

Challenges in the Utilization of GI Registration for Capitalizing GI Products

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Indian Geographical Indication (GI) registry has seen a rampant surge in GI registrations for the last two years. However, academicians frequently raise the problem of post-registration GI regulation in India. Early research has underscored the importance of generating GI awareness and quality control regulations. It is evident from the literature that the Indian GI protection system is engulfed with several lacunae, starting from clarity of definition to having inspection bodies. In the background of such remarks, this article talks about holistic GI governance. The primary requirement for building GI governance starts with understanding the persistent core problems in this area. Hence, this article critically evaluated the challenges existing in the GI framework and the measures taken by the government to overcome those problems. The evaluation of the legal frameworks explored multiple suggestions for the authorities to amend the provisions of the GI Act. The field observations provided that GI producers require handholding from production to commercialization. The evaluation of NABARD and MSME schemes revealed that these bodies have taken significant initiatives in providing marketing and promotion platforms for GI goods. Nevertheless, these authorities are missing out on giving GI goods preferential treatment in their policy implementations. The paper concludes by emphasizing the need for the preferential treatment of potential GI goods for inclusive GI governance.

Keywords: Geographical Indication, GI Governance, Post-Registration Regulatory Challenges, NABARD, MSME, Rural Development Schemes

Geographical Indication has gained much attention in the recent discussions of researchers and policymakers. Reports supported by FAO show that if implemented effectively, GI protection can potentially empower rural enterprises and develop vulnerable areas and sections of a country.¹ Also, these reports showcase the importance of GIs in the welfare and economic development of developing countries.² It is also a fact that GI protection is, generally, a legal mechanism that can preserve the cultural and natural resources of an area.³ Acknowledging the importance of these resources, Trade-Related Aspects of Intellectual Property Rights (TRIPS) member countries introduced different forms of GI protection suitable to their respective economies.

As a signatory member of the TRIPS Agreement the Indian government, in sui-generis form introduced the GI Act of 1999. This Act aims to register GI goods and provide better protection.⁴ However, even after two decades of enforcement, the GI Act of India has yet to see its effectiveness. Since the Indian judiciary has not produced any jurisprudence on rampant infringements for these intangible rights, “better protection” for these goods has yet to be

achieved. Additionally, the Indian GI framework confronts several obstacles in the execution of this legislation, necessitating urgent relooking and amendments. As observed by the authors, a number of these challenges occur in the post-registration phase of GI goods. Since the very objective of the Act extends the liability of the authorities beyond the registration of the goods, settling post registration issues becomes responsibility of the authorities.

The challenges encountered by the authorities are broadly of three types:

- (i) Regulatory challenges,
- (ii) Skill development and capacity-building challenges; and
- (iii) Marketing & Promotional challenges.

Thus, to form an inclusive governance framework, the authorities must address these concerns through strategic planning. Academicians have already discussed such strategic frameworks. For instance, researchers Emilie Vandecandelaere *et al.*, in their paper, have highlighted that to frame holistic GI governance requires following stages:

- (a) Regular evaluation of priorities and actions,
- (b) Recognition of critical local resources and conditions,

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- (c) Improvement of GI performances by collaboration and regular dialogues among all GI stakeholders and
- (d) Throughout all these stages, communication is the crucial factor for both internal management and external public information.⁵

Their work has highlighted that for any governance strategy on GI goods, it is essential that the key producers and stakeholders of all GIs have regular dialogue and are included in the policymaking.⁵ They emphasized that regular dialogue among stakeholders of all GIs will provide a common platform where, irrespective of the degree of maturity of the organization and capacity, the knowledge base will be enhanced.⁵ Here, they come together and learn from each other, which provide opportunities for self-assessment without significant barriers related to capacity or access to resources.⁵ Such a GI governance framework emphasizes the actions required in the post-registration phase for GI goods.

Before exploring any GI governance rules for India, it is crucial to understand the existing issues of its GI system. Therefore, the paper firstly focuses on the regulatory and promotional challenges in Indian protection mechanism, essential for considering governance rules. This paper has only provided a brief study of such challenges and provokes ideas for further research analysis of highlighted issues.

It is known that much literature exposes several legal ambiguities in the Indian GI Act regarding the proprietorship of GI names.⁶ The Indian law provides for multiple stakeholders other than producers eligible to apply for the GI proprietorship, such as a group or an association of traders, packagers, processors, and even dealers. These groups are of different forms; they could be NGOs, trusts, cooperatives, societies, or anybody registered under the law. Additionally, the Act has provisions distinguishing proprietors from authorized users, a unique feature of the Indian GI Act. After having multiple terminologies and stakeholders, the law remains confusing on the word proprietor and the roles, powers, and functions of these entities. Moreover, this article also touched ambiguities in classifying the GI goods categories, which is a mere copy of the Nice Classification of the Trademark law. Such a copy of classification does not serve the purpose of Indian GI goods; for instance, there is no explanation for its categories of natural

goods, agricultural goods, manufacturing goods, or foodstuffs. An 'Aloo Bhujia,' a salty potato snack of India, can come under the foodstuff category while also being a manufacturing good. There is a need for an explanation/rationale of the differences between the two. Then again, the GI Act severely lacks many other points, such as having no mandatory use of the Common GI logo and no capacity of the authorities to assess the quality standards of the goods. Besides these legal ambiguities, the Indian GI Act has attracted the keen interest of Central and State governments, as seen from recent trends in the GI applications in the registry.⁷ Several government departments have felicitated the GI registration of many goods.⁵

Inspired by these government interests, this paper also explores the 'why' behind the lack of awareness of artisans and stakeholders participating in government-organized fairs. As previous studies have emphasized the lack of GI awareness among producers and local folks, this work specifically highlighted the nuances of this unawareness. The work attempts to understand, 'why' this Act could not become popular among the producer community by analyzing the legal framework and substantiating it with an empirical field experience. The field study is made of local fairs organized by government agencies.

The article is divided into the following sections. The first part briefly discusses the challenges of GI Governance in India. Then, the second part critically analyzes the GI Act's provisions, which require the authorities' relooking. This section also discusses a few provisions of the Act that are mere irresponsible replicas of the Trademark Act. Some provisions of the GI Act need to make more sense, considering the unique characteristics of the GI goods. Hence, this section evaluates the facts necessary when considering amendments to the Act. In furtherance to this, in the third part, the paper briefly discusses issues associated with the GI framework based on the experiences collected from the field. This section evaluates facts such as the GI producers losing interest in their ancestral occupation, their lack of expertise to access or form inspection bodies, requiring handholding in maintaining quality standards, and the GI producers not seeing any benefit in using GI certificates since no awareness among the general customers. After highlighting the significant challenges based on field experiences, in the fourth

part, the article discusses the involvement of government bodies in GI registration and promotion. This part evaluates the roles of these organizations, which are already working at the grassroots level with small-scale enterprises. However, as found in this part, the local GI goods do not find space as a special/particular category of goods in the policy schemes of these institutions. This lack of specificity led to demotivation among GI producers and potential users of GI names. Furthermore, this part also highlights different schemes of government ministries that may assist in promoting and better marketing these goods, and for that, linkage and coordination with the GI registry are needed. Since these local producers severely lack the capacity and access to resources, government intervention is crucial for capacity building and skill development.

The authors find that to improve local awareness about GI goods, a well-regulated “Common GI Logo” is the need of the hour. Moreover, the article recommends collaborative efforts of different government institutions to overcome the challenges highlighted in the paper. A particular category for these GI goods should be incorporated in the guidelines and financial support schemes of ministries involved with these goods. The paper concludes by emphasizing the need to generate a sense of self-importance among GI producers in the fast-changing marketing dynamics while hand-holding the producers throughout the production to marketing by the authorities, ensuring the minimum standards of these goods.

Challenges of the Indian GI Governance

The Indian GI system is still in its nascent stage of development. The government is evolving the development measures for GI protection. The review of Formality Check Reports (FCR) reports by the GI registry has shown a positive trend toward evolving post-registration measures. The reading of FCR reports by the registry now emphasizes the need for application from the end of associations of artisans, producers, and manufacturers. It is also asking for the standardization of the quality parameters of the product so that it becomes easier to control the quality of the product. Further, the registry also brought positive step by asking for an independent inspection body other than the internal quality control board/body. However, because these are not provided as the mandatory requirement under the GI Act, many

registered products still need to have such functional inspection or quality control mechanisms. As in the case of Joynagar Moa, the infringement is carried out on a large scale, even after mentioning a quality control body in the GI application.⁵ Also, a lack of awareness about functioning of GI leads to a low level of authorized user registration.⁶

Regulatory and Governance Challenges:

The GI regulation of India is the weakest form of sui-generis protection mechanism.⁸ Even though the Act has provisions against the infringements in the form of civil and criminal remedies yet such provisions have been inefficient and need major revision. Such a weaker regulatory framework poses challenges in the governance of GIs by diluting transparency, fairness, effectiveness, and accountability, pillars of good governance.

The existing GI regulatory framework solely works on the Act, and the GI Rules 2002.⁹ The legal ambiguities in the Act have been discussed in detail in the later section. The Indian GI framework also lacks transparency and accountability on many occasions. For instance, as discussed above, the registry’s requirement from the applicants on post-registration quality control and inspection bodies goes against the natural justice principle of ‘*Nemo iudex in causa sua*,’ no one should be a judge in one’s case. Such a requirement also highlights the GI registry’s incapacity and lack of control over governing the authenticity of GI goods once registered. There is no strict accountability for producers to follow the quality parameters. There are no measures by an independent authority to conduct regular inspections of specified parameters.

Furthermore, The GI framework does not specify the minimum requirements any association or group of producers needs to fulfill to be an applicant. For instance, in an overview of all the GI applications, there is no uniformity in the association formation for becoming an applicant. Some applicants are Cooperative Society or Society Ltd. (Application No. 4 for Pochampally Ikkat); some are Export Associations (Application No. 5 for Salem Fabric); others are government organizations, such as the Tea Board (Application No. 1 for Darjeeling Tea); and NGOs (Application No. 7 for Chanderi Development Foundation). However, an argument can be raised here that the GI goods are unique and the applicant associations, generally, are already registered under

the law, so a varied form of association is adequate; otherwise, it will increase the formality and make the filing process more complex. It is a valid argument; but, the point here is not about the form of association rather how it is formed and operates. Different laws govern these various forms of bodies and have different requirements creating more troubles for assessing the transparency and accountability.

From the GI Registry, there could have been minimum requirements about how the administration is done, how the quality control is carried out, what the procedures are to include new artisans, how training is ensured, what are the minimum wages for the members of the association from top to bottom most members, and how the profit will be distributed. Mere registration of the associations under specific laws must not be the only criteria if the authority seeks to bring transparency, uniformity, and accountability under the GI governance.

The uniform structure will make it easier to assess the various factors such as post-registration benefits secured by the applicants, how much benefit is shared with the local communities, and whether the GI good has any potential in the export markets so that exceptional support can be given. Such uniformity will also assist in the standardization of the goods, quality control, and setting up inspection mechanisms. As we understand, the standardization of the quality of GI goods and having a proper inspection structure are the most crucial elements in successful GI governance. The very core of GI goods lies in the artistic expertise and the reputation of authenticity acquired by these communities from their ancestors. Hence, a benchmark of standard quality must be ensured. It is a massive task for any organization to govern GI goods single-handedly after registration, for which collaborative efforts are much required. Hence, a neutral agency or agencies to inspect the quality standards of these goods will prove to be the backbone of GI's authentic reputation. Considering the vast varieties of GI goods, bottom-up, participatory governance could provide the way out where all stakeholders are active participants of GI governance. India needs dedicated GI Policy guidelines on the subject matter; otherwise, rural economic development through GI will remain a distant dream.

While looking for a better GI regulatory framework, IPR Policy 2016 helps in guiding the assessment of the GI aspirations of the government.¹⁰ However, the critical analyses of this policy document

highlight the disparity between the objectives to be achieved and the implementation of those objectives for GI protection. For instance, the policy document focuses on seven objectives for IPR, i.e., IPR Awareness, Generation of IPRs, Legal and Legislative framework for IPR, administration and Management of IPR, commercialization of IPR, enforcement, and adjudication, and human capital development. The government has taken care of the inclusion of GIs, Traditional Knowledge, and Genetic resources. It aims to increase awareness and promote GI, TK, and GRs through the Ministry of Micro, Small, and Medium Enterprises (MSME) department, universities, and other grassroots players. Nevertheless, when it comes to the administration and management of IPRs, no direction is given for the management of geographical indications.¹⁰

Furthermore, the government has taken the objective of IPR by providing direct or indirect tax benefits from the stage of IP generation to commercialization. Again, implementing this in the context of GIs does not get any clarity because its sixth objective of IPR enforcement and adjudication completely ignores the deliberations on how such benefits will be enforced. Hence, involving GI stakeholders in identifying priority areas is crucial for successful GI governance.¹ Hence, the authorities must prepare a dedicated GI policy that overcomes the challenges highlighted above and considers all the particular requirements of GI goods.

Legal Ambiguities under the Indian GI Protection Framework

Section 3 of Part II of the Trade-Related Aspects of Intellectual Property Rights (TRIPS), Agreement, 1994 deals with three Articles 22-24; these three articles set the basis of GI protection for member nations.¹¹ Article 22.1 defines Geographical Indication

*It is an indication that identifies a good as originating in the territory of a member or a regional locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.*¹²

India introduced her Geographical Indication Act of Goods (Registration and Protection) Act, 1999.¹³ The adoption of the Act by the Indian Parliament was nothing more than a sentimental moment to secure its cultural heritage.⁸ It is clear from the study of

parliamentary debates that each state constituency was highly motivated to protect its cultural legacy and traditional heritage through a legal instrument recognized by the International body.⁸

Therefore, the Indian definition of GI under Section 2(1) (e) of the Act is unique that it recognizes similar protection for both agricultural and non-agriculture products.¹⁴ The Act came into force on 15th September 2003, to register and provide better protection to GI goods. Here, we can see that the Act performs two functions: first, to register the GI goods that fulfill the criteria as per Section 11 of the Act and which do not fall under Section 9 of the Act prohibiting certain marks from being registered as GIs. The second function is the post-registration function, which emphasizes better protection for GI goods. To understand the literal meaning of the term ‘better protection,’ one will look for an explanation or definition in the Act or the GI Rules 2002. However, with no definite meaning assigned to this term in the Act nor in the rule, one has to search beyond the GI law. Our search led us to find that the term has been taken from the Trademark Act no. 47 of 1999 and that only a portion of the aim is copied from this Act. The Trademark (TM) Act 1999 provides

“An Act to amend and consolidate the law relating to trade marks, to provide for registration and better protection of trade marks for goods and services and the prevention of the use of fraudulent marks.”

Here, the GI Act does not include the term prevention of the use of fraudulent marks, which questions the legal implications of such removal while aiming to provide better protection post-registration of the GI goods. However, the GI Act has provisions like Sections 38 and 39 dealing with the false application of GI and penalties for such offenses to ensure better protection.¹⁵ These sections show the intention of the State to prevent the imitations and fraudulent use of GI to protect better. Nevertheless, excluding the term ‘the use of fraudulent GI’ in its aim seems illogical. Especially when we interpret this ‘better protection’ term as an environment that helps GI users flourish in competitive markets. Such interpretation is supported by the objectives provided in the Manual released by the Indian GI Registry.¹⁶ Also, this interpretation can be supported by the IPR policy document 2016.¹⁷ In the Manual, the GI registry acknowledges that the GI Act aims to prevent Consumer deception, protect the interests of the

producers, prevent unfair and unauthorized use of GI names, and promote GI goods in the export market.

Furthermore, if the GI goods represent the pride of India’s incredible legacy, then the GI Act must promote these goods and preserve their ‘authenticity’ by recognizing them as genuine traditional heritage goods. Such a purpose, which appeared in the parliamentary debates, is missing from the outcome objective of the Act. The object of any legislation reflects the soul of an act and the legislative intent behind the enactment.¹⁸ Hence, the aim and objectives of the Act must not be a mere copy of an enactment that is altogether different in nature and characteristics. The GI Act is a sui-generis enactment, and it should have aims and objectives favorable to its specific characteristics. Such aim and objective must reflect the protection of India’s great geographical and historical legacy with better protection of these goods.

Again, as mentioned above, the GI Act has ambiguities regarding the power and functions of the proprietors and the authorized users. The irresponsible use of all these terms only creates confusion rather than assisting in the enforcement of the Act. As already discussed by the scholars in detail about this issue, the government needs to specify the roles, functions, and powers of proprietors and authorized users of GIs.¹⁹ Otherwise, authorized users and the proprietors, regarding powers and functions in the existing scenario, are the same. For instance, all can take legal actions against infringements; sometimes, for granting permission to use the GI names, the ‘authorized user’s permission’ term is mentioned in the Act instead of the registered proprietor. Such usage under Section 38 gives the impression that even authorized users are empowered to authorize third parties to use GI names. If this is the case, it should have been made clear in the Act. Furthermore, such power given to authorized users weakens the logic of having two categories of users in the Act when authorized users themselves can give assent to use GI names without the assent of registered proprietors. Hence, it is necessary to have clearly defined roles for the different forms of users created under the Act.

Moving further, the Act makes it clear that there can be co-existence of GI and TM if the TM is being used in good faith prior to the registration of the GI application under the Act.²⁰ Furthermore, a deep analysis of Section 38 of the Act highlights severe issues regarding the irrelevant copying from the GI Act. For instance, the reading of sub-section

(1) of this section emphasizes and uses the term “*the making of GI*”.²¹ Again, the section is just a mere copy of the Trademark Act’s Section 102, which prohibits the manufacture of the maker of false marks rather than the application of the false mark. The reading is incomplete and makes no sense because there is no prohibition in using identical GI processes, nor is there any mandatory requirement for providing GI logos.

Moreover, the Indian government has not yet introduced any common GI name or Logo to be used by all the GI registered producers.²² The Logo introduced by the Department for Promotion of Industrial and Internal Trade (DPIIT) is without any legal force, which does not take any surety of the origin of the goods to which the Logo is attached.²³ There are no formal guidelines to distribute the mark, nor are there any legal implications attached to the non-use of the GI marks. In fact, the mark itself lacks popularity among GI stakeholders. Even more so, various GI goods have no logo to be registered with the GI applications, as the GI registry has no mandatory provision to provide the details of the Logo of the goods. For instance, a recently registered good with Application No. 1228, Ambaji Mohanthal, has no registered logo.²⁴ While looking into these factors, a genuine curiosity arises: to what purpose this sub-section was introduced? When there is no GI logo *per se*, then how can the making of the GI logo be falsified? Moving forward, sub-Section (2) of Section 38 uses the same language, such as, “*Falsely apply to goods a geographical indication without the assent of the authorized users.*”²⁵ For similar reasons, this sub-section again falls short of any reasons to be in the Act.

Similarly, we saw above that in the GI policy and Manual, the government has also aimed to provide better protection and promotion of GI goods in the export markets. Here, the Indian GI Act aims to promote authentic Indian GI goods in the export market, which have premium quality and a high historical reputation. This aim shows the commitment to embolden the economies of these authentic GI producers and artisans, ultimately developing rural economy. However, the means to achieve this aim have yet to be provided in the entire GI framework. How the government will ensure the better promotion of these goods is not given anywhere.

The crux of GI goods lies in their authenticity and the high-quality standards maintained in producing them. The entire Act misses the clarity of provision

that will ensure this authenticity. The GI Act or the GI Rules, 2002, does not give any mechanism to inspect the authenticity of genuine GI producers or new authorized users. There is no mechanism to regulate whether a particular GI standard is taken care of post-GI registration or during the export of the goods. Though GI rules, under Rule 32(1)(g) Content of application, provide that the particulars of the inspection structure, if any, regulate the use of the GI goods to be submitted by the applicant by himself.²⁶ Such an instance of voluntary enforcement procedure, again, highlights the insensitivity on the part of the authorities to enforce such a crucial measure. While also neglecting the principles of natural justice, ‘*Nemo judex in causa sua,*’ where no one should be made a judge in his cause.²⁷ Suppose applicants themselves will have to decide the validity of their goods. In that case, the records may not be trustworthy because their inherent interests may have influenced the authenticity of those inspection reports. In such a scenario, the Act again needs significant amendments to incorporate regulatory bodies or inspection structures, either collaborating with other standards regulating bodies or creating any new body of experts.

All these weaknesses of the Indian GI Act do not mean it loses its utility. As we discussed earlier, it is well-researched that GI protection can promote socio-economic development and the preservation of cultural heritage.²⁸ Some studies have empirically proven the value addition in the profit of GI producers after the registration, suggesting that GI registration promotes economic welfare. However, these efforts and provisions fall short in India when we find local and international markets full of imitative products in almost all the GI categories. The local markets are full of imitative cheap copies of GI goods sold as authentic goods. Lack of awareness and other factors have forced the Act to remain underutilized.

In the next section, we will discuss some of the experiences gained from the local fairs organized by government bodies to assess the underutility of the Act.

Challenges Faced by GI Goods Producers

Institutions

Two kinds of institution were selected to assess the issues. The two categories of fairs are the annual Hasta-Shilpa Mahotsavs organized by the National Bank for Agriculture and Rural Development

(NABARD) and by the Micro, Small & Medium Enterprises (MSME) sector of the West Bengal government.²⁹ The MSME organizes the Handicraft Fair every year in November in Kolkata. It provides excellent opportunities to several artisans of the entire region on one platform.³⁰

Although the Hasto-shilpotsav (Handicraft) fair organized by NABARD is a new addition and is comparatively less visited by the local public, such a critical fair provides a platform to manufacturers, producers, and artisans from the rural parts of the country in different states. For instance, in Kolkata *Hasto-Shilpotsav* of NABARD, artisans from more than 20 states participated, mostly traveling nationwide. This institution is a significant financial institution that was formed as a Development Bank of the Nation to foster rural Prosperity.³¹ It is also involved in Geographical Indication filing and providing authorized user registration certificates to rural businesses.³¹ Hence, it was of utmost importance to know the awareness level of the producers participating in one of such fairs.

The second MSME&T fair welcomes producers from the entire West Bengal region in great numbers. For instance, it is recorded that this fair is widely prevalent among locals; as per data, more than 5000 artisans participated in the fair from 2022 to 23. This fair is again an important meeting point for producers and buyers, where the government aims to minimize the roles of mediators and set up direct selling points. The MSME and textile sector of West Bengal is crucial for tapping the rural economies and involving the most vulnerable section of the State's remote areas. The Department facilitates the promotion and Sustainability of MSME, Textiles, Handicraft, Handloom, Khadi, and Village Industries in the State.³² It aims to provide market infrastructure and to embolden rural economies. The Department has a crucial role in preserving and reviving traditional products. For instance, it claims to play an essential role in providing extensive employment opportunities at comparatively lower capital investment and Help in the industrialization of rural and backward areas, with particular emphasis on inclusive growth and focusing on socially and economically weaker sections of the people. It has a vital role in providing policy support and facilitating the growth and development of the MSME&T sector in the State. Hence, the selection of assessing GI awareness among artisans coming to such fairs becomes another important place of study.

Challenges

The interaction and observation with local artisans highlighted the story of their side, which often remains unheard while drafting the regulatory schemes for their regulations. The interaction with producers was divided into two categories of goods: nineteen GI-registered goods³³ and ten goods applied for GI registration.³⁴

During the visit to these fairs, the researcher found low awareness among producers and artisans about geographical indications. Most of the producers interacted with needed to be made aware of the GI concept and how it functions. Surprisingly, some genuine producers chose to remain outside the GI framework even after knowing the GI registration for their goods. For instance, producers of Madurkathi and Baluchuri sarees learned about the government registrations of GI yet chose to remain outside the GI protection. Their primary concern and argument was that with GI registration, the cost of production would become high, and they would lose their customers. Also, becoming a GI user is a costly and complex affair meant for wealthy producers.

They argued that since consumers are unaware of GI registration, GI has no impact on sales improvements. Furthermore, they said that several artisans produce cheaper quality goods and sell them in the same range, earning more benefits than the registered producers. In the counter question that they can take legal action against cheap producers selling their goods with GI names, producers believed this is a matter of their community. Generally, such infringers belong to the same community or family and do not want to spoil their social relations.

Moreover, some artists who have recently applied for GI registration have also interacted. Conversation with such producers reveals their expectations of high market returns and preventing duplicate goods from relevant markets. Also, few producers and sellers highlighted their limitations in reaching the more significant markets; for instance, sellers of Kashmudi Masks argued that they are unaware of the concept and registration of GI even though they belong to the same region and community. Further interaction with some of the GI producers cited a need for more information about organizing such fairs at different places. The authorized user of Banarasi silk saree insisted on connecting with some agency so that they could get timely notification of fairs organized in various parts of India. They emphasized the necessity

of government assistance for adequate protection and commercializing of their authentic products, as numerous duplicate products are available in the relevant markets. It is evident that duplicate goods not only hamper the market price but also deteriorate the reputation of genuine goods.³⁵ These shrinking market opportunities are leading the young generation to leave their ancestral occupation and migrate to look for other contemporary employment.³⁶ Such a decline in interest is detrimental to achieving one of the aims of the GI Act, i.e., adequately protecting the interests of registered producers.³⁷

Organizing bodies claim to work for the promotion of GI goods and are actively involved in GI registrations and marketing. Producers or artisans participating in such fairs must be aware of GI registration. Also, more than simply knowing about the registration of GI, these bodies must take one or two sessions or workshops during such fairs for greater participation, guiding them about what GI does. Who do they approach for registration? What are the minimum requirements to become authorized users? What standards will they have to follow? Whom can they approach against infringements? What exactly does GI do, and what it does not prevent? These are the basics for GI goods, which can save a lot more time and expense to promote awareness on the subject matter if taught during fairs.

The importance of these workshops increases manifold when artisans of the fifth or eighth generation participate in these fairs and remain unaware that their goods are already registered or have a high potential for getting GI registered. For instance, participants of Saharanpur Woodcraft manufacturers have been involved in this occupation for more than five to six generations, and they do not know about the concept of GI at all, nor are they members of the GI registered association.³⁸ The workshops will, if organized during fairs, witness an audience of artisans and curious consumers. One may argue that workshops during fairs will become an obstacle during the sales of these goods. In such circumstances, the inaugural period involving one or two hours of discussion on GI might help by cooperating sales and awareness sessions. Such workshops become essential to remove the doubts and misconceptions from the minds of the producers more than generating mass awareness.

Surprisingly, the GI-registered goods at these fairs were sold without mention of GI registration. On

inquiring about the producers, who are member of GI registrations like Firojabad glass work, he responded with discouragement; when consumers do not understand this fact, there is no sense using it. Furthermore, interaction with Staff workers of authorized users of GI goods also showed the result of non-use of DPIIT Common GI Tag or GI certification, being unaware of GI thing. If the staff members of the GI users themselves remain unaware, how will they educate the customers?

These producers must have a sense of pride that they are the keepers of such an ancient art form. Such a sense of pride may only come if the respect and importance among GI users increase along with their income scale. For this, both producers and customers must be fully aware of the functioning and reliability of the GI certification. The trace of such reliability becomes easy if any 'Common GI logo' is provided by the authority taking full responsibility for its transparency, quality assurance, and reliability.

The utility of such a 'Common GI mark' increases when promoting or marketing these goods. It is well known that GI goods require extensive marketing and promotions. The government understands the incapacity of these GI users to access the international market by fulfilling the global standards of manufacturing and packaging. These marketing and branding strategies must involve the introduction of a standard mark similar to the one initiated by the DPIIT but with enhanced regulation and proper guidelines.³⁹

The Common GI logo can bring a tremendous revolution in the promotion and marketing of these goods. These registrations cater to consumers' demand for purity; however, low awareness among the public leads nowhere. It is well accepted that GI awareness among consumers can boost the informed choice-making capacity of the consumers and stakeholders.⁴¹

Arguments raised by the producers highlight their significant concerns, and it seems they have an incomplete understanding of the functioning of GI registration. Their fear that a price increase will cost them a drop in their sales after registration is incomplete but not baseless. It is true that to maintain high-quality standards, the cost of production increases. Still, there may not be a drastic change in the price range since they are already producing genuine goods that cost similar. Furthermore, getting certified by authorized users has nothing to do with

the wealth of the producers. No authorization is required through any agency or agent; they can apply for it by themselves. They can reach out directly to the GI proprietors for help, who are easily accessible and residing in the same localities. However, there is caution about exploitation or internal conflicts between associations; hence, the GI registry provides that new authorizing individuals can directly apply to the registrar, simply notifying the proprietors.

Such nuances of awareness among producers will only come through multiple workshops where they can have direct dialogue with the authorities. The other arguments raised by the producers highlight the necessity of having a robust GI governance model to ensure the accountable and responsible use of GI names. For instance, two Baluchuri Sarees sellers sold two types of silk sarees with or without silk marks at the fairs. The sarees sold without a mark were comparatively of lower range. Similarly, Handloom Mark producers use the same strategy based on consumers' demands and buying capacity. Here, the problem occurs in regulating such sellers to nab the malpractices of those sellers when they sell fake goods in the name of authentic goods, duping the consumers. This duping prevents the consumers from making informed choices in the marketplace, which makes such practices anti-competitive.

Hence, some policies must take suggestions from all the stakeholders to deal with such activities. In a GI governance framework, government organizations such as the Bureau of Industrial Standards (BIS), NABARD, and MSMEs are already dealing in training, capacity building, and financial assistance and have become vital players. These bodies have the expertise to generate mass awareness about GI registrations and can train them to follow a standardized production method.

The following section critically evaluates the sufficiency of the actions employed by these bodies and the existing schemes for GI goods.

Government Institutions, GI Protection and Promotion Initiatives

The producers of traditional occupations generally belong to small and medium-scale enterprises. Typically, it is seen, especially in developing nations, for our purpose in India, that these producers represent the vulnerable section of society.¹ Their inaccessibility to modern technologies and low monetary capacity is leading historical practices dying and causing loss of

interest among the young generation.⁴⁰ The field study verified this statement that youth are not interested in their ancestral business activities since these occupations demand high skilled labor, and the reward/return is meager. Early scholars have discussed the loss of interest in traditional occupations as well.⁴¹

It was also found that a sense of pride is missing among a few artisans; even after the GI registrations, they are dispirited for their future survival. Their demotivation becomes robust when they find themselves incapable competing with new technologies. Here comes the role of government, which provides not just a scope to flourish economically but also to gain back the lost sense of self-respect and confidence.

The government agencies are already working to empower rural enterprises and smaller communities through various means. For instance, NABARD assists in three sectors: Financial, Developmental, and Supervision. As NABARD states, these areas enable it to touch all the aspects of the rural economy. Through financial assistance, it has several schemes such as short-term or long-term credit plans, credit plans for specific sectors such as agriculture and dairy associations, and supervising cooperatives banks; it also works for infrastructure development schemes, training handicraft artisans and providing them a marketing platform for selling their articles among others. Interestingly, this institution is involved in GI promotion and registration, understanding the worth of these goods for rural development. For instance, its annual report mentions the role it plays in 51 GI registration and providing stalls in malls and fairs.⁴²

However, in the fair organized by this institution, it was observed that assistance with GI goods needed to be more specific. The government should have assisted these goods by introducing suitable schemes considering their unique status of being GI goods in mind. In the Handicraft fairs organized by this institution, we observed that the same treatment was given to the registered GI goods and non-registered generic goods in terms of branding. GI goods, being a unique category of goods representing cultural and historical significance, should have been promoted by highlighting this fact. For instance, on the banners of stalls put by the NABARD, the GI could have been suffixed, such as Pattachitra (Medinipur GI goods) or Santiniketan Leather goods (Sriniketan GI goods) instead of the simple name of the goods.

Moreover, in the application forms for financial assistance issued by such government institutions for

required aid, there is no option to seek information regarding their special status of generic goods or GI goods.⁴³ Such specific details may help in future discourses to assess and plan the developing activities. Furthermore, after reading several schemes of this institution, we found that no particular credit scheme was dedicated to GI producers or authorized users. Neither were there any guidelines providing training to maintain GI quality standards.³⁸ If there is adequate information about the GI status, capacity building, and training programs can be planned considering the quality standards for such goods, which will save much expenditure on maintaining awareness of these goods.

Furthermore, the claim of the NABARD that it is establishing GI Marts to promote these goods is a welcoming move, yet it needs to be completed in the sense that artisans attending its frequent fairs should be aware of the functioning of GIs. The GI artisans of such fairs should feel motivated that they are spotlighted by government agencies and encouraged to use their GI certification as a certificate of assurance in their sales. Unfortunately, in the fair assessed, these sellers did not use GI certifications. Furthermore, GI status information can be recorded and showcased on the portals of these institutions and can be used to make guidelines assessing the importance (priority) of the craft. Such information may also guide government institutions in preparing dedicated credit funding, training, and infrastructure development.⁴⁴ In the annual report 2022-2023, NABARD has published its activities for off-farm initiatives.⁴⁵ Ironically, its funding to promote GI goods or provide facilities dedicated to these goods was missing.⁴⁶ Although the organization actively participates in the registration and marketing of GI goods by establishing GI marketing outlets, it is missing the purpose of GI protection, i.e., not just registration but better protection and promotion. When we look at the NABARD schemes, we see that they provide funding for capacity building, infrastructure, marketing, skill development, and rural entrepreneurship. The funding gives preference to SC/ST/ women/ SHGs. Here, a particular preference could also be given to the GI goods if they are produced by GI users/producers, irrespective of whether they are owned by women/SC/ STs/ SHGs. If the goods belong to the rural sector and are small-scale associations, it could have formed its schemes considering the GI goods as a particular rural development category.

Furthermore, when training the rural producers based on specific requirements of GI goods, it should train these producers about the standardization of the products. Moreover, it has funding for setting up inspection bodies; here, it can also include provisions to inspect standards fulfilled by the producers of GI goods who are beneficiaries of NABARD schemes.

The schemes in which NABARD is providing rural development and promotional assistance are- Stand Up India Scheme,⁴⁷ Catalytic Capital Fund⁴⁸, Rural Haats⁴⁹, Rural Marts⁵⁰, Exhibitions/Melas⁵¹, OFPO⁵², and Skill Development.⁵³ Schemes where it is providing financial assistance are- Refinance - Short Term Loans⁵⁴, Long Term Loans⁵⁵, Rural Infrastructure Development Fund. NABARD Infrastructure Development Assistance (NIDA),⁵⁶ Credit Facility To Federations (CFF),⁵⁷ and so on.

These schemes pave the way for rural development in many aspects, but treating GI goods as equal to generic goods will not generate a sense of pride and motivation among GI users. The schemes may also include clauses specific to GI goods in collaboration with GI laws.

Similarly, another critical sector working at the local level is the MSME department.⁵⁸ The multiple schemes of this Department for artisans' support and market linking provide income opportunities covering pensions and health insurance. The schemes of West Bengal MSME&T, as claimed on its website, aim to preserve their artist status and aid them in living dignified lives.⁵⁹ These multitudes of schemes are widely promoted and advertised throughout the State, and fairs, especially urban Haats, provide a wide range of economic opportunities to these producers of vulnerable sections.⁶⁰ However, similar to the above discussion, this institution also neglects the promotion through the word Geographical Indications as a suffix or prefix. Throughout the website or in the Urban Haat of Salt Lake, there was no mention of GIs in the promotion or sales of these goods.

Further, the MSME government of India, in its revised 2019 guidelines for the procurement and marketing support scheme, has no mention of awareness about geographical indications. In contrast, its guidelines aim to provide all contemporary knowledge and training for better market access to small businesses. For instance, one of the 2019 scheme's objectives is:

"To create awareness and educate the MSMEs about the importance/methods/ process of

packaging in marketing, latest packaging technology, import-export policy and procedure, GeM portal, MSME Conclave, latest developments in international/national trade, and other subjects/topics relevant for market access developments.”

Such exclusion of awareness about GI raises doubts about the efforts of the institution to provide dedicated attention to these goods in promotions and marketing support. Similarly, no special recognition has been given to GI producers for budgetary support or infrastructure support. For instance, in its scheme component of ‘5(A) Participation of individual MSMEs in domestic trade fairs/ exhibitions across the country’, there could have been a special support provision for GI goods producers similar to the one given to SC/ST/Women/NER/PH/ Aspirational District units.⁶¹ A few of the schemes that this Department is running, which could have involved more focus on the GI goods as distinctive goods, are as follows:

- (i) Prime Minister’s Employment Generation Programme (PMEGP), 2nd Loan for up-gradation of the existing PMEGP/MUDRA units, Credit Guarantee Scheme for Micro & Small Enterprises (CGTMSE), Micro & Small Enterprises Cluster Development Programme (MSE-CDP) Scheme. Or a scheme of funds for the regeneration of traditional industries (SFURTI).
- (ii) Out of all these schemes, SFURTI is an excellent initiative in the MSME sector that works dedicatedly for traditional goods.⁶² The objectives of this scheme, as stated by the Department, are “*to organize traditional industries and artisans into collectives by increasing production and value addition to make products competitive, to promote traditional sectors and increase the income of artisans providing sustainable employment.*”

The SFURTI scheme is a welcoming initiative of this Department; however, again, the Department must ensure that whenever it is dealing with GI goods, it must take into consideration all the relevant nuances of the GI standards, packaging, branding, priority goods, and capacity building. Furthermore, the Department must use GI as a suffix or prefix with the name of the good itself. When the Department is involved in all crucial activities, it may also take responsibility for assisting in quality control regulation since quality control and regular inspection of post-registration GI goods are among the most significant problems of Indian GI governance.

The government departments can collaborate on many aspects to create a holistic, GI-friendly environment. Such collaborations within government institutions are already established practices; for instance, MSME collaborated with the Associated Chambers of Commerce and Industry of India (ASSOCHAM) to create a holistic GI governance framework in India in 2024. Therefore, the GI registry, DPIIT, and all other institutions must work together to promote GI protection.

Unfortunately, in the fair organized by NABARD and MSME&T, no artisan was using the GI logo released by the DPIIT. However, recent impetus in the registration of GI goods and initiatives such as GI Mahotsav by the MSME department is appreciable, yet as we know, communication/market awareness is the crucial mode of governance.⁶³ Hence, to build a robust GI governance, all stages: a) evaluation of priorities and actions, b) recognition of critical local resources and conditions, improvement of GI performances by collaboration, c) regular dialogues among all GI stakeholders, and d) communication for both internal management and externally public information, should be given equal importance.⁶⁴

Such a collaboration suggestion may raise the argument of red tape governance, which may hurt the growth of this sector. To such an argument, the author opines that the government bodies, like above, are already intrinsically involved and performing functions necessary for any governance. Other institutions, such as the Bureau of Indian Standards (BIS), ASSOCHAM, Customs, Excise, and so on, usually work directly or indirectly in consonance with standard guidelines and objectives to fulfill the government policy.⁶⁵ For instance, similar to both the bodies discussed above, BIS is a national standard-setting body involved in implementing conformity assessment schemes, recognizing and running laboratories for conformity assessment, implementing hallmarking, working for consumer empowerment, conducting capacity-building programs on quality assurance, and representing the country in ISO & IEC.⁶⁵ The BIS may assist in lab testing and ensuring the quality standards specific to GI standards. Customs and Excise departments can have particular HS codes for GI goods to provide preference when clearing the consignments of GI. Each of these bodies already possesses the established technical capacity and know-how to implement effective GI governance.

This paper proposes preliminary suggestions that require further research and the attention of

policymakers. Preferential treatment in the regulatory and formal setup would help regain the lost confidence of the GI artisans. Considering the particular needs of these producers, handholding at every stage, from educating about the concept of GI, maintaining GI standards, conducting regular inspections, and promoting goods at national and international markets, all require efficient governance.

Conclusion

Lack of awareness among GI producers is a widely talked about issue. This article has also dealt with the same issue of unawareness but goes one step ahead. The article tried to capture the 'why' of such GI unawareness. The answer lay in the misconceptions and doubts in the minds of the users, uncertainties, ambiguities of the law, and neglecting preferential treatment for GI goods.

The paper evaluated the Indian GI legal framework and government initiatives for GI promotion and marketing. Although the authorities have taken care of awareness of GI registration, a complete understanding of the functioning of this registration has yet to be established among producers and consumers.

Furthermore, while introducing policies for traditional goods, there should be a proper mention of 'GI certified goods X' so that artisans pay heed to GI terminology in government assistance. Also, since these goods represent cultural sentiments and are essential for keeping ancient practices alive, a preferred treatment is advisable. Special treatment could be provided regarding extra limits of financial assistance, tax redemption, or extra timelines to repay the amount while indexing goods in their official records, mentioning 'GI' as a prefix or suffix of the good's name. Special training should be provided for the GI producers, emphasizing and educating them about maintaining higher quality standards of authentic goods.

GI registry or DPIIT must ensure annual or biannual workshops or meetings among all GI stakeholders in one place so that they can share their experiences and learn from each other. State governments should form separate policies to deal with these GI goods; there could be a protocol to use GI goods as a memento for all government official meetings. State recognition through best quality goods or best functioning association of GI could help increase GI producers' interest and motivation. Such

recognition and special treatment are crucial for these small-scale producers who are moving away from their ancestral occupations.

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 - (a) before the commencement of this Act; or
 - (b) before the date of filing the application for registration of such geographical Indication under this Act, nothing contained in this Act shall prejudice the registrability or the validity of the registration of such trade mark under the law relating to the trade marks for the time being in force, or the right to use such trade mark, on the ground that such trade mark is identical with or similar to such geographical Indication.
 - (2) Nothing contained in this Act shall apply in respect of a geographical indication with respect to goods or class or classes of goods for which such geographical Indication is identical with the term customary in common language as the common name of such goods in any part of India on or before the 1st day of January, 1995.
 - (3) Nothing contained in this Act shall in any way prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to confuse or mislead the people.
 - (4) Notwithstanding anything contained in the Trade Marks Act, 1999 (47 of 1999) or in this Act, no action in connection with the use or registration of a trade mark shall be taken after the expiry of five years from the date on which such use or registration infringes any geographical indication registered under this Act has become known to the registered proprietor or authorised user registered in respect of such geographical Indication under this Act or after the date of registration of the trade mark under the said Trade Marks Act subject to the condition that the trade mark has been published under the provisions of the said Trade Marks Act, 1999 or the rules made there under by that date, if such date is earlier than the date on which such infringement became known to such proprietor or authorised user and such geographical Indication is not used or registered in bad faith
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- 59 Guidelines for Procurement and Marketing Support Scheme, Ministry of Micro, Small & Medium Enterprises (MSME) (November 22 2019), https://msme.gov.in/sites/default/files/Guidelines_PMS.pdf.
- 60 Department of Micro, Small and Medium Enterprises and Textiles (MSME&T), State of West Bengal https://wbmsmet.gov.in/key_initv_prgm_wvrs_rtsns.
- 61 Bangasree (The West Bengal State Handicrafts Cooperative Society Ltd.) An Apex Society under the Directorate of MSME, involved in beneficial and promotional activities for the handicrafts artisans of West Bengal by means of procurement of handicraft items directly from the artisans or from their societies. The items are marketed by The West Bengal State Handicrafts Cooperative Society Ltd (Bangasree) – through their showrooms in and outside the State as well as by participation in various fairs, Paschim Banga Mahila Samabay Mahasangha Ltd (PBMSML).
- 62 *E-book on schemes of MSME*, <https://msme.gov.in/e-book-schemes-msme> (accessed on March 24 2023), Where it will be involving in skill development, Exposure Visits, Buyer Seller Meets, Marketing – business development, Digitization support, and Raw material support with Existing artisans from traditional industries, Cluster of Artisans in sectors such as Handicraft, Textile, Agro-Processing, Bamboo, Honey, Coir, Khadi etc. Assistance and support to traditional industry artisans to provide them sustainable employment through Hard Intervention in setting up physical infrastructure with CFCs, raw material banks, latest machineries. Soft Intervention in skill development, market promotion initiatives, etc. in clusters. By providing financial assistance of up to 90% (95% in NER, J&K and Hill Areas) of Hard Intervention cost and entire cost of Soft Intervention.
- 63 *Assocham*, Knowledge Architect of India, <https://www.assochem.org/event-detail.php?event=bharat-gi-mahotsav> (accessed on March 30 2024).
- 64 *BIS Home - Bureau of Indian Standards*, Bureau of Indian Standards <https://www.bis.gov.in/>. Section 10 (2) (c) of the BIS Act 2016 and Section 30 of the BIS Rules, 2018 confer upon BIS, powers to recognize any Standards Developing Organization in India for development of standards. BIS is a national standard setting body which is empowered to recognize any standard bodies to propose, adopt and promote industrial standards in respective product category.
- 65 *BIS Home - Bureau of Indian Standards*, Bureau of Indian Standards <https://www.bis.gov.in/>, ISO/IEC is an international standard to manage information security.