

Regulatory Challenges in Protecting Tangail Saree as a Geographical Indication in Bangladesh

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Abstract:

This research explores the regulatory challenges in protecting a significant **Geographical Indication (GI)** of Bangladesh, which is the Tangail saree. Using the doctrinal method of legal research and evaluating primary sources of legal research such as the IPR laws of Bangladesh and international IPR instruments, the author conducted this comprehensive research article. The author, through the research, believes that GI protection policies, if properly implemented in Bangladesh, can promote indigenous Tangail sharee's territorial integrity, build consumer trust, and create opportunities for local producers. However, the existence of cross-border conflicts regarding ownership of Tangail sarees between Bangladesh and India is creating geopolitical challenges for Bangladesh. So, it is advised that Bangladesh should adopt sui generis GI registration process for Tangail Sharee and amend the GI Act of Bangladesh to inculcate self-registration of GI products. Moreover, diplomatic efforts and bilateral agreements with India can resolve this dispute regarding GI ownership. However, creating bilateral joint platforms and promoting shared GI rights may be a sustainable and peaceful resolution to that dispute. Capacity building of the weavers and local producers of Tangail sarees through educational campaigns will enable them to work towards sustainability of those GIs. Regional cooperation through organizations such as SAARC and SAARC-TPM (SAARC Trade Promotion Network) can boost the regional trade of GI products like Tangail Saree. To maximize profits from the Tangail saree, equitable bilateral approaches should be adopted between India and Bangladesh.

Keywords: Geographical Indications (GIs), Tangail Sharee, Regulatory Challenges, Intellectual Property, Intellectual Property Rights (IPRs).

1. Introduction

According to the World Intellectual Property Organization, or WIPO, it refers to geographical indications (GIs) as a category of intellectual property used on products that have a specific geographical origin and possess qualities or reputation that are unique to that geography. By

certifying authenticity and quality, GIs enhance product value, consumer trust, and economic opportunities for local producers (Aslan, 2024). GIs are collective rights that require producer cooperation to maintain authenticity, with sui generis systems in India and the EU offering

specialized protections distinct from trademarks. GIs contribute to rural growth, tourism, and biodiversity preservation and expedite sustainability.

Being indigenous Bangladeshi products with unique attributes, Tangail sarees act as a viable geographical indication of Bangladesh. Both products contribute substantially to Bangladesh's social and economic development (Noman, 2024). GIs can enhance the sustainable growth of a nation by acknowledging traditional products like Tangail Saree. It is also evident that GIs balance economic growth and help attain holistic sustainability in developing countries like Bangladesh (Zografos and IQsensato 2008).

The recent Geographical Indication (GI) certification for Sundarban Honey and Tangail Sharee by Bangladesh has sparked tensions between Bangladesh and India. While Bangladesh successfully secured GI status for Sundarban Honey, India's acquisition of GI status for Tangail Sharee on January 2, 2024, has ignited controversy. Geographically, this handwoven product, traditionally associated with Tangail district in Bangladesh, is now claimed by India's Purba Bardhaman and Nadia districts in West Bengal. Despite Bangladesh's efforts to obtain GI status for Tangail Sharee since 2020, the recent approval has led to significant criticism from both sides of the border (Debapriya Bhattacharya, 2024).

This study examines the regulatory challenges arising from potential conflicts in GI recognition of Tangail Sharee and the jurisdictional claims of India and Bangladesh.

1.1 Methods

This research adopts a doctrinal methodology focusing on a literature review-styled approach. The authors assessed the challenges Bangladesh is facing to protect them as GI by reviewing IPR legislation and instruments as primary sources, such as the Geographical Indications (GI) of Goods

(Registration and Protection) Act, 2013¹, the TRIPS Agreement, and Lisbon Agreement. Secondary sources such as journal articles, policy reports, socio-economic studies, and market assessment reports have also been studied.

2.1 Overview of Regulatory Landscape

2.1.2 TRIPS Agreement

Jamdani saree and Tangail saree being two of the most sophisticated works of art in Bangladeshi culture calls for international attention to safeguard its territorial entity. It is presumed that these heritage products being vulnerable to cross-border claims requires protection through international IP frameworks such as the TRIPS agreement (the Agreement on Trade-Related Aspects of Intellectual Property Rights).²

One prominent study found that the TRIPS agreement allows member countries to boost economic growth and protect indigenous products (M. T. Islam and Ansari 2017). So, regardless of the economic and sociological situations of a country, the state parties to TRIPS are bound by the agreement to ensure prompt protection for vulnerable heritage products through assigning them GI recognition through their statutory frameworks.

2.1.3 Legal Significance of Registering Tangail Saree as GI

To give effect to the TRIPS commitments, especially the significance of registering GI products under Article 22(2) of TRIPS³, Bangladesh enacted "The Geographical Indication of Goods (Registration and Protection) Act, 2013." This statutory law was enacted by the Bangladesh Government to implement the IP rules of TRIPS and ensure timely protection of heritage products from misuse or extinction. Moreover, through the enactment of this law, the traditional Jamdani saree was given GI recognition. (UNESCO, *Traditional Art of Jamdani Weaving*, 2013). But the

¹ Supra

² Available online:

https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm (Accessed on 12th January 2025)

³ Supra

registration process of GI through this act and a regulatory body such as DPDT, or the Department of Patents, Designs, and Trademarks, responsible for providing registration services under Section 7 of the said act, is rather a time-consuming process that often dissuades the local producers from registering their products as GI (Halder & Hossain, 2023).

2.1.3 Regulatory Challenges for Bangladesh

GI Act, 2013 and the **Copyright Act, 2000** (Bangladesh Government, 2000)⁴ are significant in safeguarding traditional products like Jamdani saree, Tangail saree, and Hilsa fish (Tonmoy 2023). However, weak enforcement mechanisms and limited public awareness hinder their effectiveness (Hosen, 2017). The regulatory bodies for enforcing GIs in Bangladesh should properly implement the Copyright and GI Act simultaneously for affording greater protection coverage for our traditional saree products. Furthermore, prompt enforcement of the law and a smoother registration process would also foster consumer trust among the local weavers and artisans of traditional sarees.

Zahur (2017) highlighted the role of the **GI Act 2013** to safeguard traditional products in Bangladesh, especially Jamdani sarees. However, the GI registration of the Jamdani saree makes it evident that the Tangail saree may also get the same recognition (The Daily Star, 2016). The author opined that the GI Act, being closely aligned with the TRIPS framework, gives due regard to the Jamdani weavers, offering them the opportunity for global recognition. Challenges such as high registration costs, lack of public awareness, and inconsistent quality control hinder its effective implementation.

Expanding GI registration to other traditional products, including Tangail sarees and Rajshahi silk, would increase the scope of GI Act to many unknown prospective handloom products, such as Tangail sarees.

Likewise, to assess and expedite the protection framework's effectiveness, it is imperative for private and public bodies to conduct more empirical studies. So, on traditional handloom products such as Tangail sarees and Rajshahi silk to assess the legal protection and find out existing gaps in the enforcement mechanisms.

It is also presumed that territorial disputes over GI recognition of handloom products happen due to ineffectiveness of statutory laws. (Dewan & Noyon, 2022) in this regard analyzed that delayed legislative measures have historically allowed neighboring countries to claim rights over culturally significant products like Jamdani and Fazli Mango.

2.1.5 Sui Generis Registration Process of Tangail Saree

The World Intellectual Property Organization (WIPO) provides an expedited registration process for vulnerable traditional products such as the Tangail Saree. It emphasizes creating a sui generis legal framework exclusively applicable for GIs. These frameworks create a separate protection mechanism for GI distinctive of trademark and other forms of intellectual property rights.

Therefore, it is essential for Bangladesh to adopt vital policies for GI registration from international instruments and implement those in the GI Act for enabling a greater chance of registration of culturally important heritage products such as Tangail Saree as GI.

WIPO, in its publication called "Geographical Indications: An Introduction," underscored that developed countries, for instance, the European Union, India, and Switzerland, have already introduced sui generis registration processes applicable for their traditional beverages like wine, spirits, and agricultural products (Rizo et al., 2021).

WIPO stated that the system incorporates several tiers of protection. Such as the geographical delimitation of products acknowledging territorial

⁴ Available Online :

https://copyrightoffice.portal.gov.bd/sites/default/files/files/copyrightoffice.portal.gov.bd/law/121de2e9_9bc9_4944

[bfef_0a12af0864a5/Copyright,2000\(1\)%20\(2\).pdf](https://copyrightoffice.portal.gov.bd/sites/default/files/files/copyrightoffice.portal.gov.bd/law/121de2e9_9bc9_4944) (Accessed on 12th January 2025)

integrity of the heritage product. Secondly, it justifies the unique attributes of those products. Finally, the framework also prescribes the reputational integrity of the heritage product linked with the geographical origin. This unique method provides the local producers of traditional products with specific standards, complying with those that would avail them of sui generis status of registration.

Unfortunately, the DPDT and GI Act of Bangladesh have failed to ascertain the utility of this framework. If Tangail handloom products are given the opportunity for sui generis registration, it would easily grant Tangail sarees long-cherished GI recognition. Therefore, protect the local producers, protect them from foreign claims, and promote global recognition.

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

A significant piece of international instrument pertaining to the protection of traditional products is the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration 1958 (Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, 1958).⁵ Although Bangladesh is not yet a contracting party to this multilateral agreement, joining this would afford significant momentum towards rapid recognition of handloom industries such as Tangail Saree.

(Sarwar, 2024) emphasized the essence of the Lisbon Agreement, stating in her paper that the Lisbon Agreement benefits in simplifying international GI protection, which advocates a unified registration system that significantly reduces the cost for the GI declaration process and ensures transparency and authenticity.

This agreement aims at protecting heritage products through “appellations of origins,” which link the product with their geographical origin, therefore giving a unique identity. Since the

Tangail saree has geographical appellation linked to Tangail and greater North Bengal, tracing roots back centuries, this handloom product produced in Bangladesh may be a suitable candidate for GI recognition, and the Lisbon agreement through appellation of origin may be vital in that regard.

However, the term "Tangail" is also associated with a region in India. This could create challenges in establishing exclusive rights for the Bangladeshi Tangail Saree under the Lisbon Agreement. Addressing this challenge would likely require regional and international cooperation.

2.2 Potential Way-forward

- 1) The situation surrounding the Tangail Saree and its geographical indication (GI) is complex and involves historical, cultural, and economic factors. Bangladesh should formally apply for a GI tag for the Tangail Saree within its own legal framework. Regulatory bodies like DPDT (Department of Patents, Designs, and Trademarks) and the GI Act may facilitate GI recognition more effectively. This would establish a legal basis for Bangladesh to preserve Tangail sarees in their own backyard.
- 2) Moreover, Bangladesh may emphasize gathering historical evidence, expert testimonies, and traditional documentation to aid their argument that the Tangail Saree has geographical and historical appellations. Bangladesh may explore archaeological findings, historical records, and interviews with weavers and artisans, along with conducting empirical studies on socio-economic landscape of Tangail Saree to create a solid foundation in this ongoing discourse over entitlement to this heritage product.
- 3) Bilaterally, Bangladesh may engage in diplomatic conversations through their Ministries of Foreign Affairs. The processes would entail amicable settlement of territorial dispute. This could involve joint research,

⁵ Available Online :

<https://www.wipo.int/treaties/en/registration/lisbon/>
(Accessed on 12th January 2025)

expert collaborations, and consultations, along with signing MoUs for equitable rights sharing.

- 4) If bilateral diplomatic recourses amount to failure, then avenues for resolution through international organizations like the World Trade Organization (WTO) or the World Intellectual Property Organization (WIPO). These organizations provide frameworks for resolving intellectual property disputes. Moreover, dispute settlement through the International Court of Arbitration (ICC) may be approached for amicable settlement of territorial claims between Bangladesh and India (ICC International Court of Arbitration—ICC—International Chamber of Commerce, 2025).⁶
- 5) Through collaborating with national and international NGO's and regional organizations such as SAARC and its subordinate institution called SAARC-TPM (Trade Promotion Network), (GIZ, 2024.) may be approached to raise public awareness within Bangladesh about the cultural and economic significance of the Tangail Saree and support and promote traditional weaving techniques and artisans in Tangail to preserve the unique heritage associated with the saree.
- 6) Bangladesh may also explore the possibility of a joint GI tag and shared cultural heritage for the Tangail Saree, acknowledging its historical and cultural significance in both Bangladesh and India. This could define distinct characteristics for the saree produced in each country.
- 7) Finally, the existing legislation that provides GI status in Bangladesh should be modified for a quicker registration process for handloom and traditional products with geographical appellations. Moreover, Bangladesh should become a state party to the Lisbon agreement as well for expediting the registration process of the Tangail saree . This will provide

Bangladesh a competitive advantage in the race for GI entitlement of Tangail Saree.

3. Conclusion

The Tangail saree, being a linchpin heritage product for Bangladesh, has the potential to revolutionize the economic and social landscape of the nation. However, lack of legislative enforcement and regulatory challenges is impeding this product's potential for global success. Therefore, it is incumbent on Bangladesh to overcome regulatory hurdles towards GI , enhance international collaboration and equitable rights sharing, and engage with bilateral and multilateral initiatives with national and international bodies. Finally, Bangladesh, prior to addressing the legal challenges , is equally essential to advocate and promote the local artisans and weavers of Tangail saree and handloom industries so that they are educated and acknowledged about their local heritage. So, this research encompasses that the Bangladesh government must as soon as possible declare GI status to Tangail saree by addressing the regulatory loopholes concerning GI registration in Bangladesh.

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