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Geographical indication and handicrafts: A critique

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Abstract

This research paper is a comprehensive analysis of Geographical Indications in the Indian context with particular reference to the handloom sector. It discusses themes such as the rationale of 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 Geographical Indications structure for handlooms. The volume fills the gap between law and policies and recommends the implementation of an efficient legal system. It highlights the status of Indian handlooms, a sector that represents the country's cultural heritage and supports a range of livelihoods. India's Geographical Indications protection system is been analyzed with its diverse cultures and explore how Geographical Indications can help recognize, support and promote these products to bring socio-economic benefits. This article provides policy measures undertaken for the revival, restructuring and promotion of Indian handlooms and handicrafts, and will serve as an important intervention in Indian law on Geographical Indications. 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, this article will be useful to scholars and researchers of geography, economics, development studies, sociology, law and public policy. It will also interest policymakers, legal practitioners, textile and handloom professionals, design and business administration institutes, media, arts and crafts museums and civil society organizations working on handlooms or in intellectual property.

Keywords: Geographical indications, intellectual property, handlooms, efficient legal system investigative study, current law

Introduction

Although intellectual property is widely recognised as a strategic asset of the nations, not all of its modalities or subcategories are well-known. The current paper tackles the problem by incorporating an initial, broad discussion and focusing on one of the divisions of industrial property: geographical indicators. Geographical indications are intellectual property mechanisms that apply to goods and services that are identified by the location from which they were created (collected, produced, or manufactured). These mechanisms take into account environmental, historical, social, and cultural specificities. According to Brazilian law, There are two categories of geographic indications: appellations of origin and indications of origin Geographical indications can be created as a system of protection (to the consumer and the farmer), a marketing tool (emphasising the distinction from a product or service), a mechanism for rural development (since it can have an impact on the creation and maintenance of employment, income distribution, local identity, etc.), and a means of preservation, according to these (of culture, savoir-faire, and even ingredients) ^[1].

Cross-cultural exchange of cultural forms and diversity has been a result of globalisation. This necessitates looking for the most efficient, complete, and suitable procedures to

¹In Brazil, Law No. 9,279 of May 14, 1996, known as the Brazilian Industrial Property Law (LPI), regulated the matter, defining Geographical Indications as indication of provenance (IP) and denomination of origin (DO). IP is the geographic name of a country, city, region, or location in a territory that has become known as a center of extraction, production, or manufacturing of a certain good, or provision of a certain service. And DO is the geographic name of a country, city, region, or location in a territory that designates the good or service whose qualities or characteristics are an exclusive or essential result of the geographic environment, including natural and human factors. It is important to underscore that the registration of a Geographical Indication acknowledges a pre-existing condition.

preserve and conserve traditional knowledge^[2]. Although established international treaties and regional/national conventions seem to cover the international trade in goods, it is important to determine how much discrimination exists between different goods. To that end, international, regional, and bilateral agreements between the European Union and Latin American nations will be taken into consideration. The argument over how to balance cultural heritage and intellectual property is also pertinent when it comes to handicrafts. This essay discusses the use of geographical markers as a safeguard for and preservation of traditional handicrafts. The study will demonstrate that the conservation of geographical indicators goes beyond economic purposes by looking at local frameworks and the significance of international harmony.

In accordance with the Geographical Indications of Goods (Registration and Protection) Act of 1999 (the Act), handicrafts (including handlooms) may be registered as geographic indications (GI). Handicraft (including handlooms) are included^[3]. According to Section 2(f) of the Act, "goods" includes any agricultural, Natural, manufactured, or handcrafted objects are all acceptable (& Handlooms) or industrial, which includes food products^[4]. Craftspeople and weavers can become authorised users for the registered geographic Indications pursuant to Section 7(3)^[5] read in conjunction with Section 17^[6] of the Act. According to the Act, anyone claiming to be the producer of the products that have a geographical designation registered on the map in writing to the Registrar in the prescribed manner under Section 6^[7] method for His authorization to

²Traditional knowledge refers to the knowledge, innovations and practices of indigenous peoples. Developed from experience gained over the centuries and adapted to the local culture and environment, traditional knowledge is often transmitted orally from generation to generation. It tends to be collectively owned and can be expressed in stories, songs, folklore, proverbs, cultural values, beliefs, rituals etc. It is also the source for the traditional use and management of lands, territories and resources, with indigenous agricultural practices that care for the earth, without depleting the resources. Indigenous peoples follow oral traditions, with dances, paintings, carvings and other artistic expressions that are practiced and passed down through millennia.

³Geographical Indications of Goods are described as an attribute of industrial property that relates to a geographical indication designating a nation or a location within that country as the country or place of origin of a product. On September 15, 2003, the Geographical Indications of Goods (Registration and Protection) Act of 1999 went into effect. This is a general law aimed at providing better protection to India's indigenous peoples.

⁴Goods means any agricultural, natural or manufactured goods or any goods of handicraft or of industry and includes food stuff.

⁵The particulars relating to the registration of the authorized users shall be incorporated and form part of Part B of the register in the prescribed manner.

⁶Application for registration as authorized user.-(1) Any person claiming to be the producer of the goods in respect of which a geographical indication has been registered under section 16 may apply in writing to the Registrar in the prescribed manner for registering him as an authorized user of such geographical indication.

⁷Register of Geographical Indications.-For the purposes of this Act, a record called the Register of geographical indications shall be kept at the head office of the Geographical Indications Registry, wherein shall be entered all registered geographical indications with the names, addresses and descriptions of the proprietors, the names, addresses and descriptions of authorized users and such

use such a geographical indicator is registered.

What legal protections can geographical indications offer?

A geographical indication right allows individuals who have the right to use the indicator to stop a third party whose product does not comply with the indication from using it and adhere to the relevant criteria. As an illustration, in the jurisdictions in Manufacturers of products for which the Darjeeling geographical designation is protected Darjeeling tea can prevent non-grown tea from using the name "Darjeeling," either not produced in accordance with the specifications outlined in their tea gardens, the geographical indication's code of conduct.

A protected geographical indicator, however, does not give the owner to stop someone from creating a product using similar methods as the ones specified in the guidelines for that indication. Security for a geographical cue is typically acquired through gaining a right over the indication's identifying symbol.

GI tags, Art and Handloom

in India traditional crafts and weaving on handlooms have a long and glorious history because of their inherent value perfection of designs, eminence and distinct of stuff skilled artisans and weavers in various regions of India have been demonstrating unique skill sets passed on as legacy over the generations whether it does Banarasi silk,^[8] Bhaganpur Silk,^[9] Thanjavur Painting,^[10] Madhubani Painting,^[11] India indeed is a fascinating reservoir of many such exquisite products this rich cultural heritage of India has attracted consumers not only from all over the country but from all over the globe. This provides an immense potential for our boosting exports as well as the economic prosperity of our artisans and weavers.

However the unique quality and aesthetics of these products that rightfully belong to their specific regions often attract dishonest business practices and most of these products experience infringement so the question that often comes to mind is what has the government done to provide legal protection to these products from infringement and duplications? In compliance with international legal

other matters relating to registered geographical indications as may be prescribed and such registers may be maintained wholly or partly on computer.

⁸Banarasi silk fabric is a fine quality silk variant originating from Varanasi, Uttar Pradesh. Banarasi silk has its roots deep in the rich history of India. Saree woven from silk is known as Banarasi silk Saree, which is an extremely famous fabric all over India and the world.

⁹Bhagalpuri silk or Tussar silk is a traditional style of silk saris. This material is used for making saris named as Bhagalpur sari. Bhagalpur is also known as "silk city" of India. Bhagalpuri silk is made from cocoons of *Antheraea paphia* silkworms. This species, also known as Vanya silkworm is native to India.

¹⁰Tanjore paintings are known for their extravagant depictions of deities using vibrant colours and gaudy embellishments, especially gold foil. Though the artform has undergone various changes over the years, it continues to be popular with lovers of art even today, and inspires many artists with its truly Indian style.

¹¹Madhubani painting is a very old form of folk art that originated in the Madhubani district of Bihar. It is made from rice paste and natural colours. The colours are derived from flowers like marigold, rose etc. The paintings show human beings, animals, trees, flowers, birds, etc.

framework of Trade Related Intellectual Property Right TRIPS agreement^[12] the Government of India has enacted Geographical Indication of Goods Act, 1999^[13]. Until April 2017 a large majority of 149 handloom and handicraft products have already been registered under the GI act,^[14] thus adding up to a total of 270 products of all categories registered, now the important question is how to obtain registration under the GI act any association of persons all producers organization can apply for the registration once the registration is granted do a product under GI act any individual producer artisan of that geographical area can register oneself as an authorized user of that particular GI product.

Benefits of Registration under GI Act

Registration prevent unauthorized use of register GI need and provides legal protection to the registered proprietors and all the authorized users of GI products the GI act provides punishment for infringement or duplication therefore GI registered stakeholders can capitalize on the premium price associated with these premium product in the national and international markets. it also provides complete quality assurance to the customers about the genuineness of the product. today a lot does being really done by the government to help handloom reverse and handicraft artisans for obtaining GI registration, the ministry of textiles provides financial assistance for bearing the expenses of registration under GI act it's various agencies such as Textile Committee^[15], NIFT^[16], Field Offices of DC

¹²The TRIPS Agreement is a minimum standards agreement, which allows Members to provide more extensive protection of intellectual property if they so wish. Members are left free to determine the appropriate method of implementing the provisions of the Agreement within their own legal system and practice.

¹³Under geographical indication of goods act, 1999 "Geographical Indication, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin and in a case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be."

¹⁴How many Geographical Indications are registered in India? Available at <https://factly.in/how-many-geographical-indications-are-registered-in-india/> Accessed on: 21.10.2022 at 08:30 PM.

¹⁵The Textiles Committee has been established under the Textiles Committee Act, 1963, (No. 41 of 1963), of the Indian Parliament. It replaced the erstwhile Cotton Textiles Fund Committee, constituted under the Cotton Textiles Fund Ordinance, which was promulgated by section 72 of the Government of India Act, 1935. This ordinance provided for the establishment of the Cotton Textiles Fund from the levy of a cess of three per cent on the ex-mill prices of cloth and yarn exported and for the setting up of the Cotton Textiles Fund Committee to administer the Fund. The Fund was to be used for supervising the export of cloth and yarn, and increasing the same of cloth and yarn abroad and generally for the development of technical education and research relating to the cotton textile industry.

¹⁶Set up in 1986, NIFT is the pioneering institute of fashion education in the country and has been in the vanguard of providing professional human resource to the textile and apparel industry. It was made a statutory institute in 2006 by an Act of the Indian Parliament with the President of India as 'Visitor' and has full fledged campuses all across the country. Over the years NIFT has

Handlooms^[17] and DC Handicrafts^[18] have been pro-actively working for getting prominent products registered under GI act the ministry has conducted a large number of awareness workshops and is also assisting registration holders in enforcement of their rights. The Government of India launched the India handloom brand on the first national handloom day on 07.08.2015 to promote exquisite genuine handloom products the brand has already covered 41 handloom products registered under GI, which are being pro-actively promoted by the ministry of textiles the ministry also organizes special exhibitions for GI registered products and undertakes special marketing campaigns artisans and weavers with GI products are given preferences in all exhibitions.

The other GI Tags in India

The information on the 149 Indian handcrafted and woven goods that as of April 2017 were geographical indication (GI) certified. The Development Commissioner (Handlooms) and the Development Commissioner (Handicrafts) of the Indian government's Ministry of Textiles produced the 200-page compendium. A GI certification identifies agricultural, natural, or manufactured goods as coming from or being manufactured in a particular region, where the quality, reputation, or other characteristics of such goods are attributed to its geographical origin, according to the Geographical Indications of Goods (Registration and Protection) Act, 1999^[19]. When it comes to manufactured items, GI may also show that at least some of the production processes take place in the specified area.

Weavers and artisans are eligible to register as "authorised users" of GIs under the requirements of the Act^[20]. The certification forbids the sale of GI products that were not produced in accordance with the requirements of the Act. Since ancient times, Kerala's coast has been the site of the

also been working as a knowledge service provider to the Union and State governments in the area of design development and positioning of handlooms and handicrafts.

¹⁷Development Commissioner for Handlooms was set up as an attached non-participating office on 20th November, 1975 under the Ministry of Commerce. At present it is functioning under the Ministry of Textiles.

The Office of the Development Commissioner for Handlooms is headed by an officer of Additional Secretary/Joint Secretary level having its headquarters at Udyog Bhawan, New Delhi.

¹⁸A Theme based handicrafts portal of Govt. of India showcasing over 45,000 products of approximately 9000 Artisans, Retailers, Exporters & Govt. Awardees. Mainly focuses on 5 select themes – Needle Work, Tribal Crafts, Natural Fibre And Ecofriendly Crafts, Fashion Accessories and Festive Decorations providing in-depth information about the craft, products, sellers and awarded master craft persons in these particular crafts.

¹⁹The Geographical Indications of Goods (Registration and Protection) Act, 1999 (GI Act) is a sui generis Act of the Parliament of India for protection of geographical indications in India. India, as a member of the World Trade Organization (WTO), enacted the Act to comply with the Agreement on Trade-Related Aspects of Intellectual Property Rights. The GI tag ensures that only those registered as authorised users (or at least those residing inside the geographic territory) are allowed to use the popular product name.

²⁰National handloom week: A time to fix the GI magic wand Available at: <https://www.indiatoday.in/news-analysis/story/national-handloom-week-fix-gi-tag-handicraft-1935491-2022-04-09>. Accessed on 31.10.1022 at 08:40 PM

production of coir yarn, often known as "Alleppey coir."^[21] Coconut husks are removed, retted, and beat to create golden fibre, which is then spun into yarn using conventional spinning wheels to create coir. To create items like mats, carpets, tiles, and baskets, the yarn is coloured and woven. Banarasi brocade saris from Uttar Pradesh are crafted from intricately woven silk and embellished with zari. The saris frequently feature Mughal-inspired patterns or accents like kalga and bel (intricate floral and leaf motifs).

The lohar (ironsmith) communities in Chhattisgarh's Bastar district practise lohshilp^[22], or wrought iron craft, and historically produced farming and hunting items for numerous tribal groups. For this craft, reclaimed iron scraps from homes or marketplaces are used as the raw material. Artifacts are created using a furnace, hammer, forceps, tongs, and chisels. Thin sheets of pure silver are inlaid with blackened zinc and copper alloy used to create Bidri metalwork in Karnataka. According to the research, the Bahamani sultans^[23], who dominated the Deccan region from the 13th to the 15th century, are responsible for its inception. In Bidar town, the Lingayat and Muslim groups are the principal practitioners of the profession.

The Cherial paintings^[24] of Telangana are created on khadi or cotton fabric. These vibrant paintings, which have historically been created on scrolls between 10 and 30 metres long, typically tell a story using themes from Hindu epics. Greeting cards, masks, gifts, jewellery boxes, and other items all feature the artwork. The card game Ganjifa^[25] is thought to have originated in Persia (now Iran), and it gained popularity in India during the Mughal era in the 16th

²¹Alappuzha is famous for being the pioneer of coir and coir products. The abundance of coconuts and palms in Alappuzha make the city home for the coir products since a very early age. Historical records and evidences show that the Arab traders were the first to export coir and other coconut products from the city port. The coir industries of Alappuzha are the most thriving industries in this locality. The raw materials for coir and coir products are easily available here in the district and the transport system heavily based on the waterways makes the additional cost remain as less as possible and, thus, enhance the potentials of this industry.

²²The dark raw forms of the metal artifacts and figurines of Chhattisgarh, appear as a reflection of its own people. Both share a coarseness that is underlined by quiet elegance and dignity. The inherent respect that the ethnic people have for the environment means that the raw material used for this craft is predominantly recycled scrap iron, with the rich ore mines of Cherangdungri occasionally acting as the supply source.

²³The Bahmani Sultanate, or Deccan, was a Persianate, sunni Indo-Muslim empire located in the Deccan region. It was the first independent Muslim kingdom of the Deccan, and was known for its perpetual wars with its rival Vijayanagara, which would outlast the Sultanate.

²⁴Cherial paintings are generally the pictorial presentation of scenes from Indian mythological epics such as Ramayana, Mahabharata, Garuda Purana, Krishna Leela, Markandeya Purana and other mythological scripts. Cherial paintings are very similar to other folk paintings say Pattachitra, Phad painting, and the likes as they also act as a visual aid for storytelling. They are made on a long vertical piece of cloth in a narrative form.

²⁵Ganjifa, Ganjapa is a card game and type of playing cards that are most associated with Persia and India. After Ganjifa cards fell out of use in Iran before the twentieth century, India became the last country to produce them. The form prevalent in Odisha is Ganjapa.

century. Eight suits of 96 cards total are used to play the game. The cards were made of ivory, tortoise shell, and mother of pearl for the nobility during the Mughal Empire and were made of papier-mâché, palm leaf, or cotton for the poor people. Today, the cards are primarily created in Mysore, Karnataka. The Villianur terracotta art form of Puducherry^[26] uses finely ground clay that has been partially dried before being cast, moulded, or hand carved into figurines, lamp shades, dolls, and idols. The items come in a variety of shapes and patterns with intricate detailing and decorations for varied functions. The Kulalar clan^[27] in Tamil Nadu is the primary producer of these terracotta items.

Issues with the GI tags in India

The advantages of GI are numerous, and if they are used effectively, they can significantly improve a region's economy and pave the way for the expansion and development of the indigenous community. GI serves as insurance or protection, particularly for developing nations like India, for manufacturing that takes place in rural areas where manufacturers are unable to spend in branding due to a lack of infrastructure, marketing expertise, legal knowledge, etc. For these indigenous producers, building brand equity through the GI label is crucial similar to how it has affected tequila producers in Tequila (Mexico). The oldest GI produced outside of Europe, tequila, is regarded as one of the most prosperous GIs outside of Europe^[28]. It is crucial to recognise, though, that the Act did not pass muster in terms of its examination. It has apparently failed three times. Some claim that it becomes troublesome since it is unable to limit the application of genericide, as indicated in Section 9. Others disagree with its policy implications because it does not offer both funding and strict post-production control. Thirdly, the GI-tagging of agricultural products should not be accompanied by a lack of scientific rigour.

Non-Control After-Production

It is important to note that Indian law does contain provisions for methods that assure quality control. The act's Section 11 specifies how to submit an application to register a GI. According to Section 11(1), any producer association, organisation, or individual claiming to speak for the interests of the producers may register the commodities in question by following a prescribed process. The components

²⁶The Villianur Terracotta Works are handicrafts made from fine green clay, fine sand and thennal which are hand made by villagers of Villianur, in the union territory Pondicherry also spelled Puducherry, India. It has a history of more than 20 generations. This handicraft product has been registered for protection under the Geographical indication of the Trade Related Intellectual Property Rights (TRIPS) agreement. In 2011, it was listed as "Villianur Terracotta Works" under the GI Act 1999 of the Government of India with registration confirmed by the Controller General of Patents Designs and Trademarks under Class 21 as an earthen ware, vide application number 201.

²⁷Kulala is a Hindu caste whose traditionally pursued pottery trade and farming as a profession commonly found in the Indian states of Andhra Pradesh, Karnataka, Kerala and southern parts of Tamilnadu. They belong to the Other Backward Class group.

²⁸Sarah Bowen & Ana Valenzuela Zapata, Geographical indications, terroir, and socioeconomic and ecological sustainability: The case of tequila, 25, J. Rural Stud. 108, 108 (2009).

of such an application are listed in Section 11(2). It must contain a declaration regarding the relationship between the good and a particular region in terms of its production and underlying environmental and human elements. Additionally, the relevant product category, a map of the area, information about how it looks, and the producers must be mentioned. The applicant group is advised to name a "Inspection Body" who is in charge of ensuring the quality of the goods included in the GI in the form GI-1, which must be completed as part of the process^[29].

In fact, the Geographical Indications of Goods (Registration and Protection) Rules, 2002's Rule 32 (1)(6)(g), calls for specifics of the inspection structure, if any, that will govern the use of GI for the goods for which the application is made in the specific territory, region, or locality mentioned in the application^[30]. However, it's crucial to remember that under Indian law, the absence of an inspection structure won't be sufficient evidence to show that a registration application for a GI isn't adequate before the GI is actually granted. As there is no statutory liability imposed on inspection organisations under the current Act in the event that they violate its provisions, it has been argued that the current legislative framework lacks teeth neglect to periodically check whether the related GI's products are in conformity with their specs. Currently, the only recourse available to members of the collective group authorised to use the GI or consumers who wish to hold a member of the group accountable for failing to uphold the quality standards of the products is Section 27 of the act, which calls for the cancellation of the member's registration from the list of authorised GI producers^[31]. It states that any violation or failure to comply with a requirement listed on the register entitles the tribunal to cancel or modify the registration of a GI^[32]. The Registrar or the Appellate Board are the tribunals in this case^[33]. They are required to notify the parties involved and give them a chance to be heard before imposing such an order. If the Appellate Board issues a rectification order, it must send a notification of that order to the Registrar, who will then make the necessary corrections to the register^[34].

The aforementioned procedures, however, have shown to be ineffective at preserving the quality of goods with GI tags. Lack of quality control also encourages "free riders" within the community in question. Members of a group known as "free-riders" opt to compromise the quality of their products in order to compete with other GI producers or manufacturers of comparable goods outside the GI-denominated market, especially when consumers are

sceptical of or uninformed about those differences^[35].

Additionally, it must be underlined that there should be no distinction made based on whether the inspection body or owner of the GI is a government organisation. More over half of the total proprietors are made up of government agencies, boards, academic institutions, and other organisations^[36]. However, their activities in terms of examining need to be examined and regulated as well. The producers and parties engaged in some GIs have grown powerless due to the lack of post-production management. Their hopes for the successful registrations turned out to be unfounded. Examples that fit the bill include the renowned Banarasi saree, the Venkatagiri saree, and Pashmina silk. The traditional weaver community has seen chronic hunger and poverty. The MGNREGA rewards show that such poverty and hopelessness among the weavers drove some of them to commit suicide or caused employment transfers. Now, the majority of skilled people are engaged in unskilled jobs^[37].

The quality silk, gold or silver brocade or zari, and lavish embroidery of Banarasi sarees have earned them a prestigious reputation since the Mughal era^[38]. Several organisations had submitted an application for GI registration in 2007 to safeguard this very validity. In 2009, they attained the GI. In its application to the GI register, the applicant organisation named five inspection bodies. The Department of Handlooms oversees these inspection agencies (Government of Uttar Pradesh), the Weavers Service Center, the Master Weavers' Self-Regulation, the Development Commissioner (Handlooms), and the Textiles Committee. The Silk mark and the Handloom mark are just two of the many certification marks currently used by the Banarasi Saree industry. Customers may now confirm the purity of Banarasi silk by using a high-security nano particle-embedded fusion label, which was developed by The Silk Mark Organisation of India (SMOI), the registered owner of the SILK mark. In an effort to get access to newer markets abroad, Banarasi sarees are being promoted as "green products."

The Venkatagiri Saree's registration is held by the Andhra Pradesh-based Venkatagiri Handloom Sarees Apex Society. This saree is made in Venkatagiri, a tiny village in Andhra Pradesh that is located about 60 kilometres from Nellore. The warp and weft are both woven with excellent 100's cotton yarn. Zari is used to embellish the border and pallow of the saree. Jacquards are used to weave patterns with additional weft. Typically, sarees are made in gentle, pastel colours. It is made with a vintage fly shuttle pit loom. The size of its warp and weft yarns is its area of expertise. It was the 18th Indian saree to receive the GI designation.

However, due to low quality control regulations, not even the Venkatagiri saree was able to avoid taking the brunt of misuse and imitation. There are rumours that the designs of these sarees were imitated by power looms in Tamil Nadu. The absence of assistance from government wings and the weavers' ignorance of economic activity have both been

²⁹The Geographical Indications of Goods (Registration and Protection) Act, 1999.

³⁰The Geographical Indications of Goods (Registration and Protection) Rules, 2002, Rule 32(1)(6)(g).

³¹Irene Calboli & Wee L. Ng-Loy, *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific* (Irene Calboli and Wee Loon Ng-Loy eds., 2017). Available at: <https://scholarship.law.tamu.edu/facscholar/1355> Accessed on 30.10.2022 at 11:23 PM

³²The Geographical Indications of Goods (Registration and Protection) Act, 1999, S. 27.

³³The Geographical Indications of Goods (Registration and Protection) Act, 1999, S. 2 (1) (p).

³⁴The Geographical Indications of Goods (Registration and Protection) Act, 1999, S. 27.

³⁵*Supra*

³⁶Soumya Vinayan, *Geographical Indications in India: Issues and Challenges - An Overview*, 20 J. WORLD INTELL. PROP. 122 (2017).

³⁷See Krishna Dwivedi et al., *Restore glory of the Banarasi sari* (Dec. 21, 2012),

³⁸*Supra*

detrimental.

According to reports, the Department of Handicrafts within the Ministry of Textiles of the Government of India supports these artisans and extends invitations to them to participate in exhibitions and other commercial activities around the nation. However, the department is only allowed to issue identification cards and ignore post-production assistance^[39].

Absence of Scientific Application

It has been argued that there is a distinction between a product's "uniqueness" and its specialisation. Product uniqueness may result from both geographical and other non-geographical elements in combination or solely as a result of the latter. Product specialisation is the result of geographical factors. An analysis of registered GIs demonstrates a lack of conceptual clarity and scientific rigour in establishing the product's distinctiveness. Customers may be misled by the assertion in GI Journal No. 19 that "flesh whitish occasionally pink" refers to "Allahabad Surkha". The claim that "Naga mircha" is the hottest chilli on planet is untrue, according to scientific research. It takes a lot of study efforts to prove the distinctiveness of agricultural products. Because consumers place higher value on originality as a purchasing criterion when they are aware of specialisation, both specialty and uniqueness need to be stressed equally. However, it is claimed that the majority of the agricultural GIs registered in the nation lack this data entirely^[40].

Concluding Remarks

GI as a concept is very new to India, despite the fact that it possesses a vast variety of products that could be considered geographical designators. In actuality, rather than a perceived need from within the nation, the concept of establishing a special legislation for GIs was sparked by the promise India made in the WTO to put in place IPR regulations in conformity with TRIPS. The actions taken by various public and quasi-public organisations and stakeholders to ensure that Indian GIs are legally protected under the new legislation are in and of themselves a considerable step forward given the notion of GIs' brief introduction. However, careful management of these GIs in the future is necessary to really realise the potential benefits entrenched in the registered GIs. This would require long-term, consistent work supported by careful planning and sufficient funding. We believe that for the GI projects in India to be successful, strategic interventions by public or quasi-public organisations are a necessary prerequisite. Given the complex issues that many Indian GIs face, particularly in the handloom and handicrafts industries, it is unlikely that GI registration by itself could result in appreciable socioeconomic advancements. However, when registration and exploitation of GIs is envisioned as a component of a multi-pronged strategic intervention, as demonstrated by the experiences of "Pochampally Ikat" and

"Chanderi Fabric," "The financial success of the real producers and artisans participating in this collective right may be impacted by this right collectively. India has a lot of potential for developing the brand image of such exotic products by stressing the cultural features connected to them because the majority of Indian GIs are linked to TK, culture, and the lifestyles of the communities. Notably, nations like China or Thailand, whom India competes with closely on the international market for traditional handmade products, are attempting to advertise their products by emphasising the cultural features of their products. India can leverage the historical lore, myths, and legends surrounding many of its traditional GIs to enhance its brand recognition in the international marketplace. European experiences show that goods with a long history and tradition can frequently combine the advantages of the setting and authenticity of production knowledge (or process secrets) with legends to provide an additional dimension of folklore and engender a certain aura of mystique. 62 Many Indian GI products are definitely the subject of fascinating stories and legends, to name just a few: "Pashmina"⁶³ and "Aranmula Kannadi"⁶⁴. India can leverage the historical lore, myths, and legends surrounding many of its traditional GIs to enhance its brand recognition in the international marketplace. European experiences show that goods with a long history and tradition can frequently combine the advantages of the setting and authenticity of production knowledge (or process secrets) with legends to provide an additional dimension of folklore and engender a certain aura of mystique. Many Indian GI products are definitely the subject of fascinating stories and legends, to name just a few: "Pashmina" and "Aranmula Kannadi" Lack of coordination between various government departments and bodies, as well as the absence of suitable and relevant feedback systems, may be partially to blame for India's lack of initiatives in investigating some of these new solutions. Each of them frequently operates in a stand-alone mode while being unaware of the critical forward and backward linkages. Improving inter-departmental coordination and connectivity is urgently needed to prevent effort duplication and maximise results. Exploiting the commercial and social potential of GIs in India might be made much easier with the help of such a coordinated strategy, which would also aid in securing other spill over benefits from this pooled IPR.

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⁴⁰See SK Soam & M Hussain, Commercialization of Indigenous Health Drinks as Geographical Indications, JIPR Vol. 16(2) 69, 173-174 (2011).

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