



GEOGRAPHICAL INDICATION: ANALYSIS IN LIGHT OF ARANMULA KANNADI

*By Anushkaa Shekhar & Pritha Banerjee
From Symbiosis Law School, Pune*

ABSTRACT

The concept of Geographical Indications is almost as old as the New World. Christopher Columbus sailed to India to strategize upon capturing the wealth of rich Indian Spices whereas Venetian Glass, China Silk and Dhaka Muslin were among the much sought out treasures. These meticulously built reputations had to be painstakingly maintained and preserved as inter-generational know-how. Steadily, a specific link between the goods and place of production evolved resulting in growth of geographical indications.

Geographical Indications (GI) are signs, which identify goods as originating in a specific geographical location. Being a collective right, it seeks to protect the economic interests of an entire community of producers from a particular region who specialize in the making or manufacturing of a native product. At the domestic level India ensures that GI protection is uniformly available to all types of products, however it is still noticed that products like Basmati are not adequately protected under TRIPs. While such protection has the potential to bring about economic prosperity of marginalized sections of society, the lack of it to products like Aranmula Kannadi, have raised concerns regarding the standards followed by the authorities while protecting the knowledge and diligent work of the

labours of this unique mirror in Kerala, who just had a flood to wash away their years of scrupulous and meticulous handicraft work. The article examines the controversial issue surrounding the dearth of effective legislations for preservation of the knowledge attached with a GI recognition.

In India, GI recognition is granted to abundant products ranging from the famous Pashmina to Aranmula Kannadi and from Basmati Rice to the Madhubani Paintings. However even after the recognition there were disputes regarding the legitimacy of the origin of these GI acclaimed products.

This article seeks to examine the protection of geographical indications in India. The authors have attempted to study this in light of the 'Aranmula Kannadi' of Kerala, which obtained its GI tag in 2005, but currently stands disputed due to allegations of false GI from another organisation claiming to be the true inventors of the product. It is the endeavour of the authors to discern the problems cladding the covenant of a GI in India along with a few loopholes and possible solutions to prevent further malicious use of the products and productively tackle their protection.

INTRODUCTION

In recent years, Geographical Indications (GIs) have emerged as one of the most important instruments for protecting the quality, reputation and character of goods having a geographical origin which indicate their source and quality.

GI is an invention of the Trade-Related Intellectual Property Right (TRIPs) Agreement, which came into force with



effect from January 1, 1995. The TRIPS Agreement requires World Trade Organisation (WTO) members to provide legal means to prevent the use of GIs that mislead the public as to the geographical origin of the goods or constitutes an act of unfair competition.¹ The conflict between trademarks and GIs and its resolution has also been debated which has given rise to various conflicting proposals.

A geographical indication is a sign used on products that have a specific geographical origin and possess characteristics and qualities corresponding and derived from that place of origin.² Article 22(b) of the TRIPS Agreement defines geographical indications as indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geography. A product originating in a certain place must have ingredients, characteristics, quality and goodwill that establishes its connection with its geographical origin in order to function as a GI or acquire an indication mark. A clear link has to be established between the product and its original place of production since the distinguishing factor of that product results from factors like specific climate or raw material obtained from that particular region.

¹Jeongwook Suh and Alan MacPherson, The Impact of Geographical Indication on the Revitalisation of a Regional Economy: A Case Study of 'Boseong' Green Tea, The Royal Geographical Society, Dec., 2007.

³Mohan v. Scotch Whisky, AIR 1980 Del 125 (India).

Darjeeling tea and basmati are the most common and important geographical indications for India. The hilly areas of Darjeeling district of West Bengal claim the rights to their native tea. The unique flavour to the tea comes from the geographical features like altitude, rainfall, sunshine and the mist. The soil is rich and the hill slopes serve as natural drainage. All these features make the tea produced in Darjeeling one of the most sought-after teas in India.

TRIPS AGREEMENT AND GI ACT 1999

There was no specific legislation to regulate geographical indication in India prior to 1999, however, the judiciary played an active role in preventing misuse of the Geographical indications. In Mohan v. Scotch Whisky,³ the Delhi High Court affirmed the order of the registrar of trademarks by which he refused to register the applicant's mark proposed to be used on whisky produced in India consisting of the words "Highland Chief" and the device of the head and shoulders of a gentleman dressed in Scottish highland costume wearing, *inter alia*, feather bonnet and plaid and edged with tartan, a well-known symbol of Scottish origin.

The driving force for India to enact its own legislation for GI protection was the Basmati controversy. When Ricetec Inc., a U.S. multinational company received a patent for new lines and grains in the name of "Basmati" rice. Despite several attempts from India, they could not successfully fight back against the contention that Basmati was not geographic indicator even in India as it

³Mohan v. Scotch Whisky, AIR 1980 Del 125 (India).



was grown all over India, Pakistan and even in Thailand. Additionally, even according to the TRIPs, there is no obligation for other countries to extend reciprocal protection unless a geographical indication is protected in the country of its origin.⁴

In light of this eye-opening event, India enacted the Geographical Indications of Goods (Registration and Protection) Act in 1999. The definition of Geographical Indication under this act, though similar to TRIPs, is much more explanatory. It explicitly includes agricultural, natural or manufactured goods, the characteristics of which, apart from being attributable to geographical origin, one of the activities of either production or processing of the manufactured good takes place in that locality. The time period of registration for the geographical indication is ten years which can be repeatedly renewed for another ten years upon application in the prescribed manner by the proprietor. Similar provisions apply for authorised users.⁵

REGISTRATION OF GI

Registration of the geographical indication is mandatory in order to claim any rights with respect to the geographical indication.⁶ The benefits of registration are:⁷

- a. The registered proprietor and authorized users can claim a right to infringement in the event of an infringement
- b. The authorized users receive exclusive right to the use of the GI of the goods.

Therefore, while registration of GI is not mandatory in India, Section 20 (1)⁸ doesn't give legal backing to unregistered GIs. Thus, registration of a GI gives its registered owner and its authorized users the right to obtain relief for infringement.

THE ARANMULA KANNADI

Existing since the Vedic period, the Aranmula Kannadi is a rare and unique piece of craft whose creation is only known to a few families in the Aranmula village in Kerala's Pathanamthitta district. The inimitable feature of this exclusive product is that it does not require the silver nitrate coating to develop a reflective nature to be called a mirror. The distinguishing feature of the Aranmula Kannadi from a regular mirror is that while the latter reflects images from its coated layer, the former does so directly from its surface. The makers, who are extremely skilled artisans claim no distortions in the images.

The reason for this is that in an ordinary mirror, the light first permeates the surface and gets reflected only when it touches the coated side at the back. The image gets slightly distorted due to an element of refraction. However, in Aranmula mirror, the light reflects right from the upper surface. The test which has been determined to identify an original Aranmula, is that

⁴ Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement, Art. 22, Jan 1, 1995, (1869 U.N.T.S. 299).

⁵ The Geographical Indications of Goods (Registration and Protection) Act, Section 18, 1999, No.48 of 1999, Acts of Parliament, India.

⁶ The Geographical Indications of Goods (Registration and Protection) Act, Section 20, 1999, No.48 of 1999, Acts of Parliament, India.

⁷ The Geographical Indications of Goods (Registration and Protection) Act, Section 21, 1999, No.48 of 1999, Acts of Parliament, India.

⁸Supra n. 6.



when an index finger is placed on an ordinary mirror, there is a small gap visible between the finger edge and its reflection, however, this gap extinguishes in the case of an Aranmula.⁹

The exact combination of metals that constitute this marvellous creation is unknown outside the Aranmula circle; however, the craftsmen claim that along with an alloy of silver, bronze, copper, tin and certain undisclosed alloys, the composition of the metal mirror also contains a divine touch since the ingredients for this were discovered during the construction of the Aranmula Parthasarathy temple. Long-time back, Indian artisans visited Aranmula at the behest of the King of Pandalam for the sanctification of the temple idol. Apart from carrying out the assigned tasks, the artisans also made ornaments such as bangles and rings, cooking vessels and bells through casting copper-based alloys. In the process of doing so, they discovered the reflective property of one particular copper-tin alloy, which led to the discovery of the Aranmula Kannadi.

Another myth has it that the ingredients of this rare piece of art were discovered while remaking the crown of the deity of the Aranmula Parthasarathy temple. The proportions of the bronze alloy were such that it shone like a mirror. The end result which was made out of the combination of copper and tin turned out to be a marvel of art and craft. It was silver like colour, brittle like glass, shone with rare brilliance, and

when cleaned acquired the quality of reflection.¹⁰

This metal mirror is also mentioned in the Rigveda coupled with some evidences of it excavated from the Harappan period. Temple sculptors have also depicted it at Khajuraho. The metallurgy of this metal mirror and the making process is a mystery to the modern scientists. The scientists from Regional Research Laboratory (RRL, CSIR), upon a thorough analysis of the alloy found the quantities of various metals. However, attempts to make a mirror of the Aranmula quantity failed even at the hands of CSIR scientists.¹¹

PROCESS OF CREATION

Till date the craftsmen use traditional, indigenous methods and materials to produce the reflecting wonder called Aranmula Kannadi. It takes years of practice and tremendous amount of focus and patience to produce a perfect mirror piece.¹² The artisans work under the scorching sun in a thatched workshop with utmost dedication to create the mirror without any flaws. The process starts with the making of the alloy. The next step is moulding, then casting the mould with the alloy in the furnace stoked by a fire. The moulds are cooled and then broken, to reveal the rudimentary mirror that is formed from

¹⁰ Aranmula Kannadi, History and Tradition, <http://aranmulakannadi.org/about/tradition/>.

¹¹ GI, IP India Services, Journal 3, Aranmula Kannadi, http://ipindiaservices.gov.in/GI_DOC/3/3%20-%20GI%20-%20Aranmula%20metal%20mirror%20goes%20for%20GI%20-%202027-06-2004.pdf.

¹² Kerala Tourism, Aranmula Kannadi, <https://www.keralatourism.org/kerala-article/mirror-aranmula/13>.

⁹Aranmula Kannadi, Aranmula Kannadi- The Metal Magic for Prosperity!, <http://aranmulakannadi.org/>.



the molten alloy which is then cut, filed, polished, and finally mounted on a brass frame. This entire process is time consuming and scrupulously done.

The mirror is such a matter of pride for the entire nation that Prime Minister Narendra Modi presented it to his British counterpart David Cameron's wife during his UK visit, in 2015.¹³

GRANTING OF GI¹⁴

An application was made by the Vishwa Brahmana Aranmula Metal Mirror Nirman Society (VAMMNS), to grant the Mirrors a Geographical Indication for its unique manufacturing process. The secretary of the Society, in Aranmula applied for it stating that the secret ingredients of the metal mirror are known only to his family. His application elucidated on the entire process down to every detail.

Once satisfied with the uniqueness and secrecy of the product, the Geographical Indications Registry granted the patent to VAMMNS in 2005 for the 'Aranmula Kannadi'. This was renewed after ten years and now the Geographical indication owned by the Society is valid till 2023.

THREAT TO THE ORIGINAL GI

In 2015 a family constituted as the Thikkinampallil Aranmula Metal Mirror Nirman Family Charitable Trust filed a petition in the GI Registry against the

Vishwabrahmana Society questioning its legacy over the Aranmula Kannadi. The Trust filed for its own GI under the name 'Thikkinampallil Aranmula Kannadi' claiming that the process of manufacturing it is inherited from predeceased members of the Thikkinampallil family who are the actual inventors of the Kannadi.¹⁵ The inimitable method, which the Trust members claim to have inherited from their forefathers is more or less the same as described by VAMMNS with a few minor changes in the proportions of the metals.

The application by this Trust is under examination by the Board and no final decision has been given as to which organisation should be the true owner of the GI.

MISFORTUNE OF AUGUST 2018

The State of Kerala faced the worst flooding in nearly a century owing to the unusually high rainfall during the monsoon season which placed all 14 districts of the state on red alert. The Indian government had declared it as a Level 3 Calamity, or 'calamity of a severe nature'.¹⁶ Thirty-five dams out of the total fifty-four within the state were opened for the first time in history. The impact of the floods caused widespread loss to life, livelihood and property. About 483 people died, 15 went missing and at least a million people were evacuated. The Aranmula Kannadi makers were also adversely affected in this calamity. The prepared mirrors became

¹³ Aranmula Kannadi, Aranmula Kannadi- The Metal Magic for Prosperity!, <http://aranmulakannadi.org/>.

¹⁴ GI, IP India Services, Journal 3, Aranmula Kannadi, http://ipindiaservices.gov.in/GI_DOC/3/3%20-%20Affidavit%20-%2022-06-2004.pdf.

¹⁵ GI, IP India Services, Application 535, http://ipindiaservices.gov.in/GI_DOC/535/535%20-%20Form%20GI-1%20-%2028-12-2015.pdf.

¹⁶ T.C.A. Sharad Raghavan, The Hindu explains: 'Calamity of a severe nature', The Hindu, August 20, 2018.



irreparably damaged, workstations got washed away and the raw materials were rendered useless.

Problems after the Kerala flood

Post the floods, when the people were trying to recover from the trauma and return to their lifestyle, the craftsmen brought to light the problems which had shut their business temporarily. The moulds for the mirrors are made from the clay obtained from the paddy fields around Aranmula. But the floods caused the river to deposit a thick layer of slush over the paddy fields.¹⁷ This new layer of clay was unsuitable for the moulds and in order to obtain the right material, a thick coat of sand and mud needed to be removed. This tedious task couldn't be performed over a large surface area soon enough to get the craftsmen back in business while making sure their homes don't fall apart.

Secondly, the tools such as the chisels, hacksaw blades and hammers rusted due to being submerged in water. These finished tools which are a vital element to their craft could not be used for filling, engraving or embellishing designs on the frame.

Apart from all the benefits, creating the mirror is also a relatively green process. The material used is eco-friendly and obtained locally. There is minimum waste and most of the material is recycled, as the mould bits can be ground again, and the alloy pieces remelted. Hence, it is imperative to uplift the present conditions of the Aranmula Community.

PROBLEMS IN PROTECTION OF GI

¹⁷ Ramesh Babu, Floods threaten to take shine off Kerala's famed mirror artisans, Hindustan Times, Sept 24, 2018.

Currently, one of the most fundamental problems with GI is the progressive loosening of the territorial linkage between GI products and GI regions in the definition of "geographical indications." Although this territorial linkage has never been an absolute linkage since the first appearance of national laws regulating the use of geographical names, the current trend seems to privilege a considerably looser definition of GIs with respect to the actual geographical origin of the products, their ingredients, and manufacturing process.¹⁸ The territorial linkage between the GI and the products and the regions is the traditional basis for granting exclusive rights on GI precisely - the deep connection between the products and the land.

When GIs do not identify products that are entirely local, GIs no longer fulfil the function for which they are legally protected - accurate information being offered about products' geographical origin to consumers thus, incentivizing local development. Instead, GIs become marketing tools to sell GI products with the advantage of the GI name on the international market.

In today's upcoming scenario, GI is becoming increasingly commercial and its legal protection is becoming imperative to ensure its legitimacy in the market. Unfair use of GI and business practices will result in loss of revenue for the genuine right holders of GI and mislead consumers as well.

¹⁸ Government of India, Geographical Indications Journal No. 95
http://www.ipindia.nic.in/writereaddata/Portal/IPOJournal/1_437_1/Journal_95.pdf.



There has been a stampede of GI registrations in India in the recent months. Though developed countries use GI primarily for food products, the Indian legislations have extended GI to a wide spectrum of goods from handicrafts to flowers and spices. Thus, the Aranmula mirror, along with assorted silks, saris, textiles and embroidery styles, joins soaps, incense, different varieties of jasmynes, several strains of rice, tea, betel leaf, pepper and chillies have acquired the GI tag.

According to some experts, Article 22 of TRIPs is not good enough. Initially drafted for the effective protection of GI, it is now increasingly being used as a law against unfair trade practices and for consumer protection degrading from its goal of IPR protection.¹⁹ A producer outside a specific geographical region could still use the GI as long as the product's true origin is indicated on the label. This means that an Aranmula mirror could be manufactured from, say, Houston in Texas, thus allowing an American producer to free ride on the reputation and market goodwill created by Keralite artisans over two centuries.

An excellent illustration would be the premium quality tea produced in the hilly regions of Darjeeling in West Bengal- the erstwhile Darjeeling Tea in the eastern province of India. This tea offers a distinct characteristic of quality, flavour followed by a global reputation of more than a century. Namely geographical origin and processing have contributed to such an exceptional and distinctive taste. While Darjeeling tea

produced in Darjeeling is 10,000 tonnes, it is estimated that 40,000 tonnes of tea is sold as Darjeeling tea in the world market. The consumers of these 30,000 tonnes of tea, which is not Darjeeling tea, are being misled into believing that they are consuming Darjeeling tea when in fact they are not. Most of the tea coming on to the world market, as counterfeit Darjeeling seems to be coming from Kenya and Sri Lanka. The other source is said to be Nepal.

Nepalese tea is produced in similar geographic conditions to that of Darjeeling tea. About 60 per cent of Nepalese tea is exported to India and most of the Nepalese tea estates/gardens are owned by Indians. There are allegations that Nepalese tea imported into India is repackaged as Darjeeling tea and exported. Nepal is a small producer and exporter of tea in the world market. If contemporary commercial reputation becomes the benchmark, the boundary with trademark or unfair competition law breaks down and the justification for GIs, as a separate regime based on the causal connection between product and place, collapses.²⁰

In the case of the Aranmula Kannadi, the artefact had adequate protection and authenticity owing to the GI tag it obtained more than a decade ago. The devastating floods along with the allegations from the Thikkinampallil Family have left the craftsmen in despair and lost hope for the continuation of their divine art. One can also question the legitimacy of this new claim of inventors of the mirror on the

¹⁹C. Niranjan Rao, Geographical Indications in Indian Context: A Case Study of Darjeeling Tea, Economic and Political Weekly, Oct. 15-21, 2005.

²⁰Id.



contention that why did they approach the GI Registry after almost a decade.

While settling this clash of claims, the government and the GI Registry also needs to look into losses faced due to the floods and work towards the upliftment of the craftsmen as well as promotion of the art.

Additionally, once GIs are registered there are practically no provisions for quality control, which is why there is proliferation of applications in India. Quality control is one of the pivotal issues in European countries. There is little possibility of fakes once a product is granted GI after proper checks and inspection, which is not the case in India.

A GI tag in India not only brings with itself a brand equity for the product but also demands premium in the market. Hence, a lot of background work needs to be conducted before an official application is made, and the absence of this in India leads to an enormous number of rejections. A recent instance for this is the 'Hyderabadi Biryani' as the applicants could not prove its historical origin along with supporting documents. This provision will prove to be a formidable hurdle in India, a country where in regions like the North East, which boast of far wider oral history and conventions than written proof.

To exemplify, the case of Assam could be taken into deliberation because the traditional wine rice called 'Judima' (made by Dimasa tribe of Dima Hasao, one of the autonomous hill districts of Assam). Assam government underwent difficulties in registering under Geographical Indicator

category due to inability in gathering sufficient documentary evidence. It is only after recurrent efforts that recently Judima qualified to be registered as a GI.

However, this is a growing issue in GI registration in India and our experts have again and again questioned the rationality of this law which is proving to be a hurdle towards India's development in the IPR sector.

SUGGESTIONS

Legal protection of GI holds enormous significance due to its commercial as well as cultural importance. Economically, GIs serve a two-fold purpose: on one hand, it enables indigenous producers to get market recognition and build goodwill around their products and, on the other hand protect consumers from counterfeit goods.²¹ Without suitable legal protection, the competitors who do not possess any legitimate rights on the GI might take undue advantage of its reputation. Such unfair business practices result in loss of revenue for the genuine right-holders of the GI and also misleads consumers. Besides, such practices may eventually hamper the goodwill and reputation associated with the GI.

They hold immense worth for local communities through products that are deeply rooted in their tradition, culture and geography. They also support rural

²¹ Kasturi Das, Protection of Geographical Indications, An Overview of Select Issues with particular reference to India, (Centad Working Paper No. 8, 2007), http://www.centad.org/cwp_10.asp.



development and promote new job opportunities in production, processing and other related services.²²

One of the main reasons and foundations of the geographical indication in India, is the making of quality products and preserving it, as long as its indication exists it is known for its original taste and flavour which had attracted it the GI at the first place. There is a dire need in India today to preserve high quality in such origin specific goods which Europe has already recognized and there are laws to safeguard the quality of a GI granted good.²³

The European law on the protection of names relating to agricultural goods and foodstuffs enables consumers to make informed choices by providing clear information on their origin specific products which belong to their hometown. Moreover, they also give a competitive advantage to the producers having the GI over their contemporaries. In contrast, inspection and monitoring mechanisms for GI protection doesn't grab much emphasis in the Indian GI Act.

It is the hallmark of a GI to ensure quality associated with geographical origin. However, the current legal framework on GI evidently lacks the rigour and teeth to ensure it. It is imperative in our country to preserve the consumer trust to save the integrity of

GI. Some of the steps that can be suggested here are:

- Effective verification of the goods: Effective verification and controls at multiple levels in the supply chain will ensure compliance with product specification before placing it in the market. If we have officers placed at levels of the supply chain which leads to the, final product being manufactured for the market they will keep a check on the quality of the product so that quality is not sacrificed for profit and the trust of the consumers can also be retained.
- Inspection and market monitoring: To ensure legal compliance, the market monitoring of the use of names is mandatory. Hence there should be inspectors from the GI department in Chennai, who should visit all the factories and ensure that the original quality of the good which fetched it the GI in the first instance is not compromised years later exploiting their fame and the trust of the customers. Moreover, it is also crucial for the department if nothing else, to at least inspect and report the status of the goods and their production progress before giving them an extension after their initial ten years have expired.
- Historic continuity of the product: Continuity suggests that the present reputation rests on the product's historic reputation. One of the central tasks here is to identify the characteristic features which set this product apart – characteristics which have made it distinctive when compared with similar cheeses or textiles or crafts. These characteristic features have sustained the product's historic reputation over time.

²²European Commission, Geographical Indications, <http://ec.europa.eu/trade/policy/accessing-markets/intellectual-property/geographical-indications/>.

²³Suman Sahai, Protecting Basmati, Economic and Political Weekly, Feb. 28 - Mar. 6, 1998.



The purpose of the historical analysis is therefore to establish a basis for the product's reputation – which is attributable to its distinctive features. Finally, regarding the product's history, the aim is to identify a causal connection between the product's distinctive or characteristic features, which have sustained the historic as well as contemporary reputation, and the natural and/or human factors within the geographical region of origin. This should be a safety check to mark the fact that the product has retained its indigenous and aboriginal characteristics which makes it worth for an extension of the GI period.

- Long and cumbersome procedure of registration: Upon a closer examination, the authors speculate that the procedural requirement existing for the process of GI registration are extensive and lengthy, and a faster process, is applicable only to the applicant or a third party and not the Registry. After the applicant has done his part, the Registry may take as long as it needs to communicate the deficiencies in the application but the claimant has to revert back within a month. Similar is the case for all other steps in the procedure. However, it can be said that the Registry is not time bound in order to effectively evaluate the numerous applications that it receives and to prevent any abuse of the privileges of the GI tag. The authors suggest that the Government could establish another GI Registry to reduce the workload on the office at Chennai and to ensure a faster processing of pending applications. It is also true that in such a scenario, if one or more branches are opened, people might use it to their advantage and file an application in another office after being rejected from

one. In order to avoid this, an online database can be maintained where all the applications are uploaded so it becomes easier for each office to be aware of the applications already rejected. Moreover, if there is a shortage of manpower to maintain and keep the record up to date, new people can be hired thereby increasing the employment.

Furthermore, since the procedure established provides for filing for an objection, it can be questioned why the members of the Thikkinampallil Aranmula Metal Mirror Nirman Family Charitable Trust took twelve years to object to the GI received by the Vishwabrahmana Society. This brings out another loophole in the entire process- that the application shouldn't only be published in the Journal but in a conspicuous place in that area for which it is applied or also even in a gazette. This will make more people aware who can then file an objection if they have any.

• Promoting goods bearing Indian geographical indication in the export market: There is a need to adopt a real strategy for geographical indications to yield gains. In the present scenario India is devoid of a ministry that is best placed to run a successful GI strategy for its betterment and international acclamation. It is important to adopt a mechanism or an organ through which the activities or the different government ministers and policy makers relating to geographical indications are coordinated. A legislative framework is the need of the hour for providing additional protection for geographical indications. Hence, to promote the export of the goods it is therefore necessary to market the product



and make it known, otherwise neither the consumers nor the international companies will be aware of it. These are leading to situations where our daily wage labourers are being misused and paid oddly as the significance and atypical nature of their work is unknown to people. Secondly, India is losing out on revenue which can be earned by publicising and advertising these traditional and intricate goods bringing it home to the target group. If these regulations are implemented, then the exploitations like Darjeeling Tea, one of the oldest and famed GI good will not have to repeat the ordeal.

It is evident from all these records that the current legal framework of GI in India requires to be strengthened. Quality control and consumer expectations by insisting on multi-layered quality control systems should be a precondition for registration. India boasts of many locally produced goods which are unique and integral to the strong and rich Indian culture and heritage, the law in status quo with a few amendments and diligent implementation can work wonders and make India reach new heights in the world IPR programmes and initiatives hence giving it the name it deserves.

CONCLUSION

The most distinguishing feature of a GI is its potential to uplift the marginalized sections of the society. Being a collective right, it can effectively protect the livelihood of the artisans or other local communities who specialize in items unique to particular

geographic locations.²⁴ Therefore, proper protection of such GIs is very important to prevent commercial organizations, who are not the authorized users of GI from free riding on the reputation painstakingly built up by indigenous communities.²⁵

GI protection is very important for India on account of its rich cultural heritage and diverse geography which are responsible for the availability of vast number of native products that are unique to specific regions. Although the GI Act seeks to provide a proper regulatory mechanism for the same, the GI Registry has time and again failed to comply with the minimum requirements laid down under the Act. Given the fact that the legal regime for GI protection in India is still in the nascent stages, it is understandable that the GI Registry would not wish to set too high a standard for eligibility since it may discourage many from even attempting to secure a GI. However, handing out GI registrations to anything and everything which has a geographical name fails to achieve the broader objectives of instituting a system of GIs.

The lack of vigilance on the part of GI Registry is encouraging individual applicants like Tirupati Laddu whose primary objective is to procure monopoly rights over a product by using a GI. Even

²⁴ Madabhushi Sridhar, GI for the Tirupati Laddu: Whose Interests Protected, October 2009, <http://indiacurrentaffairs.org/gi-for-tirupathi-laddu-whose-interests-protected-professor-madabhushi-sridhar/>.

²⁵ Kasturi Das, Protection of Geographical Indications, An Overview of Select Issues with particular reference to India, (Centad Working Paper No. 8, 2007), http://www.centad.org/cwp_10.asp.



prior to this, Reliance Industries Ltd (RIL) had filed GI application for registering “Jamnagar” as a GI for petrol, diesel, LPG.²⁶ Although the application was subsequently abandoned by RIL, the fact that such an application was allowed to proceed till the stage of advertisement goes on to show the lax standards of the examination process of the GI Registry which in turn may have grave implications for the future of GI protection.²⁷ If the GI Registry does not apply more stringent yardsticks for granting GI, it would become less potent as an instrument of IPR. Greater vigilance on the part of the authorities is needed to ensure that GI continues to remain an effective tool for furthering community rights.

While the authors delved deeper into this topic, we also realized the deep contrast between the protection accorded to the internationally acclaimed and reputed goods like the basmati rice and Darjeeling tea are considerably noteworthy, whereas lesser known commodities like Banaganapelle mangoes, KhandhamalHaldi or the Aranmula Kannadi are side-tracked due to their absence from media attention. We believe that the storms which engulfed Kerala in August, 2018 are probable in any other Indian city and without any precautions being mandated or taken in such situations it will be fatal, destroyable and annihilating to such unique manifestations which have proved to be India`s pride and

testimony to its traditional aura. Hence, standing at such a dire situation it is imperative for us to not only raise awareness and knowledge on our traditional and ethnic merchandise but also protect and preserve their work in a form where they are cushioned from natural disasters or any other threat obstructing the growth and expansion of their art and traditional knowledge.

This article could best be concluded with European Commission’s message: “*your home probably has an unique and special local product and it would command respect and price premiums globally if only it had stronger legal protection.*”

²⁶ Varupi Jain, Does Jamnagar Diesel Equal Basmati? India Together(July 15, 2006), <http://www.indiatogether.org/2006.jul/eco-relGI.htm>.

²⁷Latha R. Nair, Guest Post: The Jamnagar Petrol GI Case, September 9, 2009,<http://spicyipindia.blogspot.com/2009/09.guest-post-jamnagar-petrol-gi-case.html>.