

A Legal Study on the Conservation of the Bell-Brass Metal Industry of Rural Assam with Reference to the Problems Faced by the Artisans

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Abstract

A good number of rural communities in Assam possess mastery over some traditional art and craft which are very unique and are their means of subsistence. The Bell-Brass Metal industry in Assam is known since 7th century A.D. But, with the advancement of science and technology, the rights of the indigenous peoples are in the verge of disappearance. Many unscrupulous groups are trying to personalize the traditional knowledge of these indigenous peoples without giving them any recognition or financial benefit. To preserve the rights of the indigenous peoples over their crafts the Geographical Indications are available under the existing Intellectual Property Rights Regime. But, the rural craftsmen in Assam are not so aware and friendly with the laws or the legal system. Therefore, their rights are easily snatched away by many unscrupulous persons. The traditional knowledge of the indigenous peoples are the assets upon which the identity of their community depends. They have exclusive right to use these knowledge for themselves. The indigenous peoples of Assam face problems regarding protection of their traditional knowledge over Bell-Brass metal goods. The researcher made a survey in the Sarthebari, Baniakuchi and Hajo area of Kamrup which are homes to bell-brass metal good producers. Through this paper, the researcher wants to focus on the identity crisis of the indigenous peoples due to the non-recognition of their rights over their traditional crafts with special focus on the problems in Bell-Brass metal production and their conservation in Assam.

Keywords: Geographical Indication, Traditional Knowledge, Rural People, Bell-Brass Metal Crafts, Non-recognition of rights.

Introduction

Traditions form a very essential part of human existence on earth. There is no scope of detaching oneself of the customary traditions of a clan or community totally. Rather, there is a need to rejuvenate and be abided by the traditions with slight required modifications if needed. There are many certain old traditions or art forms that are associated with the rural indigenous communities around the world which form the base of their identity. The knowledge over the traditional art and crafts which are possessed by the local people are called Traditional knowledge. The Traditional Knowledge (TK) or Indigenous Knowledge includes wisdom, knowledge, art and crafts and teachings of those communities. Such knowledge orally passes from one generation to the other. Some forms of traditional knowledge find expression in the stories, rituals, legends, folklore, songs and even laws. Such knowledge provides a distinguished position to a community.

Indigenous cultural and traditional knowledge has always been a treasure of an indigenous community. Whereas, treasures normally get every protection and the ownership rights of the owner is absolutely protected and respected, the rural indigenous people are never allowed to protect their rights over the traditional knowledge they own. Even though the existing Intellectual Property Law provides documentary safeguards to the indigenous knowledge of people, still this protection has not proved to be adequate. That is the reason why, the culture and traditions of the indigenous communities are often taken away from them.

The state of Assam is resided by many indigenous and local communities who have many such long-practiced traditions, art and crafts. Among those crafts the bell-brass metal goods production is a unique traditional craft of the rural and indigenous peoples in Assam. Brass and Bell Metal products of Kamrup are famous for their beauty and strength of form and utility. These are handmade products that bear the relics of classical heritage of the region and not sculpted in machines. Brass is an important cottage industry concentrated mainly in Hajo and Boniakuchi, while Sarthebari is well known for its bell metal craft. The principal items of brass are the kalah (water pot), sarai (a platter or tray mounted on a base), kahi (dish), bati (bowl), lota (water pot with a long neck) and tal (cymbals). Gold, silver and copper too have formed part of traditional metal craft in Kamrup and the State Museum in Guwahati has a rich collection of items made of these metals. Even though the manufacturers are not in a satisfactory condition economically, still they are pursuing their traditional art with some hope.

Methodology Opted

To find out the desired outcome of the study it became mandatory to approach the rural people directly, to sense the value of their art and craft and the struggle they are making to preserve their traditional knowledge. To extract information from the people, the researcher had to employ different techniques such as interview with the help of a schedule and observation method. In this study, the researcher made an observation of the behavior of the people towards her and also their attitude towards their craft. She has followed a *semi-structured* format of interview. There are 300 Bell utensil production units in Sarthebari, wherefrom the researcher has taken 90 samples, and from Baniakuchi, where there are 91 brass item production units, 25 samples were taken.

Bell-Brass Metal Industry of Assam

Assam has a very old tradition of metal manufacturing. The Bell-Brass metal industry of the state is a unique traditional knowledge possessed by the indigenous peoples of Assam. As the activities in the industry are carried on by artisans without the aid of any modern technology, it can hardly be called an industry in the actual sense. Bell-brass metal production is known as a craft. The craft has a tradition since 7th century A.D. Historically, the most renowned centers of this craft in Assam are Sarthebari in Barpeta, Hajo in Kamrup, Raha and Hojai in Nagaon, Dhekiajuli in Sonitpur and Titabor in Jorhat. The researcher visited Sarthebari, Boniakuchi and Hajo in her search for information regarding the current status of the craftsmen in these places. Bell-Brass metal industry is the second largest handicraft of Assam.

Sarthebari is a small village in Barpeta District with a very ancient origin and history regarding bell-brass metal production. Situated less than 100 kms from Guwahati, Sarthebari is home to the bell metal industry. Bell metal is an alloy of copper and tin and utensils made from it are used for domestic and

religious purposes. Almost every household of the village is engaged in this cottage industry and the hammering of the metal at the furnace can be heard throughout the village.

Sarthebari is mainly famous for the bell metal productions since antiquity and the brass-metal manufacturers are mainly found in the Boniakuchi area near Sarthebari. People here mostly rely on their craftsmanship and the traditional art of bell-metal production as means of their survival and livelihood. Their hands can create some unimaginable art with the hard metals like bell and brass. The indigenous peoples of the area have been pursuing their craft since the time when King Kumar Bhaskar Barman¹ ruled Assam, and are willing to continue it through the coming generations.

Sarthebari is said to produce almost hundred tons of products every year. The production of the bell metal is facilitated by the 300 production units operating in the village. The workshops are known as 'saal'. Every unit here consists of 5 to 6 workers. The bell metal industry has been handed down from centuries by a few clans of a caste known as *Kanhar* and requires much skill and training process for its execution. Some of the important bell metal products are the traditional plates, cups, tumblers, pitchers, bowls, sarai, dwarf pitchers, pots and musical instruments. The products are very popular within the state as well as in neighbouring countries like Bhutan, Tibet and Nepal.

In the initial stage raw materials are procured from Moradabad, Kolkata and Delhi in the form of la or tin and copper. These are usually brought in the proportion of 83 per cent and 17 per cent respectively. Moradabad is a popular place in Uttar Pradesh known for bell metal works.

Many times scraps are also used in huge proportion for manufacturing purpose. This ensures recycling of the old and damaged materials. During the manufacturing process the copper and tin are melted in a coal furnace. The mixture is then weighed in various trays known as dices according to the requirement of measurements for a specific product. Then these are hammered to give them the required shape. The metal is then immediately dipped in water to cool it down to room temperature. It is done to make it strong and durable. The polishing is done by rubbing them vigorously by hand using a rug.

Brass metals are mainly produced in the Boniakuchi area near Sarthebari. It has 91 brass metal production units and as many as 400 artisans are involved in the production. Yearly around 300 tonnes of brass metal are produced in Assam. With Boniakuchi, the name of Hajo is also worth mentioning where a good amount of brass utensils are produced for domestic use, for business purposes as well as for interior designing. These items are exported to the nearby foreign countries like Bhutan, Tibet, Myanmar and Nepal, when there is a great demand of the brass items.

Need of Protection of Assamese Bell-Metal Goods

Assam, situated in the North-Eastern part of India, is a place rich in natural resources. The local people of Assam have the character of making their livelihood easier by pursuing their traditional art and crafts. The researcher has made an attempt to throw some flashlight on the need of protection of the bell-brass metal industry of Assam, which is one of the identifying factors of the Assamese community, by Geographical Indications. But, the circumstances are so adverse that these people neither get any chance to make themselves aware of the concept Intellectual Property Rights nor they get any support to develop their art and craft in an economic way.

The Geographical Indication (GI) will prove to be helpful in protecting the community rights of the people in Assam over these traditional crafts. Geographical indications (GI), especially appellations of origin, may be used to enhance the commercial value of natural, traditional and craft products of all

¹ Kumar Bhaskar Barman (600–650) was the last and most illustrious ruler of the Barman dynasty of Kamarupa Kingdom.

kinds if their particular characteristics may be attributed to their geographical origin. These are some indications which identify goods, such as agricultural goods, natural goods or produced or manufactured goods of a specified territory, region, any locality or community. A number of products that come from various regions are the result of traditional processes and knowledge implemented by one or more communities in a given region. The special characteristics of those products are appreciated by the public, and may be symbolized by the indication of source used to identify the products. Better exploitation and promotion of traditional knowledge, geographical indications would make it possible to afford better protection to the economic interests of the communities and regions of origin of the products.²

Geographical indication acts as a device of indication which helps the producers to differentiate their products from other competing products in the market. It assigns a proof of quality to a specific product. By a geographical indication, people will be able to mark the specific item which they demand.

The idea of Geographical Indication found international recognition for the first time in the Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement of the World Trade Organisation which came into force in 1995. In this agreement the GI has been spotted as an identification mark to identify and locate the goods belonging to a particular geographical area. Provision like Article 22, 23 and 24 of the TRIPs deal with the registration of GIs and the remedies that are available for violation of the rules enshrined in the document. There cannot be any deceptive mark registered to deceive the purchasers of a good or the service seekers. India is a party to this TRIPs Agreement since before it came into force i.e. since 1994.

In order to comply with India's obligations in the TRIPs Agreement, it enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999, which came into force with effect from 15th September 2003. The present geographical indications regime in India is governed by the Geographical Indications of Goods (Registration & Protection) Act, 1999 and the Geographical Indication of Goods (Regulation and Protection) Rules, 2002.

By registering a geographical indication in India, the rights holder can prevent unauthorized use of the registered geographical indication by others and promote economic prosperity of producers of goods produced in a particular region. Registration of the geographical indication in India is not mandatory as an unregistered geographical indication can also be enforced by initiating an action of passing off against the infringer. It is, however, advisable to register the geographical indication as the certificate of registration is *prima facie* evidence of its validity and no further proof of the same is required.³

Assam's bell-metal industry has been unprotected since ages due to which duplicate products have taken their position in the national and international market. Instead of having the demand, due to lack of awareness and initiative and negligence by the concerned Governments, the craftsmen are losing their ownership rights over the products.

Problems in Bell-Brass Metal production

In Sarthebari, Boniakuchi and Hajo, it was found that even though the bell-brass metal utensils produced by the artisans of these places bear the cultural prestige of Assam, the artisans are financially devastated

² Naresh Kumar Vats, *Geographical Indication – The Factors of Rural Development and Strengthening Economy*, 21, JOURNAL OF INTELLECTUAL PROPERTY RIGHTS 347, 348 (2016).

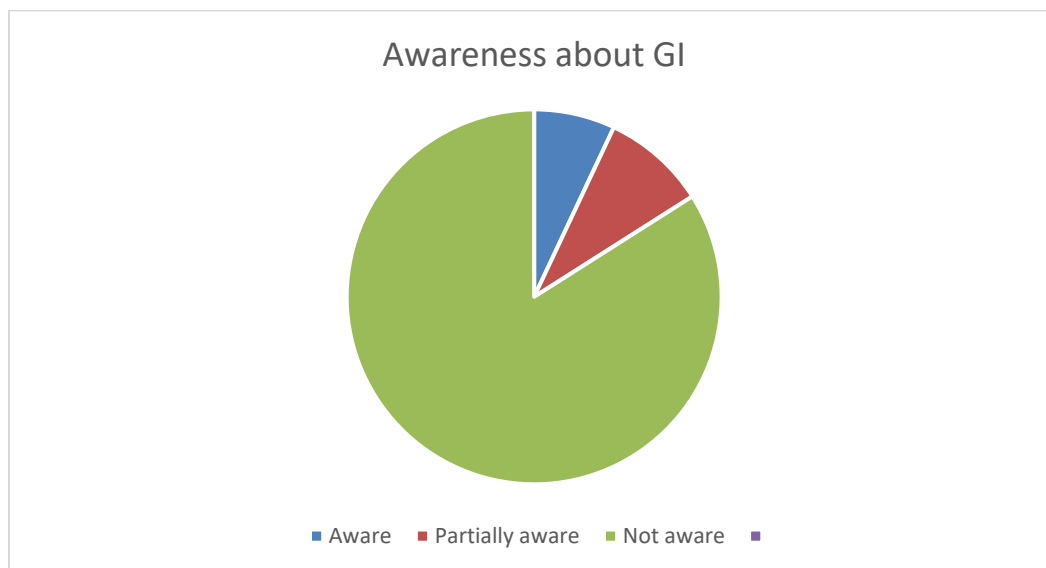
³ Ashish Mishra, *Geographical Indications: Status and the Registration Process in India*, PL INSIGHTS (March 3, 2024, 12.30 am), <http://newdelhi.usembassy.gov/iprgeoind.html>.

by the craft. They do not have enough monetary capacity to pursue the productions with their own resource. They are compelled to rely on some middlemen known as ‘Mahajans’ who take the responsibility to sell their produced goods in the market. Their work is highly affected by the increasing price of the raw materials which they cannot afford. They use to buy coal at Rs.300/- per bag and broken bell (*Bhonga Kanh*) at Rs. 700/- (average). Supply and availability of these raw materials are not adequate for their work to run smoothly. Coal availability depends upon season. From October only these materials are available mostly.

They have a union of craftsmen which fixes the minimum price of the produced goods. The *Mahajan* offers them the orders and supplies the raw materials for production. After the goods are produced, the makers get a fixed payment. The *Mahajans*, on the other hand, are the ultimate authorities, who sell the products in the market. Whatever extra money the products earn due to their quality or demand, goes to the pockets of the *Mahajans*, and not to the craftsmen. The wage of the makers is increased every two years with collective consent of the union.

The bell-brass metal production has become a seasonal work as it remains halted half of the year depending upon the availability of the raw materials and demand of the market. The artisans informed that they are not getting any help and support from the Governments. Even after hearing their rightful claims, the government officials turned a deaf ear towards them. Currently, due to this reluctant attitude, duplicate goods from Muradabad have captured the market in India and abroad as these are machine-made goods which have better finishing than the original hand-made products of Assam.

The manufacturers in Sarthebari are not educated enough to raise their voice against this injustice going on against them. Also, they are not aware of the fact that their art is their property which cannot be duplicated or taken away from them without permission. They are exploited locally by the *Mahajans* upon whom they rely to get orders. The bell-brass goods, which have a growing demand in the national and international market, are sold at a greater price and every time the price of the raw materials increases, the price of the manufactured goods is also increased. The profit always goes to the *Mahajans* leaving the actual owners of the craft in despair. The actual owners i.e. the artisans have to remain satisfied with the fixed pay they get.



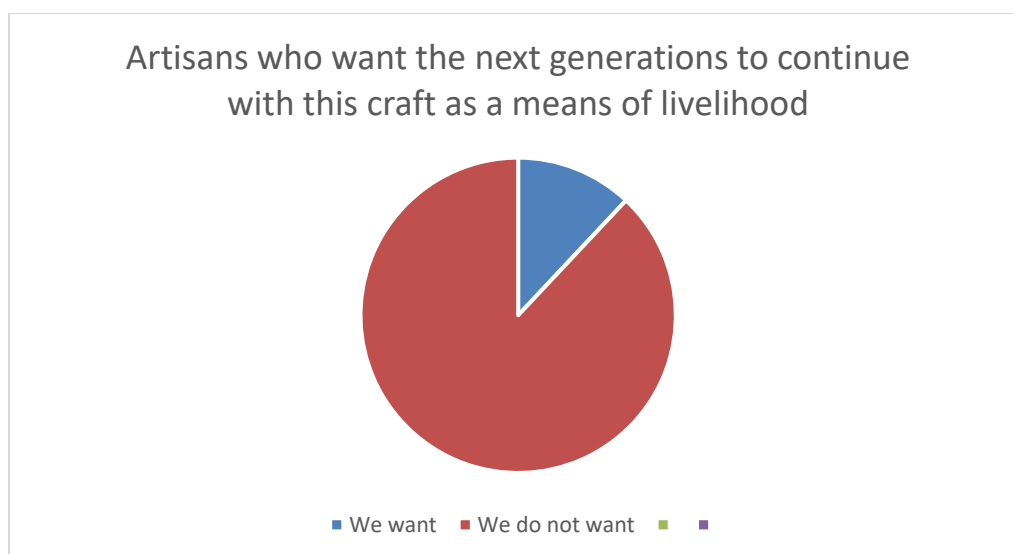
Again, the duplicate goods that are available in the market (especially from Muradabad) are snatching the market of the original artisans. They do not have any Geographical Indication or Trade Mark over their goods to claim ownership of their rights. They cannot compete with the machine-made well-finished duplicate goods as these are more attractive and cheaper to lure people who cannot find out the difference between the original and duplicate goods. This practice is also deteriorating the reputation of the original bell-brass metal goods in the market which are considered to be more lasting than marbles. Duplicate goods do not last long.

The artisans are doomed to such an extent that many of them thought of committing suicide to attract the attention of the Government and the civil society towards their plight. In 2009, they filed a memorandum to the then Prime Minister Dr. Manmohan Singh that if no initiative is taken to improve the condition of the bell-metal manufacturers, they will have no other option left, but to commit suicide. But, even after giving the memorandum to the Government and so many other agitations led by them, no action was taken by the concerned authorities. Their condition remained the same.

The researcher visited the organization called Sarthebari Nagar Kohaar Silpi Santha, a registered organization to safeguard the rights of the bell-brass metal artisans. There, it was informed that District Rural Development Agency, Borpeta, under the District Innovation Fund Scheme under the recommendation of the 13th Finance Commission (2010-2015) for providing grants to fill-in the vital gaps in public infrastructure, promised to provide them grant-in-aid to continue their traditional craft. But, again nothing resulted.

It was also informed that in 2013, their unregistered group named Asom Kohaar Silpi Santha agitated in front of the Secretariat of the Government of Assam, to claim their rights and to seek protection of their intellectual property through Trade Mark or GI. But again, no initiative was taken by the Government.

The artisans are really in a vulnerable condition. Now, even if they want to pursue their art in the future to keep their identity and specialty intact, they are afraid of engaging their children into the craft due to the crisis. Their rights are not at all protected and nothing has been provided to them by any authority concerned with the protection of rights of the citizens.



The people who were interviewed have been living in pathetic conditions even after having mastery over such a valuable craft. They are losing hope of continuing this traditional work in the coming generations.

As a result, it is clearly visible that within a very short time this art of bell-brass metal production of Assam will be withered and with its disappearance, the age-old history and cultural heritage of the State will also be disappeared.

Analysing the Condition of Bell-Brass metal Craft

The indigenous traditional knowledge inherited by a community has the potential of being converted for commercial purpose which will in turn provide economic benefit to the community itself. But for attaining this economic advantage out of the TK, it is essential to provide recognition to the culture and the traditional knowledge of those indigenous communities. To protect the traditional knowledge of the indigenous communities, there is a need of Intellectual Property Rights Law which can help the indigenous communities to have a protection of their art and crafts. Apparently, economic success is increasingly based on upon the effective utilization of intangible assets such as knowledge, skills and innovative potentials as the key resource of competitive advantage.

To provide safeguard to the traditional knowledge of the indigenous peoples worldwide, there is an urgent need to have a *sui generis* system of law in every country, which is expected to be a combination⁴ of intellectual property law, customary law, equitable benefit sharing provisions, provisions for the rights of the farmers and breeders, provisions for prior informed consent and the provisions for disclosure of origin of biological and genetic resources.

From the study, it was found that the rural people who are producing the indigenous traditional goods are mostly uneducated. Therefore, they have no idea that their craft attracts legal protection. Even though it is difficult to educate the artisans regarding law and intellectual property rights within short time, they can be given some awareness. The NGOs and civil society organizations can organize seminars, workshops, camps etc. to create awareness among the uneducated indigenous people about their rights and the need of a sign (i.e. GI) which will give protection to their crafts.

From the conversations with the artisans of bell-brass metal and bamboo crafts, the researcher could understand that they are totally unaware of their ownership rights over the crafts. They are simple rural people who are struggling for survival on the basis of their crafts. For them, awareness campaigns are mandatory so that they can understand the worth of the culture they possess.

There is a possibility of organizing an on-line marketing system for trading the indigenous goods. For this purpose, some voluntary organization is to be entrusted upon the duty, which will help the indigenous peoples to have an access to the digital trading and marketing. This will benefit the local producers, as without having a middleman, they will get the actual price of the goods sold.

Modern technology must be introduced to improve the condition of the craft industries in Assam. The weavers, craftsmen and the farmers informed the researcher during her investigation that they are not aided by the concerned governments. They are not provided any machinery or financial aid to improve their production. They are still using or rather trying to use the age old manual machines which are almost dead now.

Conclusion

The significance of the study lies in the realization that different kinds of problems like protection of traditional knowledge, adequate economic return for their products, future of their traditional livelihood

⁴ Moly Torsen & Jane Anderson, *Intellectual Property and the Safeguarding of Traditional Cultures*, WIPO (March 4, 2024, 1 pm), www.wipo.int/edocs/pubdocs/en/tk/1023/wipo_pub_1023.pdf.

etc., are involved in protecting the TK of the indigenous peoples through GIs. It was found that the future of a large number of skilled people, who live in the rural areas of developing countries, are dependent upon the nature and content of GIs protection, nationally and internationally. This can be gauged that GIs play a significant role in the socio-economic development of local and village communities in the developing countries. Assamese bell-brass metal artisans are in a very vulnerable state now. If their craft is not given immediate protection, they will lose their rights over it. It is the high time that the Government of Assam should realize the value of these traditional knowledge and take some concrete steps to get them protection.