A STUDY ON INTERNATIONAL LEGAL FRAMEWORK FOR PROTECTION OF HANDLOOMS

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Abstract

Intellectual property has both domestic as well as an international dimension and thus conveys a dual character. Intellectual Properties are governed by national laws and regulations, while international treaties protect intangible property rights and provide procedures for the exercise of these rights by contracting parties. The long-term growth and development of all country's economies require strong intellectual property rights (IPR) protection around the world. "International Intellectual Property Treaties", on the other hand, are necessary to achieve strong intellectual property protection to support the development of new technologies and the expansion of the global economy, and they contain uniform rules and regulations. To promote innovation and creativity, which are seen as key drivers of long-term economic growth, the majority of United Nations member states have adopted various policies to protect and promote "Intellectual Property Rights". In the second half of the 19th century, technological flows became more global and international trade increased, resulting in a greater need to harmonize "industrial property law' in the field of patents and trademarks. Basic intellectual property guidelines are provided, including provisions on national treatment for Passing off and unfair competition. These include provisions protecting patents, utility models, designs, trademarks, service marks, trade names, sources and appeal marks. These agreements served both the purpose of intellectual property and the purpose of setting minimum standards for its protection. These agreements provide a minimum standard for enforcing intellectual property rights and enable rights holders to defend their legitimate interests through civil courts or administrative proceedings. This paper aims to analyse the various international instruments for the protection of Handloom sector under the Intellectual Property Regime.

Keywords: Handloom Industry, Geographical Indication, Protection of Property, Growth.

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Overview of Handlooms

In Indian economy's culture and civilization, the handloom industry—which is unorganized—has played a significant role. It is one of the most pulsating aspects that represent Indian cultural heritage and ethos, ranging from gorgeous fabrics to common items for regular use. The geographical environment, ceremonies, rituals, festivals, and cultural norms, had an impact on the artisans' creations. India has the largest handloom industry in the world, and it significantly boosts the country's economy, claims the annual report from the ministry of Textiles for 2009-10. Weaving and related activities are carried out by about 65 lakh people. 43.32 million weavers and ancillary workers are employed by it, with 24.72 million of them working full-time and 13.75 million working part-time. A significant aspect is the handloom industry's contribution to the production and export of textiles. With this in mind, the Indian government has implemented a number of handloom-related policies and interventions with the goal of providing all weavers in the country with long-term, productive employment that pays a living wage and provides decent working conditions. In Indian society, the handloom industry is significant and has a unique place. It also contributes significantly to the economy of the country.

The largest non-farm rural employment producer in India is the handloom industry. Following only agriculture in terms of employment creation, hand-looming is the second largest economic activity. Due to extreme mechanization and technological advancements that have been cost-effective, handloom weaving is one of the ancient indigenous unique skills that has been swiftly disappearing in recent years. The handloom industry and its weavers are consequently made vulnerable. The long-term survival of the handloom industry is effectively threatened by cost-effective mechanization on the one hand and a lack of pay for weavers on the other. It is true that once this special talent and insight dies, it might be impossible to restore it. However, there is also room for upgradation and expansion with the necessary policy adjustments and structural reforms, as hand-woven clothing holds a distinct position in the minds of consumers due to its innate benefits, such as protection from various weather conditions. East Godavari's small handloom weaving industry is distinguished by its ability to produce high-quality goods at competitive prices. It has a huge potential for growth, but for a number of reasons, the weavers are unable to produce the required output. The distinctiveness, style, traditionalism, and modern technology of the handloom industry are its most notable characteristics. Every state in India is capable of showcasing “cutting-edge printing”, “weaving”, “embroidery”, and “design trends”. And it is this form of art that gives them their uniqueness. The usage of fine textured fabrics, only exquisite outlines, a fashionable appearance, and absolute finesse in the product are what give the handloom industry its significance. Although the handloom industry doesn't require a lot of capital to survive, the unit occasionally needs money for raw materials and loom maintenance. The main issues with this industry are the tendency of weavers to use credit for their own consumption needs and the fact that the majority of them don't use institutionalized financing.

Need for protection of Handlooms

The requirement is that policymakers base their choices on "empirical data rather than received wisdom." Despite competition from power looms, it is a fact that “handloom weaving” has maintained its output share over the years despite being considered a "residual subsistence activity." However, the government would like to claim that traditional occupations like handloom weaving only serve a purpose because they scavenge surplus labour. As a result, the state protects traditional industries through organizations and institutions, modernization initiatives, subsidies, and welfare programmes. Without protection, weaving is regarded by the government and its relevant committees as a "...doomed activity." The irony of the situation is that many government officials readily acknowledge the shortcomings of their protective measures. Industry changes included the independence movement. The production of hand-spun yarn and handloom fabric was significantly influenced in the nineteenth century by mill-spun yarn and fabric from the United Kingdom. Weavers lost market share in the yarn and fabric industries as a result of competition from an earlier, faster, and more autonomous mode of production. Weavers owed more money to moneylenders and yarn merchants as a result. The creation of cooperatives was advised by committees that the colonial rulers appointed to safeguard the interests of the weavers. More committees were formed as the handloom industry's issues persisted. Gandhi gave the industry a morale boost when he made khadi the emblem of the freedom struggle and handloom weaving one of the cornerstones of independence. After India gained its independence, the industry was seen as a way to preserve cultural heritage while also providing rural areas with jobs. This did

not stop it from being written off as a dying sector in need of support and safeguards. Many people were employed by the sector, but it wasn't seen as a driver of economic expansion. It is crucial to keep in mind the industry's contradictory reputation, which had a significant impact on India's policy framework after independence. The state's shifting priority for the sector is evident from a cursory review of the various laws passed to protect handlooms. When India became a republic in 1950, the central government proclaimed that the handloom industry held the sole right to produce a number of handcrafted goods. Traditional goods like border saris, dhotis, and bedsheets were only made on handlooms. The reservation order combined the distinctiveness of handloom production with its labor-intensive nature in an effort to preserve handloom identity while producing cloth for the masses. Unfortunately, due to ineffective implementation of the order, power looms—which produced exact replicas of handlooms—proliferated quickly in the decentralized sector.

Protection of Handlooms under Geographical Indication Regime

A Geographical Indication (GI) is one of the Intellectual Property Rights (IPR) tools that help society support and secure markets for traditional goods. It is also globally recognized as a tool for preserving and promoting traditional knowledge. Gls specify the geographic origin of the manufactured goods and the required individuality attributed to that origin. About 200 traditional commodities are registered in India, including industrial goods, handicrafts (handlooms), agriculture, food and textiles. In India such names can be protected under the Goods and Services Act 1999 which came into force in 2003. GI could be a useful tool to help revitalize this dismal sector of the Indian economy. Handwoven clusters established to ensure product uniqueness Manufacturers who maintain a class of goods face unfair competition from manufacturers who sell inferior goods at comparable prices. This immoral practice of trading counterfeit goods on behalf of well-known goods in order to obtain lower prices is prevalent in both Indian and foreign markets, making it easier for them to gain status and importance for their goods. to best price. Furthermore, the elimination of information irregularities is a fundamental principle of one or more intellectual property brands. Trademarks can be owned independently or by a group, but GI is a combination of civil rights owned by related companies. Selected geographical indications are today highly regarded as a means of legally protecting indigenous traditional knowledge (TK). This section of the "TRIPS Agreement" contains both the sociological features and manufacturing processes used to develop TK in the manufacturing process (hand weaving) by craftsmen. Technical content can be limited as a technical proposal, and artistry as expression and its complex originality can be limited with a label mark.

International Framework for the Protection of Handlooms under "Geographical Indications"

It has been amply shown how important India's distinctive handloom and handcrafted goods are to the nation's economic growth in the globalized era. In addition to opening up new market opportunities, the integration of the world economy into the WTO framework has also presented a number of difficulties for the nation's distinctive products in the form of widespread infringement by other industries, producers, and nations. It has harmed the livelihoods of the stakeholders who are economically disadvantaged by these products and threatened the very existence of these distinctive products. The intellectual property of WTO members, including India, was pledged to be protected by the "TRIPS Agreement", which was signed in 1994 in response to the growing threat to these products' intellectual property rights. The Geographical Indication Act and the Geographical Indication Rules (GI), which were put into effect in 2003, were passed by the Indian Parliament in accordance with the "TRIPS Agreement". The Act establishes rules for the intellectual property protection of original products from a variety of industries, including textiles and clothing, agriculture, handicrafts, horticulture, and so forth. The much-needed security will help legitimate manufacturers defend themselves against knockoff products. The Textiles Committee has started a project to simplify the GI registration of the nation's distinctive textile goods with these factors in mind. The Textiles Committee has launched a national awareness-raising campaign to educate stakeholders at all levels about the GI Act in order to facilitate product registration and post-GI initiatives. This is because the majority of parties involved in the nation's distinctive products are unaware of it. The Textiles Committee has helped the following states obtain GI registration for their distinctive textile products: Andhra Pradesh, Odisha, Kerala, Uttar Pradesh, Maharashtra, Gujarat, and Tamil Nadu.

"Paris Convention for the Protection of Industrial Property (Article 10 and 10ter)"

"Paris Convention for the Protection of Industrial Property" (Article 10 and 10ter) includes the following:

Article 10- The preceding Article's provisions apply in cases of direct or indirect use of a false indication of the origin of the products or the identity of the producer, manufacturer, or merchant.

Any producer, manufacturer, or merchant, natural or legal, engaged in the production or manufacture of or trade in such goods and established either in the locality falsely indicated as the source, or in the region where such locality is located, or in the country falsely indicated, or in the country where the false indication of source is used, shall in any case be considered an interested party.

Article 10- Remedies for Infringing Trademarks, Trade Names, False Indications, and Unfair Competition; Authority to Sue

The countries of the Union undertake to provide nationals of the other countries of the Union with effective legal recourse against all acts listed in Articles 9, 10, and 10bis.

In addition, they agree to take measures to permit federations and associations representing interested industrialists, producers, or merchants, provided that the existence of such federations and associations is not contrary to the laws of their respective countries, to bring actions before the courts or administrative authorities for the purpose of repressing the acts referred to in Articles 9, 10, and 10bis, insofar as the law of the country in which protection is sought does not prohibit the existence of such federations and associations.

"Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods"

All goods bearing false or misleading indications of origin that directly or indirectly indicate as country or place of origin any Contracting State or place thereof shall be confiscated or prohibited from importation or imposed upon importation. subject to other measures and sanctions. Pursuant to the Madrid Agreement relating to such imports. The contract sets out the conditions under which a foreclosure can be demanded and enforced. We prohibit the use of advertising tactics that could mislead consumers as to the origin of the goods when selling, displaying or selling the goods.

"Lisbon Agreement for the Protection of Appellations of Origin and their International Registration"

An appellation of origin is "a geographical name for a country, region or place, used to designate a product obtained there, the quality or characteristics of which are attributed solely or primarily to the geographical environment, including natural and human factors. and are protected by the Lisbon Agreement

(Article 2). At the request of a competent authority of a Contracting State, such denominations are registered by the International Bureau of WIPO in Geneva. , tracks registrations in the International Register of Denominations of Origin, notifies other Parties in writing when registrations have been made, and disseminates them through official publications of the Lisbon System of Designations of Origin. Within one year of receipt of the notification, it has the right to claim that a designation registered in its country cannot be defended.

Such a statement must justify a refusal of protection. not. Under the Lisbon System, the Contracting Party has the right to revoke the refusal at a later date. Registered names are protected from infringement and imitation (Article 3), even when translated or combined with words such as "species", "kind", etc., and so long as they are protected in the country of origin not considered inclusive (Article 6). Since January 2010, Contracting States have been given the option of issuing a Declaration of Protection. This will improve communication regarding the status of international registrations in participating countries. These declarations may be made by any Contracting Party fully aware that it will not make a declaration of refusal before the expiry of her one-year period under Article 5(3). Alternatively, a declaration may be made in lieu of a notice of revocation of a refusal of protection already made.

"Madrid Agreement concerning the International Registration of Marks"

The Madrid Agreement, first signed in 1891 and subsequently revised and amended in Brussels, Washington, The Hague, London, Nice and Stockholm in 1979, and its Protocol, signed in 1989, made the Madrid System more accommodating. It aims to make it possible and more. Compatibility with the domestic laws of certain countries or intergovernmental organizations that could not agree to the agreement. Countries and organizations that are part of the Madrid System are called Parties. Certain parties may be designated under either the Agreement or the Protocol, depending on the treaties shared by the parties. The Protocol regulates designations where both Contracting Parties have signed both the Contract and the Protocol. This is a system that enables trademark protection in a wide range of countries by

obtaining valid international registration for each designated contracting party.

"Protocol relating to the Madrid Agreement Concerning the International Registration of Marks"

Countries and organizations participating in the Madrid System are called Parties. This system makes it possible to protect trademarks in a wide range of countries by obtaining global registrations recognized by all designated Contracting Parties. In the application for international registration, he must designate one or more Contracting Parties for which he desires protection. Additional specification is possible. Only Contracting Parties whose offices share a contract with the Contracting Party whose Office is the Office of origin may be designated. The latter cannot appear in international applications. The office of each Designated Party must issue a Declaration of Protection under Rule 18ter of the Regulations. However, if an international registration is inconsistent with the domestic law of a designated Contracting Party, the Contracting Party may refuse to grant protection within its territory. Within one year of notification, the International Bureau must be notified of such refusal, together with a statement of grounds for refusal. However, any State Party to the Protocol may declare that this period shall be extended to 18 months by her if provided for in the Protocol. A refusal based on opposition may also be communicated to the International Bureau after the expiry of a period of 18 months, according to a declaration of the Contracting Party holder registered in the International Register and published in the Official Gazette. Proceedings following a refusal (eg appeal or examination) will be handled directly by the competent authorities and/or courts of the Contracting Parties and holders concerned, without the involvement of the International Bureau. However, the final decision on refusal must be notified to the International Bureau so that it can be recorded and published.

"TRIPS Agreement"

The "TRIPS Agreement" is the largest multilateral agreement on intellectual property to date and entered into force on January 1, 1995. It sets minimum standards of protection for each of the major categories of intellectual property covered by the "TRIPS Agreement". Three main elements of protection - what is protected, rights granted and permissible exceptions to these rights, and minimum time protected - are defined respectively. To establish these standards, two major treaties of the "World Intellectual Property Organization", the "Paris Convention for the Protection of Industrial Property" (Paris Confederation Convention) and the "Berne Convention for the Protection of Literary and Artistic Works", have been established. All substantive provisions of these treaties are incorporated by reference and become obligations under his "TRIPS Agreement" between TRIPS Member States, with the exception of the Berne Convention on Moral Rights of Authors. Articles 2.1 and 9.1 of the "TRIPS Agreement" refer to the "Paris Convention" and the "Berne Convention", respectively, and contain relevant provisions. Second, the "TRIPS Agreement" adds a significant number of new obligations in areas where previous agreements have been silent or considered inadequate. Therefore, the "TRIPS Agreement" is sometimes called the "Berne Agreement" and the "Paris Plus Agreement". According to the agreement, disputes between WTO members regarding TRIPS obligations must be resolved through WTO dispute settlement procedures. In order to ensure that procedural issues in obtaining or maintaining intellectual property rights do not detract from the substantial benefits to be derived from the Agreement, the Agreement also provides for: rule. All member states will submit equally to the commitments of the agreement, but developing countries will be given more time to implement them gradually. Special transitional rules apply if a developing country does not currently grant patent protection for medicines.

The "TRIPS Agreement" is a minimum standard agreement that allows Member States to offer broader intellectual property protection if they so choose. Members are free to choose how to implement the terms of this Agreement in accordance with their own legal frameworks and practices while respecting intellectual property protection as provided for in this Agreement. The identities of these persons are defined in Section 1.3. They include individuals or entities that are closely related to but not necessarily nationals of other members, called "citizens," but also include such individuals. The criteria used to determine whether a country should receive the treatment specified in the applies to all WTO member countries regardless of "Treaty of Union of Paris". These treaties include the "Berne Convention", the "Rome Convention", the "International Convention for the Protection of Performers, Producers of Phonograms and Broadcasters", and the "Intellectual Property Convention on Integrated Circuits" (IPIC Convention).

"Doha Declaration: Exclusive Strategy on Geographical Indications"

The multilateral trade rounds, which have been crucial in bringing about the change that mirrored the new challenges facing the global economy, are responsible for the liberalisation of trade and WTO changes. Keeping in mind the goal of removing exchange barriers around the world and promoting the growth of international trade The fourth round of the "WTO Ministerial Conference at Doha," also known as the Doha Development Round or Doha Development Agenda (DDA), commenced trade negotiations in November 2011 according to the "World Trade Organization." It made the decision to carry out the "TRIPs arrangement" in a way that ensures overall health by promoting both the issuance of new prescriptions and the admission of existing medications, as well as the protection of geographical indications in order to prevent unfair competition and public misinformation. The goal of the negotiation round, which began in "Doha, Qatar in 2001," was to better integrate emerging nations into the international commercial system. With a view to reducing domestic production of agricultural goods and lowering the price of some non-farming products, it may be claimed that the round was focused on enhancing market access for horticulture goods. The connection between the "WTO" and "multilateral natural arrangements" assisted a lot in the marketing of environmental goods and also altered the organisation's dispute resolution structure in order to more easily demonstrate access for administrations, protected innovation difficulties, and other issues. These topics made up a significant portion of the agenda. As has already been mentioned, Articles 22 and 23 of the "TRIPS agreement" outline the protection that is required. Article 22 provides a standard or model level of assurance and secures all objects. According to this Article, topographical signs must be protected in order to avoid misleading the general public and to further prevent unfair competition.

Conclusion

Manufacturers of traditional handlooms can apply the GI Act to achieve uniqueness in the use of GIs for commercial handlooms. It also protects and preserves manufactured goods for economic benefit while preserving artistic uniqueness and customs. The study concludes that India's GI registration process is the most lucrative to protect traditional handicrafts. To protect traditional handweaving, the government, especially the Intellectual Property Office, should implement its GI system. The need of the time is to revitalize the industry by developing strong brand name branding prices for handcrafted sarees that match the changing designs and consumer tastes. , steps should be taken to promote 'handwoven goods' using approaches from global practice. This requires the appropriate participation of governments, private government organizations and private companies to restore the reputation that the manufactured goods are licensed.

It has been noted that all goods, whether natural or agricultural, have unique qualities that must be kept and protected from all forms of exploitation. At the public or global level, there have been numerous legislative standards for the guarantee of such products. The "TRIPs understanding" is also a transition to support the insurance of geological traces that point to the origin of an item; in this case, it is concerned with wines and spirits. A "multilateral framework" that serves as a legally enforceable global charter of "IPRs" has been established by the "TRIPs arrangement." It offers a very broad covering for geological markers due to its status as the first international convention. Being a pact connected to the "WTO," the "Doha Round Development" is also a successful effort to encourage and facilitate commerce.

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