argument whose presence can hinder the systematic development of the market. However, it is not just any outsider who can provide the impetus for critical change. The introduction of a new technique can be appropriated by the system without producing destabilizing action. Still, there are some moments when it becomes the engine of more radical transformations. In such cases, it must challenge the evaluative principles upon which the system was built. Criticism will not only refer to the need to adapt existing rules, but to the urgency for thorough reform of the entire system (technical structures, institutions, and quality values). The adoption of a new rule, supported by a justifiable principle (a widely accepted definition of quality), can stimulate substantial changes in production practices by, for example, eliminating certain chemical inputs whose use has become ecologically illegitimate. Consequently, the legitimacy of change is not pronounced by law or technique in themselves, but by a moral principle (in this case, a collective representation of quality) on which the former rely to justify the need for change (Boltanski and Thévenot 1991).

formation of conventional hybrid agreements in which objects and actors are arranged in a relatively orderly way. Compromises suggest the emergence of a qualitative principle (a definition of quality) that makes consistent judgments emerging from different values.

The construction of GI systems involves a social compromise to build an institutional frame sufficiently strong and stable to ensure that the link between the product and its origin is shielded, yet flexible enough to allow innovations in technical procedures, organizational forms, marketing, and consumption practices that do not threaten the territorial identity of the product (Fort, Peyroux, and Temri 2007). The system must be flexible so that it is responsive to changes occurring in ecosystems. For example, a Code of Practices that bans irrigation because it is considered to endanger the typical characteristics of a product associated with the ecological conditions of production may be subjected to inquiry supported both by considerations of economic value (the risk of losing production due to drought or the need to raise the yield to be competitive) and ecological value (current climate changes may require a revision of the rules, since they were defined based on another ecological context).

The enforcement of the system of rules varies depending on which type of GI system has been established. For example, very strict quality standards are generally used when the number of potential producers is large. They end up creating a sort of entry barrier (Letablier and Delfosse 1995). In southern Brazil, the *Pampa Gaúcho da Campanha Meridional*, a GI for meat and derivatives, illustrates this effect: although the defined geographical area is relatively large, the rigidity of rules has excluded most of the local producers. In consequence, the scale of production is so small that it only serves regional specialties shops and therefore puts the project at risk (Cerdan et al. 2008). The problem is particularly relevant for small producers, especially family farming units. The high level of requirements makes the process more onerous, due to needs for productive systems adjustment and the establishment of assessment and control mechanisms. This eliminates a significant portion of those producers who do not reach a scale of production that can offset costs.

In fact, the guarantee of high quality standards for GI products has to consider that regulation should not derail the initiative or, as is more frequent, does not become a mechanism of exclusion. In other words, GI products cannot be converted into a *club good* (Thiedig and Sylvander 2000). Consequently, some authors have asserted the need to reflect on the dynamic evolution of norms and standards, considering that the formation of a GI system involves a process of collective learning in which raising the level of exigencies is possible (Dias 2005). In the next section, we return to this issue, looking at how many GI systems have been structured according to an evolutionist perspective on the construction of the system of norms. We take our analysis further by examining the path dependence

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of the institutional, technical, and organizational changes that social actors desire to stimulate market development.

GEOGRAPHICAL INDICATIONS IN BRAZIL

Current Brazilian legislation defines two categories of Geographical Indication, each corresponding to a specific legal instrument. The Indication of Source (IS) refers to the name of a geographic area recognized for the production of a good or the provision of a service. Thus, it concerns the reputation or notoriety of an area in relation to a good. On the other hand, Designation of Origin (DO) designates the name of a geographic area in which a product or service is unique given differential qualities that are due exclusively or essentially to the geographical environment, including natural and human factors. In this case, emphasis is on the qualitative attributes that distinguish the territory (Federal Law 9.279/1996).

This law defines only GI types and their use by producers. Subsequently, it was supplemented by Resolution 75/2000 of the National Institute of Industrial Property (INPI), which defines the minimum requirements for registration. However, because this resolution constitutes a legal instrument of more limited scope (as compared to the above-mentioned Federal Law), it still leaves several gaps concerning such issues as the absence of legal instruments for penalization of producers who do not comply with the Code of Practices.⁴ Thus, over time, a common understanding has emerged around GI development in Brazil, seen as unfolding within a fragile and incomplete institutional framework (Wilkinson and Cerdan 2011) analogous to the current context of most of the developing countries in which GI has been adopted over the last decade (Sautier, Biénabe, and Sallee 2005).

This situation has led to the proliferation of local conventions and standards that have been put together directly by the actors involved in the qualification projects. As important as formal rules, the operation of the Brazilian GI system is fundamentally dependent on a compromise between different local actors who negotiate the construction of tacit rules and common conventions. In face of the

⁴This has produced situations in which GIs are misused. For example, presently, the system is unable to stop wine producers from the Vale dos Vinhedos who do not abide by GI production norms from using the geographical region's name on their labels. They argue that they are merely referring to location of their vineyards, as the name also identifies a particular district of the municipality of Bento Gonçalves. Subsequent difficulties in distinguishing between products with and without GI – since both can appropriate the same geographical reference – have consequences for GI recognition and reputation among consumers (Bruch 2011).

lack of legal instruments that could guarantee that producers follow production norms, conventions that work as a “collective cognitive device” are established (Orléan 1989), guiding social practices and incriminating deviant behavior. These conventions prescribe a form of action that can be adopted without the need for formal regulation, although at times they are established as written norms. In any case, if actors follow them, this is due largely to the desire to avoid social disapproval, which in fact may be more feared than the penalties resulting from legal sanctions (Batifoulier and Larquier 2001).

These conventions are produced through different social networks, within which certain actors establish themselves as bridges that enable the circulation of resources and elementary information needed to set up GI projects. Actors who are relevant in articulating the system can move between different projects, coordinate diverse interests and use social and informational capital to fill “structural holes” (Burt 1992:45). These actors, as evidenced by Niederle and Vitrolles (2010), become a compulsory passage point for resources, allowing them to take a privileged stance in the institutionalization of the system (definition of the rules, but also of actors and relevant objects, as well as legitimate technical processes).

These social intermediaries assume important positions in the stabilization of the system, since they carry out an essential role in the articulation of different standards, rules, and quality conventions for GI projects. In a context of uncertainty and regulatory weaknesses, each project shapes a *sui generis* institutional structure from which singular rules of production and control are built. This is the case for Vale dos Vinhedos and Pinto Bandeira. The first two Brazilian Indications of Sources for wines have developed different rules concerning such things as grape origin. In the first case, 15 percent of the grapes used in winemaking can come from outside the GI area; in the second case, stricter standards are applied, requiring the use of local grapes only.

However, the Vale dos Vinhedos DO (recently recognized by the INPI) involves a reformulation that adapts the same requirement contained in Pinto Bandeira IS, that is, restricting winemaking to grapes produced in the demarcated area. This change reveals the central role of EMBRAPA⁵ (a government agency for agricultural research) in the harmonization of project rules. In fact, if we consider the various definitions taken in the same direction (from area demarcation criteria to parameters of chemical and sensorial controls), we can understand how compromises among different actors for the stabilization of an integrated model of

⁵Empresa Brasileira de Pesquisa Agropecuária.

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GI for wines are negotiated (Niederle 2011). In this case, despite the weak national regulatory framework, the governance forum established and coordinated by EMBRAPA, in conformance with the interests of the most important private actors, defines a GI system that is minimally cohesive in terms of actors, objects, standards, criteria, techniques, and similar quality conventions.

Obviously, what has been witnessed with wine-producing projects (restricted to the Serra Gaucha region) may not result in the configuration of a national GI system, although three factors are favoring the reproduction of this model. First, the experience of Vale dos Vinhedos (the first Brazilian GI, recognized in 2002) still serves as a fundamental reference for the development of most projects throughout the country, whether related to the wine segment or not. Second, EMBRAPA itself has built an internal network for discussion and promotion of GI as a development tool, within which conceptions very close to those found within the wine sector are transferred to others projects covering a broad spectrum of the food sector. Finally, we should not reject the historical link between GI qualification schemes and wine industry proposals. It is a well-known fact that GI emerged as a defense and differentiation mechanism for wines, expanding from there to other products. Even today, among more than five thousand recognized GIs in the EU (European Union), about 90 percent are for wines and spirits (rum, brandy, liqueur, whisky, brandy, etc.). There is no way to ignore the fact that, all over the globe, wines have become the paradigmatic example of the development of this qualification and differentiation instrument.

Nonetheless, unlike what has happened in the European context, where demands are concentrated in the agri-food sector, the expansion of GIs in developing countries is associated with a larger diversity of products. This defines the development of the GI mechanism in a more hybrid and contradictory context in which it coexists with other, still largely predominant, forms of qualification (Cormier-Salem and Roussel 2009; Bramley, Biénabe, and Kirsten 2009; Marie-Vivien 2011; Sautier et al. 2005). In Brazil (as well as in India, China, and some African countries), the construction of a GI system has been marked by a variety of goods that run from handcrafts to services, notwithstanding persistent uncertainties about how to operate a GI for services.⁶

⁶Among the demands for GI registration with INPI (not all recognized) we find reference to goods such as knives and steel scissors; mineral water auxiliary services; electronics and telecommunications; hotels and tourism services; handicrafts elaborated with natural resources; naturally colored cotton textiles; clay pots; decorative stones; and handcrafted pewter.

This situation has created a particularly complex scenario, whether for building public policies and financial support mechanisms or for structuring legislation. For example, rules for demarcating the geographical areas for goods whose production is scattered across large and sometimes discontinuous territories (as happens for some Amazonian forest products) has been a major challenge (Almeida et al. 2009). Another example can be found in the cases in which the differential quality of the product is not directly associated with the physical characteristics of the environment, but to its reputation with consumers or the knowledge of producers. In other words, we are dealing with a broad set of variables that have been challenging producers, researchers, and policy makers in defining a GI system that is appropriate for the diversity of empirical situations with which they are faced.

Considering the proliferation of projects within a context of precarious regulatory schemes due to the insufficiency of current nationally-established institutional devices, decisions made within each social network are increasing in relevance and are yielding particularly complex results. GI projects are based on a regulatory framework that producers and technicians find as insufficient for their need to create new markets, leading them to make important decisions based on their own local needs and interests. In other words, they are creating new institutions at a local (or sectoral) level, meant to catalyze technical or organizational changes considered necessary for market functioning. Lacking a governance structure able to produce convergence between each project and the system of GI norms established nationally (Law n. 9.729/96) and internationally (TRIPS - Trade-Related Aspects of Intellectual Property Rights), each project consolidates a more or less particular arrangement of relevant rules, actors, objects, and technical procedures. As will be analyzed in the following section, projects, by operating in this way, generate a situation that complicates the stabilization of a national institutional framework. Any attempt to define new laws is challenged by the choices processed over time that have resulted in trajectories that were essentially consolidated within projects, thus creating some degree of path dependence and irreversibility.

CHALLENGES TO THE INSTITUTIONALIZATION OF GEOGRAPHICAL INDICATIONS IN BRAZIL

An Evolutionary Perspective of the GI System

Henceforth we analyze three challenges that represent some significant issues around the institutionalization of a GI system in Brazil. The first one involves the gap between legislation and the evolutionary perspective reproduced within the

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Brazilian GI system (see Niederle 2011). This refers to a particular understanding that conceives of Indication of Source (IS) and Designation of Origin (DO) as distinct stages of the same process of qualification, although, at least in legal terms, these instruments are differentiated protection tools of intangible property. According to Brazilian law, IS and DO define two different forms of property, both associated with the geographical origin of a product or service. These devices do not constitute levels or stages of protection for the same thing. An IS cannot simply be conceived of as a more flexible form of protection than a DO (although it is the operating mode). They protect different aspects of immaterial property: reputation or specific quality characteristics.

The first demand for recognition of a GI in Brazil was filed in 1998 by the *Conselho das Associações dos Cafeicultores do Cerrado* (CAC CER) and concerned a DO request for a region of coffee production in the state of Minas Gerais. Similarly, the discussion among producers in the *Associação de Produtores de Vinhos Finos do Vale dos Vinhedos* (APROVALE) was also initially guided by the construction of a DO, as revealed by the minutes of the entity's constitutive meeting in 1994. However, in 2000, associates decided to request the implementation of an IS, which was recognized two years later. It was not until 2010 that producers resumed their original objective and demanded a DO. The same year, the CAC CER, whose IS was recognized in 2005, also resumed the original DO project (still under review by INPI).

The experiences of the regions of Vale dos Vinhedos and the Cerrado Mineiro represent a trajectory followed by several other GI projects (Niederle 2011), wherein the request for an IS – that focuses on reputation and requires a less strict Code of Practices – was used as a strategy of producer organizations, urging them to move forward collectively on a project for product qualification. This project allowed them to build some understandings and agreements necessary for the formation of the social network and collective governance tools. From there, they built a compromise under the basic assumption that IS should function as a catalyst for technical changes to improve quality, until the moment that the product is proved ready for the demand of a DO. The period between IS recognition and DO request is used for a series of studies that contribute to essential decisions indispensable for defining the typicality of the product and its *link to its origin*: choice of cultivars and breeds, production methods, control structure, etc. In other words, this is a period for defining relevant actors, objects, and techniques.

This understanding has several implications, some of which are revealed in the dossiers submitted to the INPI (National Institute of Industrial Property)

requesting GI recognition. In several of them, the demand for an IS is largely based on justifications that relate to the specific requirements for a DO, particularly with regard to the importance accorded to the technical proof of qualitative differentiation. On the other hand, this brings an important discussion related to the requirement of notoriety or reputation for a DO product to light. Although Brazilian law does not make the recognition of a DO category contingent on the existence of these characteristics, many dossiers include proof of the region's reputation in the production of the goods. One justification lies in the fact that for many producers and technicians, recognition of any form of GI is inconceivable without a clear reputation because, in its absence, the market could not recognize the product and pay a premium for GI qualification.

Is the reputation of the geographical name an unavoidable requirement for the recognition of a GI? Which qualitative characteristics can define a DO? Can tradition and knowledge be considered distinctive qualitative characteristics? What are the proof instruments of this distinction? These questions are increasingly present in the everyday life of the organizations that work with GI, and although many of them have constructed their own definitions, a collective agreement is still under negotiation.

Several of these issues have been brought into focus through more recent events such as the recognition of the first two Brazilian DOs: *Litoral Norte Gaúcho* for rice and *Costa Negra* for shrimp. After a decade of work building the system, the recognition of these two DOs – which were not required to go through the IS stage – helps to solidify an understanding that lends support to the three following arguments: (1) nowadays, GI is consolidated as a qualification instrument recognized by regional producers (although their identification by consumers is still a challenge); (2) producers and technicians have appropriated the key concepts (terroir, typicality, reputation, etc.); (3) there is a kind of knowledge that guides the projects, as well as methodologies that can be used to assess the existence of differentiated quality characteristics of the product, as resulting from geographic, physical, and human factors.

Nonetheless, challenges do not end there. Another event that is particularly important in this sense relates to DO demand procedures as presented by the producers' associations from Vale dos Vinhedos and Cerrado Mineiro. They have dramatically exposed the weakness of the existing regulatory framework. The requests made by APROVALE and CACCER encounter a legal obstacle arising from the prior existence of an IS. This problem concerns the lack of legal

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instruments that define mechanisms to extinguish an IS or DO and/or to promote the migration from one to another.

This question is more intricate than it may seem at first sight. Legal solutions must consider the institutional and technical choices processed in each project; if not, intense criticism and opposition that can destabilize the system may be catalyzed. This is applicable to several key issues regarding the Code of Practices. To illustrate the problem, let us briefly discuss the delimitation of a GI area, one of the most controversial issues within negotiation processes, since it is “over the course of this stage that local consensus is defined, putting group cohesion to the test” (Letablier and Delfosse 1995:101).

Defining an area is necessarily a process of exclusion, where the stakes are not always the distinctive sociocultural and natural characteristics of a territory but the construction of a compromise that can sustain the confluence of interests among the actors involved. The evolutionary perspective reported above and the perception that IS is a less restrictive level of protection complicates this construction. Once the area for an IS has been recognized, forms of irreversibility are established which cannot be undone without a reworking of compromises that have originated inside the project. This also implies a reconsideration of the fundamental values that provide support to the social network. Thus, if the demand for a DO falls upon an existing IS and the boundaries around an area are consequently renegotiated, this may unleash a dynamic of criticism that could destabilize agreements previously signed within and among organizations.⁷

At times, reformulation does not include a direct redefinition of the area, but the creation of new production criteria such as minimum altitude and maximum slope, which can also create exclusion zones within the demarcated area. This problem can appear whenever the DO project establishes stricter standards than those established for the IS, whether in relation to the area or regarding varieties and breeds authorized, production methods and management, or control systems. Here we can cite, for example, the consequences of the higher restrictions present in the Vale dos Vinhedos DO project as compared to existing IS rules. With a stricter Code of Practices concerning grape varieties, the DO project has excluded several cultivars and, in doing so, some local producers who would need to reconvert their

⁷Because of the magnitude of the economic conflict involved here, the most famous international example emerging around the revision of an area of production is the *Appellation d'Origine Contrôlée* Champagne case, in France (Deluze 2010).

production areas according to the new rules. This is something that not all of them are willing to do, given the almost irreversible costs that accrue (Niederle 2011).

GI System and Food Chains Regulation

The second challenge we would like to discuss in this paper concerns the unavoidable coexistence of GI regulation and the different established institutional frames linked to food chains at national and international levels. For these purposes, we present two cases, which concern the production of wines and cheeses, respectively.

In 2011, the Serro region in the State of Minas Gerais obtained recognition for the first Brazilian IS for cheeses. This represents the recognition of a traditional product for which our first historical records date from the eighteenth century. Among the most famous historians describing the peculiarities of livestock production in Serro was Auguste de Saint-Hilaire, who drew attention to the region in his book, *Voyage dans le provinces de Rio de Janeiro et de Minas Gerais*, published in 1830. Deeply embedded within local culture and enjoyed by consumers in other cities, Belo Horizonte (the state capital) in particular, the product gained notoriety and increasing market appeal. This sociocultural embeddedness led to product recognition by the Brazilian Institute of Historical Patrimony (IPHAN) as a *cultural good* thus protecting its methods and production processes.

Yet it is precisely these methods and processes criticized from the technical perspective that promotes a representation of quality focused on public health aspects. Similarly to many other traditional cheeses, Serro cheese is made from raw milk. This creates barriers to its commercialization in the face of current legislation, whose rules are incompatible with these traditional methods of production, product characteristics, and current forms of sale. It should be noted that this highly controversial legislation dates from the 1952 Decree 30.691.

The gap between industrial standards and the importance these cheeses have acquired within different commercial circuits has generated apprehension regarding product recognition and intangible knowledge, traditions, and customs (Vitrolles 2011). The implications are diverse and show, among other things, how the institutional framework contributes to designing the network of social actors who work with GI in Brazil. One example is how researchers and organizations, among them the IPHAN but also the Slow Food movement, have played a critical role within this network. According to emerging criticism, many established norms for GI recognition (where this runs according to the current sectorial legislation) may contribute to misrepresenting the product, changing not only its organoleptic

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attributes (the elimination of certain beneficial bacteria through pasteurization), but essential forms of production and *savoir-faire*.

At the center of this debate lies an issue regarding the possibility of GI approval of products incompatible with sectorial legislation. Theoretically, this would not impede GI registration, as the GI can only be used to exclude the possibility that producers outside the geographic area make indiscriminate use of the product's name by selling something that is completely different from what has traditionally been manufactured. Yet from a practical point of view, there is an even more compelling issue to be addressed. Even in the aftermath of an attempt to implement a unitary system (SUASA),⁸ diverse geographical scales continue to prevail within Brazilian sanitary inspection systems, at municipal, state, and national levels, defining where products can be sold. At present, Serro cheese is allowed to circulate only within state perimeters, drastically reducing the impact of GI as a mechanism for market development and adding value, two justifications that are recurrent in all projects.

In a variety of agri-food markets, GI development critically depends on building a new kind of compromise that can overcome current insurmountable differences. For cheese production, this has led to the publication of new norms by the Ministry of Agriculture in 2011. In attempting to respond to criticism of the rules for commercialization of cheeses, the new norm allows homemade cheeses produced with raw milk to be matured for a period of less than sixty days (as had been established by the 1952 Decree). Yet the new norms also establish their conditions. First, they limit production to GI or traditionally-recognized regions. Second, the document establishes the need for technical studies to provide evidence that such practices do not constitute a threat to food quality and safety. Nonetheless, producers still complain about these norms since the compulsory technical control requires a structure of laboratories that are not available to most small producers.

As mechanisms of development, market access, and added value, GIs depends on product conformity to a regulatory framework that defines conditions of production and consumption (Sylvander et al. 2006). It has allowed these qualification devices to be widely used for cheeses (and other products) in Europe, where similar conflicts were common until new rules, better adapted to the particular characteristics of every product and region, were formulated (Brunori 2006; Delfosse 2007). Currently, in France alone, there are 46 GIs for cheeses (INAO 2010), many of which concern products derived from raw milk, such as

⁸Sistema Único de Atenção à Sanidade Agropecuária.

Roquefort, Camembert de Normandie, Mâconnais and Pelardon (most of which are sold on the Brazilian market with no legal problems whatsoever). This does not mean that all critical issues in the European context were solved. The problems associated with the recognition of these products reemerge frequently. However, the current institutional structure enables system stability and the development of the market.

The specificity of European legislation compared with Brazilian law manifests itself in another way for wines, the second example that we will refer to to analyze how the process of GI institutionalization is still related to competition between the GI and sectorial rules. In Europe, besides a Code of Practices concerning PDO (Protected Designation of Origin) or PGI (Protected Geographical Indication), all wine producers are subject to common regulation defining minimum criteria for each of these instruments. The main issues concern the origin of the raw material (100 percent from the demarcated area for PDO, 85 percent for PGI) and, more recently, the use of hybrid cultivars, which have been authorized for PGI wines (Niederle and Vitrolles 2010).

In Brazil, up to the present date, every GI Code of Practice has defined different standards and rules, even when referring to the same product category. We noted this earlier in our discussion of the difference between Vale dos Vinhedos and Pinto Bandeira IS regulations regarding grape origin. This flexibility allows producers to work according to their own technical and organizational conditions. For example, if producers do not have a bottling structure, the Code of Practices may allow this process to be carried out in another area. Thus, the flexibility to adapt this instrument to local contexts allows producers to negotiate less stringent conditions and even discuss the gradual evolution of standards.

The main problem with this practice is that the same instrument of protection is used for different production processes. This can place producers in unequal conditions of competition or may mislead consumers. In the first case, a regulation that defines less stringent requirements regarding the production of grapes allows producers to operate within a relatively lower cost structure, which in turn becomes an important market difference. In the second case, consumers who recognize the GI sign in two different wines may be induced to believe that they were produced under similar conditions (Bruch 2011).

Regarding the use of hybrid cultivars for wines, the discussion is even more controversial. In 2011, a Vales da Uva Goethe IS request for white and sparkling wines was granted. Since the Goethe variety is a hybrid, the first peculiarity of this project concerns how this attempt to value a table wine (cf. Law 678/1998) opposes

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the understanding that has emerged within other GI projects for wines, especially those underway in the Serra Gaúcha region under EMBRAPA coordination (Fenstenseifer 2007; Tonietto 2005). The Goethe project criticizes the evaluative compromises underlying the construction of a model exclusively geared toward the valorization of fine wines (i.e., produced from European grape cultivars). In other words, while in Serra Gaúcha the actors involved in GI projects guide their qualification efforts through the conversion of vineyards to *Vitis vinifera*, the project conducted by Progoethe Association calls the common worldwide notion of fine wines as the only carriers of an inherent quality into question (Garcia-Parpet 2009; Desplobins, Silva, and Schmidt 2005). On the other hand, criticism directed toward the Goethe project from both technicians and wine producers maintains that the recognition of this table wine as IS may discredit the GI system and jeopardize the recognition of Brazilian fine wines within international markets, especially in Europe.

International law, particularly concerning the European system, has always considered hybrid cultivars unsuitable for wine production for several reasons, including the related crises of overproduction that have historically destabilized the wine market on the continent. However, one fact that might change the course of this history concerns ongoing changes in the international standards. In 2008, European regulation inaugurated the possibility of PGI demand for wines produced from hybrid varieties (Regulation 479/2008, Article 34). There is no way to predict whether this trend will be followed at the international level or in Brazil. Some countries have managed to rehabilitate hybrid cultivars and legitimate their wine making, for example Canada, when it promoted the *ice wine* made from a white hybrid grape called Vidal. However, in Brazil, wine sector modernization has clearly followed another course (Niederle 2011).

It should be noted that, currently, beyond promoting technical and organizational innovations, rules concerning the GI system are also structured in a way that resolves some deficiencies of wine sector regulation. Based on certain qualitative principles that attach importance to a modernizing bias, Codes of Practice have established more restrictive conditions of production; defining, for example, stricter production limits, capitalization procedures, or chemical additive levels. Upon doing so, projects have been criticized by actors who oppose GI legitimacy to define this type of requirement, especially when it is more restrictive than sectorial rules. On the other hand, there are those who argue that the GI system should incorporate all sanitary standards regarding products, in an attempt to encourage producers to conform to legislation. This is a complex discussion

because this type of rule generally defines similar standards for producers, territories, and products in the same category and may endanger the typicality related to geographic specificity, understood as natural and human factors that contribute to product uniqueness (Bérard and Marchenay 2004; Delfosse 2007).

The Organizational Environment: Defining Roles and Responsibilities

Finally, we would like to discuss in a few words a third challenge to GI institutionalization in Brazil. It concerns the definition of the organizational environment in relation to the distinct roles played by the main actors working to develop the system of rules. Besides the INPI, which currently is the only organization directly associated with GI formal recognition, several public and private entities take part in projects, mainly the Ministry of Agriculture (MAPA), EMBRAPA, universities, producers' associations, rural outreach public service (EMATER), private service to support small businesses (SEBRAE), and the institute of historical patrimony (IPHAN). Although the social network involves a more heterogeneous group of actors depending upon the project at stake, these are the organizations that effectively intervene in the making of a national GI system.⁹

The INPI is a GI registration agency. It also includes advisory functions within its scope of action, providing such services for producers' associations, which must adapt their projects to registration requirements. Nonetheless, in light of its limited attributions and its relatively limited operational structure, the Institute is unable to act as an agency for GI control, much less to provide technical and financial support for projects. In this regard, the Ministry of Agriculture has proposed more effective participation in GI development for food markets and also suggests active involvement in the control methods established to check the implementation of the rules defined by the Code of Practices. Some actors maintain that the MAPA should take a more proactive role during GI recognition for products of animal and vegetable origin, exempting INPI from sole responsibility in judging technical aspects that in fact are beyond its jurisdiction, especially regarding sanitary legislation.

⁹For the past two years, these organizations have constituted in a working group to put together a bill that, if approved, will substitute for current GI regulations, establishing a more coherent institutional framework to deal with the above-mentioned challenges. The considerations we present here are based on the author's participation in this working group (Niederle 2012).

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Nonetheless, although the system may incorporate this type of external control structure,¹⁰ MAPA attributions are limited to the agri-food sector. As we noted earlier, Brazil has a remarkable potential for GI development for other goods, particular handcrafts. This has generated wide discussion regarding the specificities of the GI regulatory framework and its relation to the protection of nonmaterial cultural heritage. In this regard, note that, despite its peripheral status, the position taken by the IPHAN is particularly important within this social network (Cerdan 2009). The Institute's presence makes it possible to construct "weak ties" with other social networks (Granovetter 1973), building a gateway for new actors and values that foment institutional and technical innovation within the food sector as well. This has been felt, for example, in discussions on the regulation of homemade cheeses, as well as on engaging the Slow Food movement and other organizations acting at the regional level (Almeida et al. 2009; Cruz 2012).

Currently, joint initiatives are underway for the registry of homemade or crafts products with recognized sociocultural appeal (Belas 2012). Nonetheless, numerous tensions spring up around the establishment of new value compromises, and clashing with perspectives advocating the preservation of nonmaterial cultural heritage is common for GI use. This is particularly evident regarding the introduction of industrial technologies that; in seeking the homogeneity warranted by product status as a typical good and attempting to bring production practices in line with sanitary regulations, tracking systems, and environmental norms; may undermine traditional modes of production and put the diversity of cultural practices at risk (Bérard and Marchenay 2007; Delfosse 2007; Vitrolles 2011).

Regarding other organizations, the EMBRAPA, the major public institution for agricultural research in Brazil, has taken on the role of a key actor in a wide range of projects. Among its different functions, the main one involves the articulation of the research and development entities (including universities) that make up a body of technicians and specialists responsible for aiding in the construction of Code of Practices norms. In most situations, this degree of influence in one of the most important aspects of GI construction has strengthened representational quality as an aggregate of objective characteristics inherent to the product, preponderant within the domain of industrial sciences and technologies and still widely prevalent within the agri-food system (Nicolas and Valceschini 1995) and clashing with cultural heritage priorities. In other cases, however, researchers' participation has

¹⁰Current control of GI use is entirely dependent on producers' own self-directed controls and the internal control that is carried out by their associations.

revealed a more evident concern for the value given to traditional resources and modes of production, in an attempt to reduce the asymmetry between scientific and traditional knowledge.

The EMATER, or Brazilian Rural Outreach Public Service, works at a very local level, relying largely on the personal engagement of its technicians. In fact, among the various limitations that GIs encounter as development strategies, organizations experience difficulties in incorporating this type of qualification mechanism as part of their priorities. This also serves as a partial explanation for the problems they have in bringing in wider segments of family farmers. The latter are excluded from many projects, even in territories and within markets where they were historically the major bearers of habits, customs, and traditions responsible for defining the relationship between a product and its origin. In effect, until the present date, the very organizations that represent these farmers (rural unions and social movements) have been completely left out of discussions on GI institutionalization (Froehlich and Dullius 2012; Niederle 2011).

The stabilization of the Brazilian GI system is linked to the formation of a broad network of actors and organizations, each taking on specific roles, and requiring permanent and dynamic governance at all levels. The distribution of competencies requires huge efforts to ensure that governance does not develop parallel conceptual models within different organizations. An understanding that is increasingly present in all organizations suggests that, just as agricultural trajectories are distinct, GI development in Brazil will not take on the same institutional and organizational structure that we find in Europe (Criado, Anjos, and Caldas 2011; Niederle 2011). However, many issues that have proven relevant to GI projects in the Brazilian context are similar to those in evidence not only in Europe but throughout the world, and are of growing importance in emerging countries; a result of the internalization of TRIPS in the construction of national systems.

Despite the resistance of certain nations, such as the United States and Australia, the globalization of this mechanism calls for the creation of a global recognition and protection system and the consequent unification of different institutional frameworks. Currently, the diversity of conceptions regarding GI makes bilateral specific agreements, based on certain types of products, prevail over the possibility of mutual recognition of national systems. Because of the judicial conflicts generated (Josling 2006), negotiations that could lead to a kind of multilateral system of notification and registry are advancing slowly. In January 2011, the text of a first draft for the creation of a registry dealing specifically with the segment of wines and spirits was presented at the World Trade Organization.

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Changes in international regulations present new challenges to GI institutionalization and create a new research agenda for the future. The growing influence of developing countries within agri-food markets – each with its own system for recognizing and protecting GIs – creates uncertainties about how this instrument of intellectual property will be used in the future.

FINAL REMARKS

In contrast to the mainstream economic model, we see markets as social constructions that are temporally and spatially located (Allaire 2010). In contemporary capitalist societies, markets are spaces of social action where economic actors seek to build competitive strategies that enable them to survive and expand their control over exchange processes (Fligstein 2001). One way to extend this control involves building standards, rules, conventions, and classification schemes that determine how trade should occur (Busch 2010). This is a precondition for market stabilization; if this were not so, in each act of exchange, agents would be forced to redefine the rules of the game, which – in the terms of some new institutional approaches – would imply high transaction costs (Ménard 2004).

The institutionalization process we have examined in this article refers to a movement aimed at stabilizing a market for GI products in Brazil. This is not a rigid process of building normative frameworks that, once constituted, are reproduced *ad infinitum*. We have analyzed some situations in which this process reveals diverse contingencies that show why equilibrium is always a condition of precarious stability among different coordination devices whose legitimacy can be questioned. Institutions are not entities that, within the continuous flow of social change, remain relatively fixed or stable and uncorrupted by time; as opposed to fallible individuals subject to exterior forces. Instead, institutions themselves are continuously subject to processes of re-institutionalization (Boltanski 2008; Hodgson 2004).

In this paper, we have revealed how intricate this social construction of a market for GI products has been, considering the complex relationships among actors with different interests and values. From examples found in the several empirical situations we have studied over the last six years, we argue that projects have been developed without a consolidated frame of rules, thus leading to the reproduction of a variety of GI subsystems, implemented in different territorial and sectorial contexts. Technical choices made in each project have contributed to the perpetuation of certain conceptions of this qualification device that are not

necessarily common to all of them. Neither are they perfectly articulated within a broader regulatory framework. This situation creates obstacles to market development because of the high level of irreversibility of some grades and standards that are becoming well established in the different territories and chains. Consequently, the stabilization of the qualitative conventions produced in the last decade defies producers, researchers, and policy makers to rethink the course of GI institutionalization in Brazil.

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