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WORKING PAPER SERIES

INTELLECTUAL PROPERTY AND THE DEVELOPMENT OF CULTURAL DISTRICTS NATIONAL EXAMPLES

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Intellectual Property and the Development of Cultural Districts National Examples

The aim of this presentation is to show how the intellectual property system can be utilized in the development strategies and growth of economic districts dependent on cultural goods.

My colleague has just told you how each region has its own special culture, its products and its skills. In a globalised economy, movement of these goods is easy and equally easy is the misappropriation of these assets. She has also explained the many ways the IP system can assist in the development and commercialization of a country's cultural assets and could be a key factor for the economic viability of the cultural district.

I, therefore, propose to take some concrete examples of cultural clusters which have the potential to generate economic growth and which for a variety of reasons have not done so.

Definition of Cultural Industries:

Arts and crafts are the "Visible part of cultural diversity" (UNESCO)

Cultural industries are industries which combine the

- Creation of contents which are cultural in nature,
- Production and commercialization of these contents

This two-fold nature – cultural and economic, is the distinctive profile of cultural industries.

Cultural industries should not be confused with creative industries. Cultural industries are a subset of creative industries. They are:

- rooted in the local culture;
- nurture creativity;
- maintain cultural diversity;
- manufacturing process would be labor intensive;
- could be languishing due to erosion of traditional markets;
- products have potential to capture niches in international markets.

Hence, we are looking at the development of a closed geographical area producing goods which have their origins in the local artistic and cultural traditions.

Italy is an example of optimal utilization of these clusters through brands, quality control, maintenance of standards, development of designs, etc. In fact, Italy has helped to enhance and generate a sensitivity towards the problems regarding safeguarding cultural

heritage. The programs of the Italian government have been with the purpose of creating an awareness of the cultural resources in a more purely economic sense. The goal from both a material and economic point of view is the transformation of culture into a resource, the creation of jobs, the creation of more wealth and development of a sustainable tourism.

But they have not been utilized to full potential in developing countries. The problem today in most developing countries is that they have not been able to manage their cultural economic clusters (geographical area) so as to create a distinct product known for its quality and therefore marketability, which has potential to generate economic growth in the region. If developing countries chose the option of high quality they would graduate from artisanal, low scale production to high quality production with design and quality.¹ Since it does not require a high level of technological innovation or a sophisticated industrial structure, it has special relevance for many developing countries.

If a developing country like India were to chose the option of producing a high quality product they would need to ensure movement from low scale production to a distinct product in terms of quality, aesthetic design and style.

In India there are a wide variety of cultural products Kancheepuram silks, Chanderi silk sarees, Kohlapuri sandals, 'Pashmina' (wool shawls), 'Sambhalpur' (cotton), 'Mysore' (silks) and brassware from Moradabad.

The Moradabad Brassware Cluster in India

Moradabad is a city in north central India, in Uttar Pradesh state. It was founded in 1625 and named after a son of Mughal emperor Shah Jahan. It is believed that the brassware industry originated from Moradabad and spread to the rest of the country. Although the art of inlay brassware developed in the period of the Mughals, but evidence suggests that Indians from around 3000 B.C. knew the process of metallurgy. The discovery of a bronze statue of 'dancing girl' in the Harappa excavation proves that.

The brassware industry in Moradabad bloomed in early 19th century and British took the art to foreign markets. Other immigrating artisans from Benaras, Lucknow, Agra and Jalesar formed the current cluster of brassware industry in Moradabad. In 1980's various other metal wares like brass, EPNS, iron, aluminum etc. were also introduced to the art industry of Moradabad. New technologies like Electroplating, lacquering, powder coating etc. also found it's way to the industry.

PRESENT PROFILE

Moradabad is renowned for brass work and has carved a niche for itself in the handicraft industry throughout the world. It is now one of the biggest exports centers of handicraft in the state. Today, it is said to house around 29% of the artisans in India. The modern, attractive, and artistic brassware, jewelry and trophies made by skilled artisans are the main crafts. The brassware is exported to countries like USA, Britain, Canada, Germany and to the Middle East and Asia.

There are about 600 export units and 5000 industries in the district.

¹ Morena, Santagata and Tabassum, "Material Cultural Heritage, Cultural Diversity, and Sustainable Development", 2004

Due to increase of exports and popularity in foreign markets especially in Europe, America, Italy and other countries, a large numbers of exporters are establishing their units and started export. Out of the seven industrial corridors declared by the State Govt. in Industrial Policy 1999-2002, Moradabad is one of them. The Government is investing a lot of money to improve infrastructure facilities to promote the industrial activities at Moradabad, like 24 hours uninterrupted power supply, construction of a by-pass, proposal for widening and making better highways. About 450 Acres of land has been acquired to develop a New Industrial Area for Export Oriented Units. Thus this is a good opportunity for new entrepreneurs to establish their projects.

There is, hence, a discernible framework of public support for the cultural district. But the use of IP tools could enhance the value of goods from this cluster.

The types of IP rights suitable to cultural economic districts has already been explained. They are to recap

- Brand or Trademark
- Industrial Designs
- Geographical Indications
- Appellation of Origin

What are the positive consequences of use of these IP tools :

- A certification mark would indicate compliance with quality and standards of the product
- A collective mark enhances product recognition
- Industrial designs could differentiate the distinctive product in visual terms
- GIs would denote a limited geographical area for the product as distinctive from the same product being manufactured elsewhere
- Appellation of origin could designate a specific quality and characteristic due to the geographical environment and human factors

Together or singly, they could promote development and ownership of community 'Brand' and would be a strategic initiative for the Brassware cluster of Moradabad and for similar other clusters to enhance their marketing potential.

- It could enhance market acceptability of the products and create niche markets.
- The initiative could draw the cluster actors to work collectively for enhancing competitiveness of the cluster products.
- They would also will give more confidence to financial institutions to work closely with cluster actors and their associations.

You may well hear that traditional IP tools cannot be used in goods routed in the culture of a region, because the knowledge is in the public domain. It is part of the cultural ethos of a society. But that is not entirely correct. Some of these are collective rights. Also, they are many technological advancements which have added value to cultural clusters.

Brass metal is an alloy of copper and zinc and the quality of the metal depends on the percentage composition of both these metals. If zinc is replaced with tin or lead, it becomes bronze depending on the proportion of metal mixed. Various processes involved in the manufacturing of brasswares include pattern making, moulding, casting, welding/brazing, soldering and riveting, filing, scraping, tinning and electroplating, *Kadhai* (finishing/polishing), *Khudai* (engraving) and *Rang Bharai* (colouring). Hence there is scope for improvement of methods, designs, distinctive features all of which can be protected by various types of IP.

PASHMINA

I chose a product like Pashmina as it is well known. Pashmina is the name of the wool taken from the under belly of the Himalayan mountain goat. Traditional handcrafted pashmina is woven in Kashmir in India. It is entirely done by hand. But today a large percentage of pashmina shawls are machine woven in other parts of India, Nepal, and other parts of south East Asia and these machine woven shawls are competing with the handwoven Kashmiri pashminas and driving them out of business. They are all being sold under the generic brand of pashmina. Therefore, more pashminas are being sold in the world than what Kashmir produces.

Impact:

- The traditional skills of the craftsmen is in danger of being lost
- Erosion of profits as the higher cost genuine (handmade) work is competing with the low quality product
- Endangering the Chiru (Tibetan antelope) as craftsmen who want to switch from shahtoosh will not do so as the alternative livelihood option of weaving pashminas is not very lucrative. (It takes 22 antelopes to make one shahtoosh shawl)

Way Ahead

- Since the name Kashmir attached to pashmina has a unique selling quality, creation of a generic brand called Kasmina or any other name would make the hand woven shawl distinguishable from a machine made one.
- The brand would bring with it a guarantee of being handcrafted, using traditional techniques, quality control and a Made in Kashmir label.
- Creation of an appellation body which could set standards for the quality of the wool used and certify that the product has the approval of the appellation board.

What then is the way ahead for developing countries:

General Objectives

- Make an assessment of the possible legal instruments for community ownership of Traditional Knowledge (Brand, Trademarks, Collective trademarks, Geographical Identity). It is important to assess in which cluster protection would be sought –

would it be the 'closed user' group of the geographical area or 'closed user' group of collective rights.

- To prepare a list of potential artisan clusters in each country
- Learning of collective marks from international experience
- Map marketing potential of these cultural clusters since the final product is the sustainable development of such cultural clusters
- Status of the product in the overall national context – other areas of the country may be producing the same craft/product
- A roadmap and strategy for legal ownership of community 'Brand' in an Artisan Cluster

Cluster Level objectives

- Identification of owners of Traditional Knowledge(TK) in Moradabad cluster
- To Create Governance system in the cluster which is fair to all stakeholders associated with that TK.
- Filling of application for the registration of Moradabad Brassware cluster with GI Registrar in India
- Protection of the relevant TK for the overall benefit of the Artisan Cluster.
- Application for registration of appropriate IP tool for Moradabad to be filed

We feel many of the projects you would be presenting have the potential to benefit from the use of IP tools. The nature of the tools would differ based on the artistic tradition and the national circumstances. What is needed now is moving from the general to the specific cultural clusters and in that we look forward to working with you.