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The Analysis of the Use of Geographical Indications of Good (Registration and Protection) Act, 1999 in Protecting Indian Textiles

RISHAV SRIVASTAVA¹ AND DR. TANVI SHARMA²

ABSTRACT

This research paper is a comprehensive analysis of Geographical Indications in the Indian context with particular reference to the handloom sector. It covers topics such as the rationale for Geographical Indications as IP (intellectual property); the domestic position on Geographical Indications; Geographical Indications protection under various international instruments; handlooms from Gujarat and their Geographical Indications journey; the efficacy of Geographical Indications; and the Geographical Indications structure for handlooms. The volume bridges the gap between law and policy and advocates for the implementation of an effective legal system. It emphasizes the importance of Indian handlooms, which symbolize the country's cultural history and provide a variety of livelihoods. India's Geographical Indications protection system has been evaluated in light of its different cultures, with the goal of determining how Geographical Indications might help recognize, support, and promote these items in order to offer socioeconomic benefits. This article describes policy initiatives adopted to revive, restructure, and promote Indian handlooms and handicrafts, and it will be a significant contribution to Indian Geographical Indications law. This article is an investigative study that evaluates the current law and policy on Geographical Indications protection through detailed case studies and empirical research on select Indian handlooms. It will be useful to scholars and researchers of geography, economics, development studies, sociology, law, and public policy. Policymakers, attorneys, experts in textiles and handlooms, institutions of design and business administration, the media, museums of arts and crafts, and civil society organizations involved in intellectual property or handlooms will also find it interesting.

Keywords: Handlooms, Intellectual Property Right, Geographic Indications, Effective Legal Systems.

¹ Author is a student at Amity Law School, Noida, Uttar Pradesh, India.

² Author is an Assistant Professor at Amity Law School, Noida, Uttar Pradesh, India.

I. INTRODUCTION

While intellectual property is commonly acknowledged as a key asset for nations, not all its forms or subcategories are widely recognized. This paper addresses the issue by providing an initial broad overview and honing in on one aspect of industrial property: geographical indications. Geographical indications are intellectual property tools that pertain to goods and services distinguished by the geographic origin from which they originate (collected, produced, or manufactured). These tools take into account environmental, historical, social, and cultural characteristics. As per Brazilian legislation, there are two types of geographical indications: appellations of origin and indications of origin. Geographical indications can serve as a protective system (for both consumers and producers), a marketing strategy (highlighting a product or service's uniqueness), a rural development mechanism (because it can influence job creation, income distribution, local identity, and more), and a means of preservation (of culture, expertise, and even ingredients).

The cross-cultural exchange of cultural forms and diversity has emerged as a result of globalization. This requires a search for the most effective, comprehensive, and appropriate methods to safeguard and protect traditional knowledge. Although existing international treaties and regional/national agreements seem to cover trade in goods, it is crucial to assess the extent of discrimination among various goods. To explore this, international, regional, and bilateral agreements between the European Union and Latin American countries will be examined. The discussion of how to reconcile cultural heritage with intellectual property is also relevant to handicrafts. This essay explores the role of geographical markers in protecting and preserving traditional handicrafts. The analysis will show that the conservation of geographical indicators extends beyond merely economic aims by examining local contexts and the importance of international coherence.

Under the Geographical Indications of Goods (Registration and Protection) Act of 1999 (the Act), handicrafts (including handlooms) are eligible for registration as geographical indications (GIs). Handicrafts (including handlooms) are part of this inclusion. According to Section 2(f) of the Act, "goods" covers any agricultural, natural, manufactured, or handcrafted items, including food products. Craftspeople and weavers are permitted to become authorized users of registered geographical indications according to Section 7(3) in conjunction with Section 17 of the Act. The Act stipulates that anyone asserting to be the producer of items with a registered geographical designation must apply to the Registrar in the stipulated manner outlined in Section 6 to obtain authorization for the use of such registered geographical indicator.

What Legal Safeguards can Geographical Indications Act (GI Act) provide?

A geographical indication right enables individuals who hold the right to utilize the indicator to prevent a third party from using it if their product does not align with the specified criteria. For example, in regions where the geographical designation for Darjeeling is protected, producers of Darjeeling tea can stop any tea that is not grown according to the standards set forth in their tea gardens from being labeled as "Darjeeling." However, a protected geographical indicator does not give the owner the ability to prohibit someone from producing a product using similar methods as those outlined in the regulations for that indication. Typically, protection for a geographical indication is established by securing a right over the identifying symbol associated with it.

II. GI TAGS

The history of traditional crafts and handloom weaving in India is rich and vibrant, showcasing the intrinsic value, design excellence, and uniqueness of the materials. Skilled artisans and weavers from different regions of India have been exhibiting exceptional craftsmanship passed down through generations, whether it be in the form of Banarasi silk, Bhagalpur silk, Thanjavur paintings, or Madhubani paintings. Indeed, India serves as a captivating source of numerous exquisite products. This vibrant cultural heritage has drawn the attention of consumers not just nationwide but globally, presenting significant opportunities for enhancing exports and fostering the economic success of our artisans and weavers.

Nevertheless, the distinct qualities and artistic appeal of these items, which genuinely belong to their respective regions, often lead to unethical business behaviors, resulting in many of these products facing infringement issues. Thus, a pertinent question arises: what actions has the government taken to safeguard these products from imitation and infringement? In alignment with the international legal framework stipulated by the Trade Related Intellectual Property Rights (TRIPS) agreement, the Government of India established the Geographical Indication of Goods Act in 1999. As of April 2017, a significant total of 149 handloom and handicraft items had been registered under the GI Act, contributing to an overall total of 270 registered products across all categories. Now the vital query is how one can secure registration under the GI Act. Any group of individuals or producers' organization can submit an application for registration. Once a product is registered under the GI Act, any individual producer or artisan from that specific geographical region can register themselves as an authorized user of that particular GI product.

Advantages of GI Act Registration

Registering under the GI Act prevents unauthorized use and offers legal protection to registered proprietors and authorized users of GI products. The GI Act imposes penalties for infringement or imitation, enabling registered stakeholders to benefit from the premium pricing associated with these high-quality products in both national and international markets. Furthermore, it ensures complete quality assurance for customers regarding the authenticity of the products. Currently, the government is actively assisting handloom weavers and handicraft artisans in obtaining GI registration. The Ministry of Textiles offers financial support to cover registration costs under the GI Act. Various organizations such as the Textile Committee, NIFT, and field offices of DC Handlooms and DC Handicrafts are actively working to register notable products under the GI Act. The ministry has held numerous awareness workshops and is providing assistance to registration holders in enforcing their rights. The Government of India introduced the India Handloom Brand on the first National Handloom Day, 07.08.2015, to promote exquisite and authentic handloom products. This brand has already registered 41 handloom products under the GI, which the Ministry of Textiles is promoting vigorously. The ministry also organizes special exhibitions for GI-registered products and runs targeted marketing campaigns. Artisans and weavers with GI products receive priority in all exhibitions.

III. THE ADDITIONAL GI TAGS IN INDIA

The details regarding the 149 handcrafted and woven products from India that were geographical indication (GI) certified as of April 2017. This 200-page compilation was produced by the Development Commissioner (Handlooms) and the Development Commissioner (Handicrafts) within the Indian government's Ministry of Textiles. GI certification identifies goods—whether agricultural, natural, or manufactured—as originating from a specific region, where the quality, reputation, or unique characteristics of the goods are linked to their geographical origin, in accordance with the Geographical Indications of Goods (Registration and Protection) Act of 1999. For manufactured goods, GI certification may also indicate that part of the production processes occurs within the designated area.

Weavers and artisans qualify to register as "authorised users" of GIs under the stipulations of the Act. The certification prohibits the sale of GI products that were not created in accordance with the Act's guidelines. Historically, Kerala's coastline has been known for producing coir yam, commonly referred to as "Alleppey coir." The golden fibre is created from coconut husks through a process of removal, retting, and beating, then spun into yarn using traditional spinning wheels. This yarn is dyed and woven to produce items like mats, carpets, tiles, and baskets.

Banarasi brocade saris from Uttar Pradesh are made of intricately woven silk and adorned with

zari work. These saris often display patterns inspired by Mughal designs, featuring details such as kalga and bel (complex floral and leaf motifs). The lohar (ironsmith) communities in the Bastar district of Chhattisgarh carry out lohshilp, or wrought iron craftsmanship, historically creating agricultural and hunting tools for various tribal groups. This craft utilizes reclaimed iron scraps from households or markets as raw materials. Artifacts are formed using a furnace, hammer, forceps, tongs, and chisels.

In Karnataka, Bidri metalwork is created by inlaying thin sheets of pure silver with a blackened zinc and copper alloy. Historical accounts attribute its origin to the Bahamani sultans, who ruled the Deccan region from the 13th to the 15th century. In Bidar town, the main practitioners of this craft belong to the Lingayat and Muslim communities. The Cheriya paintings from Telangana are produced on khadi or cotton fabric. These vibrant works traditionally feature scrolls measuring between 10 and 30 metres long, depicting narratives derived from Hindu epics. The artwork is applied to greeting cards, masks, gifts, jewelry boxes, and other items.

The card game Ganjifa is believed to have its roots in Persia (modern-day Iran) and gained traction in India during the 16th century Mughal era. The game uses eight suits, with a total of 96 cards. During the Mughal Empire, cards were crafted from ivory, tortoise shell, and mother of pearl for the elite, while poorer individuals used materials like papier-mâché, palm leaf, or cotton. Today, the primary production of these cards takes place in Mysore, Karnataka. The terracotta art form of Villianur in Puducherry uses finely ground clay that is partially dried before being cast, moulded, or hand-carved into figurines, lamp shades, dolls, and idols. These items are available in a wide array of shapes and designs, featuring intricate details and decorations for various uses. The Kulalar clan in Tamil Nadu is the leading producer of these terracotta creations.

IV. CONCERNS REGARDING GI TAGS IN INDIA

The benefits of GI are many, and if utilized properly, they can greatly enhance a region's economy and facilitate the growth and development of the local community. GI acts as a form of protection, especially for developing countries like India, for production occurring in rural areas where producers lack the resources for branding due to insufficient infrastructure, marketing know-how, legal understanding, and so on. For these local producers, establishing brand recognition through the GI label is essential, akin to the impact it has had on tequila producers in Tequila (Mexico). Tequila, as the oldest GI recognized outside of Europe, is considered one of the most successful GIs beyond European boundaries. However, it is vital to acknowledge that the legislation has not passed its evaluations successfully. It has reportedly

stumbled three times. Some argue that it struggles to curb the issue of genericide, as indicated in Section 9. Others criticize its policy consequences because it fails to provide adequate funding and rigorous post-production oversight. Lastly, the GI-tagging of agricultural products should be undertaken with a commitment to scientific accuracy.

V. CONCLUSION

The concept of Geographical Indications (GI) is relatively new in India, even though the country is home to a wide array of products that could be classified as geographical identifiers. In fact, the drive to establish dedicated legislation for GIs was primarily motivated by India's commitment to the WTO to implement intellectual property regulations in line with TRIPS, rather than an internal demand. The initiatives taken by various public and semi-public entities and stakeholders to secure legal protection for Indian GIs under the new law mark a significant advancement considering the recent introduction of the GI concept. Nonetheless, to truly harness the potential benefits associated with registered GIs, careful management of these designations will be essential moving forward. This will necessitate long-term, consistent efforts backed by meticulous planning and adequate financial resources.

We believe that successful GI projects in India require strategic interventions from public or semi-public organizations as a fundamental requirement. Given the complex challenges that many Indian GIs, especially within the handloom and handicrafts sectors, encounter, it is improbable that mere GI registration will lead to significant socioeconomic improvements. However, if the registration and utilization of GIs are viewed as part of a comprehensive strategic approach, as evidenced by the cases of "Pochampally Ikat" and "Chanderi Fabric," the financial success of the actual producers and artisans involved in this collective right may be positively influenced. India has substantial opportunities to cultivate a strong brand image for these unique products by highlighting the cultural elements associated with them, as the majority of Indian GIs are intertwined with traditional knowledge, culture, and community lifestyles. Noteworthy competitors like China and Thailand are actively marketing their goods by emphasizing the cultural aspects, putting India at a close contest in the global market for traditional handcrafted items.

By tapping into the rich historical narratives, myths, and legends surrounding numerous traditional GIs, India can boost its brand visibility on the global stage. Experiences from Europe illustrate that products with deep-rooted history and tradition often gain from the synergy of their environment and the authenticity of production techniques, combined with folklore to impart an additional layer of intrigue and allure. Numerous Indian GI products indeed

encompass captivating narratives and legends, such as "Pashmina" and "Aranmula Kannadi." The absence of coordination among various governmental departments and agencies, alongside a lack of suitable and relevant feedback mechanisms, may partly explain India's shortcomings in exploring these innovative solutions. Each entity frequently operates independently, often oblivious to the critical links that exist both forward and backward. There is an urgent need to enhance inter-departmental cooperation and connectivity to avoid redundant efforts and maximize outcomes. Leveraging the commercial and social opportunities of GIs in India could be significantly facilitated by a unified strategy, which would also help in obtaining additional benefits from this collective IPR.

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