

# The Legal Framework of Intellectual Property Rights in Relation to Human Rights

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**Keywords:** Intellectual Property Rights, Human Rights, Universal Declaration of Human Rights, 1948, Stakeholders, TRIPS.

**Abstract:** Way back in 1970, Supreme Court of India in *Rustom Cavasjee Cooper v Union of India*, acknowledged the importance of intellectual property rights. This research paper is a humble attempt on part of the author to trace efficacy of monopolistic intellectual property rights legal regime in promoting and safeguarding human rights of all stakeholders in the society. The author shall modestly attempt to trace efficacy of Indian statutes such as The Patents Act, 1970, The Geographical Indications of Goods (Registration and Protection) Act, 1999 and so on with reference to their role in safeguarding right to health, rights of traditional knowledge holders, collective rights of holders of geographical indications and so on. International instruments such as Universal Declaration of Human Rights, 1948, Trade Related Aspects of Intellectual Property Rights and Doha Declaration shall also be reflected upon in this research journey. Landmark judicial pronouncements such as *Novartis A. G. v Union of India* whereby our judiciary proactively safeguards our human rights shall be reviewed in this paper. The author shall undertake comparative analysis of relevant statutes of other countries also. An attempt shall be made to take feedback from stakeholders at grassroots level. Post TRIPS, our legal regime related to Intellectual Property Rights has undergone many amendments - an effort shall be made to gauge real impact of our amended IPR regime on the holistic development and welfare of Indian society. Sui generic Indian approaches such as Traditional Knowledge Digital Library have been appreciated globally but at the same time an attempt shall be made to explore other alternatives for proactively safeguarding our invaluable traditional knowledge.

## 1 INTRODUCTION

The intricate interplay between Intellectual Property Rights (IPRs) and human rights constitutes a multifaceted legal landscape worthy of exploration. Eramala Dayal, hailing from the esteemed V. T. Choksi Sarvajanik Law College in Surat, India, delves into this complex realm with a nuanced analysis in this paper. At the heart of this discourse lies an examination of the legal framework surrounding intellectual property rights and their correlation with the broader spectrum of human rights.

IPRs, characterised by their predominantly individualistic and monopolistic nature, span a diverse spectrum encapsulating *jura in re aliena* and *jura in re propria*. Against this backdrop, Dayal's endeavour seeks to dissect the role played by intellectual property rights within the context of

human rights. This modest attempt unveils a rich tapestry of legal nuances, exploring the implications of IPRs on the broader canvas of human rights, shedding light on the intricate dynamics at play.

Through meticulous analysis, Dayal navigates through the labyrinth of legal intricacies, shedding light on the contemporary landscape of Geographical Indications (GIs) in India. From the diverse array of GI-tagged goods spanning agricultural, natural, handicraft, manufactured, to foodstuff categories, emerges a mosaic of regional diversity and cultural heritage.

However, amidst this rich tapestry, the author discerns both achievements and lacunae within the national intellectual property rights legal regime, thereby laying the groundwork for further exploration and recommendations.

## 2 HYPOTHESIS

Our national intellectual property rights legal regime holistically safeguards human rights of Indians.

## 3 RESEARCH METHODOLOGY

Comparative, Doctrinal and Non doctrinal research methodology has been adopted by the researcher.

Doctrinal Research: The author has compared provisions of various international instruments and constitutions with reference to right to scientific benefits.

Non-doctrinal research: The author has done tabular analysis of cost of branded medicines (patented medicines) and generic medicines.

The author has done tabular analysis of GI tagged goods in different states of India.

The author has carried out a survey for discerning that whether people prefer branded medicines or generic medicines.

### Meaning, Definition and Rationale of human right

The Protection of Human Rights Act, 1993: "Human rights mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India"

United Nations: "Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination."

Canada: "Human rights are the rights to which persons are inherently entitled to because they are human beings. Human rights describe how we instinctively expect to be treated as persons. They define what we are all entitled to – a life of equality, dignity and respect, to live free from discrimination and harassment."

### Meaning of Intellectual Property Rights

World Intellectual Property Organisation: "Intellectual property refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce."

Rustom Cavasjee Cooper V Union Of India: "-- property means the "highest right a man can have to anything, being that right which one has to lands or tenements, goods or chattels which does not depend on another's courtesy : it includes ownership, estates and interests in corporeal things, and also rights such as trade-marks, copyrights, patents and even rights in personal capable of transfer or transmission, such as debts; and signifies a beneficial right to or a thing considered as having a money value, especially with reference to transfer or succession, and to their capacity of being injured."

### Legal Regime Relating to Intellectual Property

Article 27 of Universal Declaration of Human Rights, 1948:

According to the above-mentioned article, the researcher gathers that, "everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits and everyone also has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

The author traces right to scientific benefits way back to 1948 vide UDHR. Article 27(2) of UDHR embodies legal justification for protection of intellectual property rights.

Article 15 of Part III of International Covenant on Economic Social Cultural Rights, 1966:

1. "The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life.

(b) To enjoy the benefits of scientific progress and its applications.

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields."

The author gathers that similar protection as is advocated by UDHR with reference to rights related to intellectual property has been reiterated in the Covenant of 1966.

### Article 10f American Constitution

“The Congress shall have Power To —— promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Article 51A(h) of Part IVA of Constitution of India:

“It shall be the duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform.”

### Constitution of Taiwan

Article 10: “The State shall encourage the development of and investment in science and technology, facilitate industrial upgrading, promote modernization of agriculture and fishery, emphasize exploitation and utilization of water resources, and strengthen international economic cooperation.

Priority shall be given to funding education, science, and culture, and in particular funding for compulsory education”.

Article 164: “Expenditure for educational programs, scientific studies and cultural services shall not account for less than fifteen percent of the total expenditure in the Central Government’s budget.”

Article 165: “The State shall safeguard the livelihood of those who work in the fields of education, science and art, and shall, in accordance with the development of the national economy, increase their remuneration from time to time.”

Article 166: “The State shall encourage scientific discoveries and inventions.”

Article 42 of Arab Charter on Human Rights:

According to the above stated article, the author gathers that “every person has the right to take part in cultural life and to enjoy the benefits of scientific progress and its application and the States parties undertake to respect the freedom of scientific research and creative activity and to ensure the protection of moral and material interests resulting from scientific, literary and artistic production.”

Article 32 of ASEAN Human Rights Declaration

“Every person has the right, individually or in association with others, to freely take part in cultural life, to enjoy the arts and the benefits of scientific progress and its applications and to benefit from the

protection of the moral and material interests resulting from any scientific, literary or appropriate artistic production of which one is the author.”

After analysing various international instruments and constitutions of other countries and comparing them with constitutional provisions of our country the author gathers that specific provisions relating to right to scientific benefits do not find place in our constitution. The Constitutional provision of Taiwan with reference to increase in remuneration of those who work in field of science is also an appreciative initiative.

### Meaning of Patent

WIPO: “A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application.”

United States Patent and Trademark Office: “A patent for an invention is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office.”

Australia: “A patent protects any device, substance, method or process that's new, inventive and useful.”

India: “A Patent is a statutory right for an invention granted for a limited period of time to the patentee by the Government, in exchange of full disclosure of his invention for excluding others, from making, using, selling, importing the patented product or process for producing that product for those purposes without his consent.”

### Rationale for granting patent

Greece: “Athenaeus of Naucratis an ancient Greek scholar who wrote about Greek cultures mentioned for first time about a concept resembling patents - around sixth century BC, the Sybarites descended into feasting and they enacted a law that when one of the chefs invented his own dish, no other person should be allowed to make use of this invention before the end of a year. Only the inventor himself was allowed to prepare his dish for twelve months and during that time he would have the business profit from his dish. The reason behind this law was that others would compete and surpass each other in such inventions.”

The author traces similarities between rationale for granting patent in contemporary times and this antique 6th century BC Law of the city of Sybaris of Greece.

Table 1: The comparison between Contemporary Patent System and Sybarites Law of Greece

Contemporary Patent System	Sybarites Law of Greece (approximately 6th century BC)
True and first inventor has exclusive right for his/her invention	Chef had exclusive right to prepare his newly invented dish.
Term of Patent - 20 years	Term of exclusive right - 12 months
Negative Right - Others are forbidden to commercially exploit patented invention for said term of 20 years	Negative Right - Others were not allowed to prepare the same dish for a year
On expiration of term of patent, the invention passes into the public domain so that anyone can use it.	Exclusive right was withdrawn after a year, and anyone could make the dish

**America:** “A patented invention can prove to be useful for

- Gaining entry to a market.
- Excluding others from a market.
- As a marketing tool to promote unique aspects of a product.
- Sold or licensed, like other property.”

**India:** Rationale of The Act VI of 1856 is to:

- Encourage and promote inventions of new and useful manufactures.
- Induce inventors to disclose secret and know-how of their inventions.

**WIPO:** Reasons for filing patent applications:

- To protect investment in research and development for term of 20 years.
- To gain advantage against competitors.
- To control suppliers.
- To support a licensing-out program.
- To maximise tax planning options.
- To gain reputation for innovation.
- To motivate researchers

**OECD:** Rationale and Objectives behind patent system:

- “Patent is a legal title that gives the holder the right to exclude others from using a particular invention.
- Patentee will profit from monopoly.
- Without proper legal mechanism in place, inventions would be copied without consent of patentee.
- It will cause him monetary loss.
- Patenting system helps in spread and transfer of knowledge since patents are granted in return for disclosure of the invention.
- Invention breeds invention.”
- In a Nutshell:

Intellectual property belongs to its creator. Benefits arising from it should belong to the creator of the property. Besides inventions, authors of literary and

artistic works are entitled to benefits arising from their creations. They have economic as well as moral rights with reference to their work. The rights in incorporeal property have been recognised on the principle that what a man produces or creates belongs to him and immaterial and intangible product of a person’s intellect may be as valuable as any other corporeal property. Law has given a proprietary right in things to the person who makes or produces them and for any violation of these rights there are legal remedies. Even the State and society are obliged to protect material interests of men in immaterial property belonging to him. If someone infringes IPRs belonging to their creators, then he should have appropriate legal remedy as is illustrated by the maxim with ubi jus ibis remedium. In *Ashby v White*, Holt, C. J. has observed that, “If a man has right, he must have means to maintain and vindicate it, and remedy is he is injured in the exercise and enjoyment of it; and indeed, it is a vain thing to imagine a right without a remedy, for want of right and remedy are reciprocal.”

**Term of Patent**

Multilateral Agreement of WTO on Trade Related Aspects of Intellectual Property Rights:

Article 33 - “Term of Protection: The term of protection available shall not end before the expiration of a period of twenty years counted from the filing date.”

The Patents Act, 1970:

Section 53: Term of patent.— “(1) Subject to the provisions of this Act, the term of every patent granted, after the commencement of the Patents (Amendment) Act, 2002, and the term of every patent which has not expired and has not ceased to have effect, on the date of such commencement, under this Act, shall be twenty years from the date of filing of the application for the patent.”

### **Basic Principles Applicable to Working of Patented Inventions**

- Section 83 of our 1970 Act itself is illustrative of balancing of rights of patentee on one hand and benefit of society at large on other hand.

On analysis the author gathers that these legislative provisions encourage rights of patentee on one hand and on the other hand assure that inventions are worked in our country so that Indians get benefit out of the relevant technological advancements without any loss of time. It advocates dissemination of technology in tune with our constitutional vision of social and economic welfare.

### **Compulsory Licences**

Section 84 of the 1970 Act: “Compulsory licensing whereby if the patented inventions do not satisfy reasonable requirements of the public or are not reasonably priced or not worked in India then on receiving application the Controller General of Patents shall grant the licence.”

After analysing the rationale underlying patenting system, the author gathers that monopolistic rights are guaranteed to the inventors as a mode of encouragement to the inventors, for disclosure, spread and knowledge of their scientific novel know how and techniques. The patentee will enjoy commercial benefits from his or her invention for the term of 20 years. Hence patent system for sure protects moral, economic, and legal rights of patentee. One very important feature of patenting system is that it contributes towards overall improvement of standard of living of society. Invention breeds invention. Only those inventions are patentable which are novel, non-obvious and have utility. Patenting system contributes towards industrial development also which in turn escalates economic growth. Hence human rights of society are positively affected through patenting system. This system benefits both the society and patentee. The patentee discloses his/her invention by virtue of written specification at the time of patent application. If invention meets the criteria of novelty, utility and non-obviousness then patentee gets 20 years exclusivity. After twenty years, public can reap commercial advantage arising out of that invention.

World Trade Organisation itself has clarified that patenting system is for holistic progress of society as can be gathered from the following clarification:

“A patent only gives an inventor the right to prevent others from using the patented invention. It says nothing about whether the product is safe for consumers and whether it can be supplied. Patented pharmaceuticals still have to go through rigorous testing and approval before they can be put on the market.”

### **Judicial Pronouncement**

The author further considers judicial pronouncement of our apex court in landmark judgment of *Novartis A.G. v Union of India*. This decision has been delivered in tune with preambular vision of our constitution with specific focus on economic situation of our country and diversity as is prevalent in Indian society. This decision is in tune with the spirit of Section 3(d) of The Patents Act, 1970, which forbids ever greening of patents in pharmaceutical sector. We have taken benefit of flexibilities provided for in TRIPS agreement. These flexibilities were further elaborated and detailed in Doha Declaration on TRIPS and Public Health:

“Intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices. We agree that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health. TRIPS Agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and to promote access to medicines for all.”

Hence in tune with our preambular vision, TRIPS flexibilities and Doha Declaration and observations of our Apex Court in *Novartis* judgement, the researcher gathers that Section 3(d) of 1970 Act is an attempt by our legislators to regulate our patenting legal framework in such a manner that scientific progress and development take place on Indian soil but at the same time lifesaving medications do not become so dear that they become out of reach of Indians.

### **Appeal by Indian Government to Council of TRIPS during Pandemic**

Moving on to contemporary concerns about right to health, the researcher has further analysed heartfelt appeal to all members of WTO by our Government during pandemic times to waive of stringent requirements of TRIPS Agreement. This appeal has been verbatim reproduced by the author underneath:

“Internationally, there is an urgent call for global solidarity, and the unhindered global sharing of

technology and know-how in order that rapid responses for the handling of COVID-19 can be put in place on a real time basis. In these exceptional circumstances, we request that the Council for TRIPS recommends, as early as possible, to the General Council a waiver from the implementation, application, and enforcement of Sections 1, 4, 5, and 7 of Part II of the TRIPS Agreement in relation to prevention, containment or treatment of COVID-19.”

**Traditional Knowledge Digital Library**

Post expensive litigation battles for revocation of basmati, neem and turmeric patents in USPTO and European Patent Office, our government has adopted a Sui generic mechanism for safeguarding human rights of traditional knowledge holders. During pandemic, healthcare needs of majority of Indians were taken care of by effective use of traditional

knowledge related to Ayurveda, Siddha, Unani and Sowa Rigpa as well as Yoga. The researcher gathers that this Sui generic initiative of our government has contributed towards holistic sustainable growth of our society.

“Approximately 283 patent applications at international patent office’s such as - United States Patent and Trademark Office (USPTO), European Patent Office (EPO), Canadian Intellectual Property Office (CIPO), German Patent and Trade Mark Office (DPMA), United Kingdom Patent & Trademark Office (UKPTO), IP Australia (AIPO) and Controller General of Patents Designs and Trademarks (CGPDTM, India), which directly indirectly exploited our traditional knowledge have been either withdrawn, cancelled or disposed of vide effective use of TKDL mechanism.”

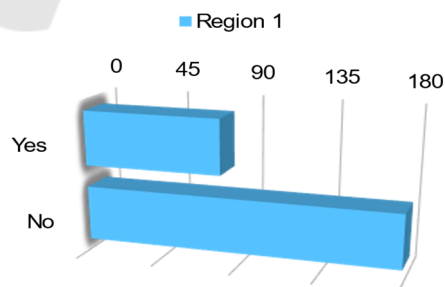
Table 2: Cost Comparison Between Branded Medicines (Patented) and Generic Medicines

Condition	Branded Medicines (Patented)	MRP	SP	Generic Medicines	MRP	SP
Vertigo	Vertin	176.61	155	VERTIFORD	325.35	12
Body Ache	ZERODOL - SP	118	105	DOLOFRESH SP	85	50
Headache	SERIDON ADVANCE	45	42	PARACIP	10	10
Diabetes	GLORIMET	58.43	55	DAILYGLIN	55	30
High Cholesterol	AZTOR	75	42	ATORNIZ	60	27
Migraine	NAPROSYN	86	80	NAPROSEL	96	55
Skin Disease	ITRASON	100	95	ITRADUS	147	60
Acne	FACKLIN	225	210	CLINCITOP	54	50
Acidity, Vomit	REECOOL D	240	220	RWELL D	85	50
Diarrhoea	LOPAMIDE	27	23	ROKO	22.76	14
Blood Pressure	TELMA	95	86	TETRAMAVAS	81.17	12
COUGH AND COLD	SINAREST	93	87	COLDEX CZ	35	17

- The author has undertaken comparative analysis of branded medicines (patented) and generic medicines for certain general ailments such as vertigo, cough cold and so on.
- Market Retail Price of some branded medicines is less than generic medicines. But selling price of generic medicines is much lower as compared to branded medicines.

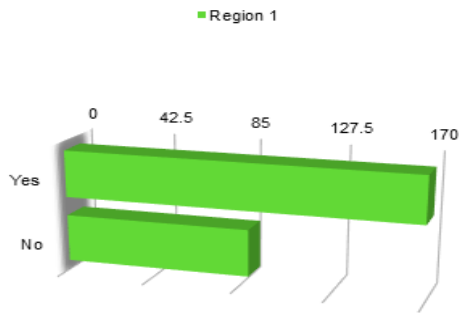
Analysis graphically results of e survey conducted amongst a sample size of 260 respondents.

1. Are you using any generic medicine currently?



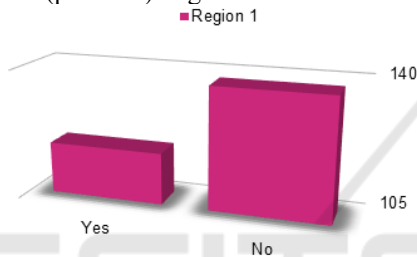
Majority respondents (69.4%) are not using generic medicines.

2. Do you buy your medicines from a pharmacy where generic medicines are available?



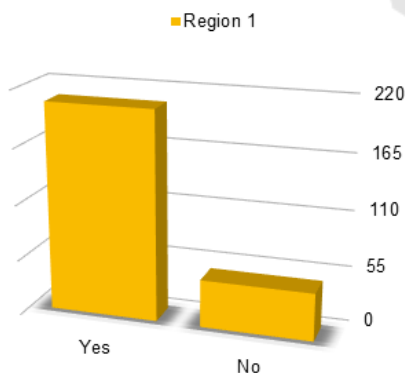
Majority respondents (65.5%) are in fact buying their medicines from pharmacies where both generic as well as branded medicines are available.

3. Have you ever switched from a branded medicine (patented) to generic medicine?



Majority respondents (53.9%) have not switched from branded to generic medicine.

4. Do you find branded medicines (patented) to be more expensive than generic medicines?



Majority respondents (81.4%) find branded medicines to be more expensive than generic medicines.

**Findings of e-survey**

From the above e survey, the author gathers that:

- Majority of respondents do not prefer to use generic medicines despite of them being cheaper than branded medicines.
- The reasons behind not preferring generic medicines despite of them being cheaper than branded medicines is that not all patients respond positively to them.
- Also, recovery rate in generic medicines is much slower in comparison to branded medicines.
- Doctors also do not show inclination towards prescribing generic drugs since they do not yield quick positive results.

**Meaning of Geographical Indications**

- “Geographical indications are, indications which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

**The Geographical Indications (GI) of Goods (R&P) Act, 1999**

- Section 2(e): “geographical indication, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.”
- Section 11(1): “Any association of persons or producers or any organisation or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering a geographical indication in relation to such goods shall apply in writing to the Registrar in such form and in such manner and accompanied by such fees as may be prescribed for the registration of the geographical indication.”
- Section 18 (1): “The registration of a geographical indication shall be for a period

of 10 years but may be renewed from time to time in accordance with the provisions of this section.”

The Geographical Indications (GI) of Goods (Registration and Protection) Act, 1999 of India accords protection to human rights of a group of people belonging to a particular locality. This legislation is in a way illustrative of India’s commitment towards fulfilment of its TRIPS’ obligations.

The intention of legislators for enacting this Act is to safeguard interest of producers of such goods which are reputed mainly because of their geographical roots and connections on one hand and preventing unauthorised use by miscreants on other hand. At the same time world is becoming more and more ecologically conscious day by day. Hence world over preference for local produce, goods which are environment friendly is increasing. This 1999 Act in a way gives boost to the export of our products.

Table 2: Types of goods against their geographical indications

Sr. Nos.	Goods	Geographical Indications
1	Agricultural Products	Darjeeling Tea Kangra Tea Coorg Orange Nagpur Orange Arunachal Orange Jalna Sweet Orange Mysore Betel leaf Udupi Malligae Hadagali Malligae Navara Rice Palakkadan Matta Rice Wayanad Jeerakasala Rice Wayanad Gandhakasala Rice
2	Handicrafts	Aranmula Kannadi Pochampalli Ikat Salem Fabric Chanderi Sarees Mysore Silk (Logo) Mysore Rosewood Inlay Thirubuvanam Silk Sarees Kancheepuram Silk Muga Silk of Assam Arani Silk Champa Silk Saree And Fabrics Surat Zari Craft Kinhil Toys Leather Toys of Indore (Logo) Varanasi Wooden Lacquerware & Toys Etikoppaka Toys Channapatna Toys & Dolls Nirmal Toys and Craft
3	Food	Ratlami Sev Tirupathi Laddu Bandar Laddu Banglar Rasogolla Silao Khaja Odisha Rasagola
4	Natural	Chunar Balua Patthar Makrana Marble
5	Manufactured	Mysore Agarbathi Mysore Sandalwood Oil Mysore Sandal soap Feni
5	Foreign goods - GI Tagged Under Indian Law	Scotch Whisky of Uk Prosciutto di Parma of Italy Parmigiano Reggiano of Italy Prosecco of Italy Asiago of Italy Cognac of France Tequila of Mexico Lamphun Brocade Thai Silk Grana Padano

From the above tabular analysis, the author gathers that:

- Contemporarily five categories of goods are GI tagged in our country - agricultural,



natural, handicraft, manufactured and foodstuff.

- Same agricultural goods such as tea, oranges, malligae and rice enjoy GI tag in different States of our country. In fact, Basmati rice enjoys GI tag in 8 States in India – [Punjab, Haryana, Himachal Pradesh, Delhi, Uttarkhand, Uttar Pradesh, Jammu & Kashmir].
- Handicrafts such as silk and toys are also GI tagged in different cities of India.
- Foodstuffs such as laddu and Rasagola also enjoy GI protection in different states of India.
- Different products such as agarbatti, silk, soap having geographical roots in the same place - Mysore are also GI tagged.
- Even foreign goods can be registered under our domestic Act of 1999, and they enjoy statutory protection within territory of India.

## 4 FINDINGS

This research journey to an extent supports the hypothesis that our national intellectual property rights legal regime holistically safe-guards human rights of Indians but there is still scope of improvement. The author supports this finding with following conclusions and humble recommendations.

## 5 CONCLUSION

- Specific provisions relating to right to scientific benefits do not find place in our constitution.
- A sort of balancing of monopolistic rights of inventors and society at large can be discerned after analysis of rationale underlying our national legal regime relating to patents.
- Landmark judgement delivered in Novartis case by Aftab Alam, J. And Ranjana Prakash Desai, J also is conducive towards protection of human rights of Indians as a whole. Apex Court in this judgement has clearly interpreted Section 3(d) of 1970 Act as forbidding ever greening of patents.
- Amid challenging times of the India emphasized the need for worldwide solidarity and actively advocated waiving of enforcement of Sections (1,4,5, and 7) in

Part two of TRIPS Agreement. These sections pertain Copyright and Related Rights, Industrial Designs, Patents and Protection of Undisclosed Information.

- Sui generic initiative of our government namely TKDL has definitely contributed towards holistic sustainable growth of our society at the same time protecting human rights of holders of traditional knowledge.
- Our domestic legal regime related to patents definitely attempts to balance rights of inventors on one hand and society at large on other hand. But after undertaking comparative analysis of branded medicines (patented) and generic medicines the author gathers that despite generic medicine being cheaper as compared to their branded options, patients do not prefer to opt for generic ones as they do not find them to be much effective.
- The author gathers that GI Act of India does not per se encourage monopolistic rights. It advocates group rights. Also, term of registration of geographical indication is for a term of 10 years and there is scope of its renewal also. Hence these statutory provisions advocate sustainable development and group rights.

## 6 RECOMMENDATIONS

- Specific provisions relating to right to scientific benefits should be included our constitution.
- Those Indians who diligently discharge their fundamental duty and cultivate scientific temper should be adequately remunerated in monetary terms also. They should be appreciated at all levels.
- More research and development is required as far as generic medicines are concerned since their efficacy in line of treatment in contemporary times is questionable.

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